

Electoral Models for South Africa: Reflections and Options

Electoral Task Team Review Roundtable

9–10 September 2002
Vineyard Hotel, Cape Town
South Africa

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Published by:
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Editing, DTP and production: Tyrus Text and Design
Reproduction: Rapid Repro
Printing: Stups Printing

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List of abbreviations

ACDP	African Christian Democratic Party
AEB	Afrikaner Eenheidsbeweging
ANC	African National Congress
AU	African Union
AV	Alternative vote
AZAPO	Azanian People's Organisation
BCP	Basutoland Congress Party
BDP	Botswana Democratic Party
BNP	Basutoland National Party
CCM	Chama Cha Mapinduzi
CODESA	Convention for a Democratic South Africa
Contralesa	Congress of Traditional Leaders of South Africa
Cosatu	The South African Council of Trade Unions
DA	Democratic Alliance
DP	Democratic Party
DRC	Democratic Republic of Congo
EA	Enumerator Area
EC	Electoral Commission
EISA	Electoral Institute of Southern Africa
ETT	Electoral Task Team
FA	Federal Alliance
FF	Freedom Front
FPTP	First-Past-The-Post
FRELIMO	Frente de Libertação de Moçambique
HSRC	Human Sciences Research Council
IDASA	Institute for Democratic Alternatives for South Africa
IEC	Independent Electoral Commission
IFP	Inkatha Freedom Party
KAF	Konrad Adenauer Foundation
LCD	Lesotho Congress for Democracy
MDC	Movement for Democratic Change
MEC	Member of the Executive Committee
MMC	Multi-member constituencies
MMD	Movement for Multi-Party Democracy
MMM	Mouvement Militant Mauricien
MMP	Mixed member proportionality

MP	Member of Parliament
MPL	Member of the Provincial Legislature
MPLA	Movimento Popular de Libertação de Angola
MSM	Mouvement Socialiste Mauricien
NCOP	National Council of Provinces
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organisation
NNP	New National Party
NP	National Party
OAU	Organisation of African Unity
PAC	Pan Africanist Congress
PR	Proportional representation
SABC	South African Broadcasting Corporation
SACP	South African Communist Party
SACOB	South African Chamber of Business
SADC	Southern African Development Community
SAPES	Southern Africa Political Economy Series
SMC	Single-member constituency
SMM	Single-member majority
SMP	Single-member plurality
SPPF	Seychelles People's Progressive Front
STV	Single transferable vote
SNTV	Single non-transferable vote
SWAPO	South West Africa People's Organisation
TBVC	Transkei, Bophutatswana, Venda and Ciskei
TRC	Truth and Reconciliation Commission
UCDP	United Christian Democratic Party
UDF	United Democratic Front
UDM	United Democratic Movement
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNISA	University of South Africa
UNITA	União Nacional para a Independencia Total de Angola
US	United States
ZANU-PF	Zimbabwe African National Union Popular Front.

Preface

ELECTIONS ARE THE GROSS MANIFESTATION OF CITIZENS' PARTICIPATION IN POLITICS. IN A democratic society the electorate is regularly requested to vote for those they believe best represent their interests and ideals. The normative framework in which this vote is cast, the electoral system, may well decide on the transformation of a single vote into a governing majority. Any electoral system must therefore have wide approval in its respective society. To achieve this goal, consultation and interaction with those representing various opinions, interests and beliefs on the matter become essential, if not critical.

This publication is arguably the most current compilation of views and attitudes by the various stakeholders regarding a possible electoral system for South Africa. It is an aggregate of public and official opinion on the questions:

- Which electoral system should South Africa adopt?
- How can inclusiveness, fairness and simplicity of the current electoral system be preserved while incorporating the demand for enhanced accountability of elected representatives?

The various presentations, statements, research findings, comments and debates are well documented in the pages that follow. Such a volume can never be complete, but it has been our sincere intention to include as many ideas and voices on the topic as possible, within the limitations of the format of a two-day conference.

Editing of the conference proceedings has not been an easy task. Recorded tapes had to be transcribed, papers edited and the accuracy of information cross-checked. Special thanks therefore go to the Electoral Institute of Southern Africa (EISA) for its commitment and professionalism and particularly to all those individuals involved, especially to my deputy, Andrea Ostheimer, who worked tirelessly to have this publication finally printed.

It is our hope as Konrad-Adenauer-Stiftung that you will find this publication relevant and of practical use for your work or studies.

*Thomas S Knirsch
Resident Representative
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Electoral options and core values

DAY ONE
FIRST SESSION

Opening remarks

FREDERIK VAN ZYL SLABBERT

THIS TWO-DAY CONFERENCE IS THE CULMINATION OF A PROCESS THAT WAS STARTED IN MAY 2002 when the Minister of Home Affairs, Dr Mangosuthu Buthelezi, launched the Electoral Task Team (ETT). The ETT arose, not because of a national crisis regarding the electoral system or because there were protests in the streets; it arose because of the vacuum created as a result of a decision made in 1996.

When the current constitution was finalised it was decided to postpone the finalisation of the electoral system until the 1999 election. The 1999 election has come and gone and, technically speaking, we are still without an electoral system. The role of the ETT is to identify and recommend the most appropriate electoral system for Minister Buthelezi to take to Cabinet and, of course, for Cabinet to take it from there.

I therefore wish to stress that this is *not* a crisis committee: this is a committee tasked to examine the current electoral system, to explore its advantages and disadvantages, to look at alternatives and then to formulate a recommendation.

In order to meet our objectives the task team had to decide on a number of issues including, for example, the key and core values that should be considered when examining various electoral alternatives for South Africa.

We have met with almost all the political parties, to discover their views and feelings about the current electoral system. We have also met with members of civil society who have an interest in electoral matters, as well as with the media. Thanks to generous funding from the embassies of Norway, Sweden, Denmark and the UK, we have commissioned research, the results of which will be presented here. The aim of this research is to provide valuable background information to assist us in formulating the best recommendations for an electoral system.

What I hope to see emerging from this conference is vigorous debate among parties, politicians and experts, concerning the current electoral system and possible alternatives. On the basis of that the ETT shall withdraw to consider its verdict. But before we do so, we would again like to be in touch with all the parties to get their final view on what the electoral system should be. By then, the parties would have had the benefit of the proceedings at this conference as well as the research that has been undertaken.

The ETT has from the start followed a consultative process. We have never laboured

Dr Frederik Van Zyl Slabbert is chairperson of the ETT.

under the illusion that we have the answers before starting our inquiry; we simply talk among ourselves to gain as much information as possible. This two-day conference, to which I now welcome you, is an attempt to come to grips with some of the key issues that exercised our minds.

The Konrad Adenauer Foundation

MICHAEL PLESCH

ON BEHALF OF KAF, IT IS INDEED A GREAT PRIVILEGE TO ADDRESS THE SPEAKERS AND DELEGATES at the opening of this important international roundtable on the South African electoral system. I extend my sincere gratitude to all those involved in making this conference possible, namely the ETT, EISA and KAF's South Africa office. I also wish to thank all the panellists and participants for accepting our invitation to share their expertise and views.

Considering all the knowledge and experience gathered in this room, there is little I could contribute on the topic of electoral systems. The question of people's representation and co-ownership of the political process is, however, crucial for the sustainability of any democratic society. Any electoral system must therefore guarantee that constitutional and socio-economic realities have been reflected in its formulation and hence I highly commend the work done so far by the ETT. I wish the ETT success in the formulation of its final report, which should be handed to Minister Buthelezi by the end of this year. I hope this roundtable assists you both in that endeavour.

ABOUT THE KONRAD ADENAUER FOUNDATION

KAF was established in 1964 as an independent non-profit organisation with the aim of promoting and strengthening democratic forces. The Foundation bears the name of one of Germany's most outstanding post-World War II political figures, Konrad Adenauer, and we are following his legacy to safeguard peace and freedom, to consolidate democracy, combat poverty and preserve our common world for future generations. These are, for us, the most important issues which demand our close attention.

KAF has been cooperating with partners throughout the world for some 40 years. The range of activities has evolved into a dense network of KAF representatives and partners in more than 100 countries. KAF opened its Johannesburg office in 1991 with the clear objective of assisting the country in overcoming the apartheid legacy and promoting the democratisation process. The opening of an affiliate office in Cape Town in May 2002 demonstrates our further commitment to this country.

I wish you fruitful deliberations.

Michael Plesch is the director of the Africa and Middle East Department at the Konrad Adenauer Foundation, St Augustin, Germany.

Welcoming address

THE HONOURABLE MINISTER DR MANGOSUTHU BUTHELEZI

IT GIVES ME GREAT PLEASURE TO WELCOME ALL THE PARTICIPANTS TO THIS ROUNDTABLE AND the many people who, through their efforts and dedication, have made it possible. A special word of appreciation goes to KAF which, once again, has played a pivotal role in the development and consolidation of democracy in our country. I also wish to acknowledge and thank all the other sponsors who have made the work of the ETT possible; namely the governments of Denmark, Sweden, Norway and the UK.

I wish to express particular appreciation to Dr Van Zyl Slabbert who has been leading the ETT. He accepted to carry out this difficult and delicate responsibility, even though he well knew that he had to storm in where angels fear to tread. I also appreciate the fact that he was willing to tolerate almost one year of delays, commencing from when he first notified me of his availability to preside over this sensitive process of policy formulation, to when Cabinet finally approved the establishment of the ETT under his chairmanship. I know that this delay has caused him great inconvenience. He is a real patriot, who waited for the right time to be called and set aside other more lucrative and rewarding commitments for love of country when that call came. South Africa remains indebted to him.

This review roundtable will allow the ETT to begin consolidating its thoughts and proposals on the formulation of the new electoral system for South Africa. The ETT has now functioned for several months and I have received interim reports of its activities. I sincerely hope that this important event will allow us to find clear direction on the way forward, so that a draft Electoral Bill may be finalised before the end of the year.

This process of policy formulation is of historical importance, and I feel privileged to be the minister under whose responsibility it is now taking place. This is the last act of an epic institutional transformation which began 12 years ago when, on 2 February 1990, the then State President FW de Klerk announced the beginning of the dismantling of apartheid.

The adoption of a new electoral act for South Africa will complete the constitutional transformation from apartheid to democracy, as it will be the last major piece of legislation required to replace the interim arrangements set forth in the 1993 interim constitution and carried over into our present constitution. I therefore feel that today we can rightly celebrate the end of the beginning.

Dr Mangosuthu Buthelezi is the South African Minister of Home Affairs.

DEFINING THE NATURE OF DEMOCRACY

An electoral act is a special piece of sub-constitutional legislation. More than any other piece of legislation required to implement the constitution, it defines the nature of democracy. Our constitution gives the legislature a substantial degree of latitude in defining the type of parliamentary democracy South Africa shall enjoy. Barring the fact that an electoral system must yield a generally proportional outcome, the legislature has the latitude to adopt any of the known systems that produce such an outcome, and to devise any other new one that may better suit our needs. This is an important creative time in which we must not only look at South Africa's present-day conditions, but also at the impact the electoral system will have on developing our future democracy.

The electoral system defines the terms of the fundamental compact between the voters and their elected representatives. It is that which defines the very notion of representation and therefore the very matrix of democracy. The terms of the contract between the voters, political parties and elected representatives define how political parties and members of legislatures are expected to conduct themselves, carry out their electoral mandate and act as agents of democracy. For this reason, the formulation of an electoral law cannot be the exclusive prerogative of political parties or elected representatives. Political parties and elected representatives in parliament are surely qualified to pass any other piece of legislation, acting in the name and on behalf of the voters. However, when drafting the electoral law, MPs find themselves in a conflict of interests as they would be writing the terms of their own contracts. For this reason, from the outset of this process of policy formulation, it was realised and accepted that the new electoral law could not stem exclusively out of an agreement among political parties and should not be formulated from within the bosom of government. The electoral law should belong as much to civil society as it belongs to political parties. Cabinet therefore accepted that this process of policy formulation be conducted in a somewhat different manner than many others. It appointed the ETT as an institution of civil society which could liaise with other organs of civil society, but it gave the ETT a stringent mandate to liaise with political parties and to take their views into account. The pivotal element of this operation was that of identifying a point of fusion between the realm of politics and that of civil society.

We needed somebody whose integrity would be beyond question, with vast knowledge of the political system, with no specific party allegiances, and devoted to the preservation of the prerogatives of civil society. I feel confident that no better man could have fitted this description than Dr Van Zyl Slabbert. I also believe that the commissioners he has gathered around him represent one of the most powerful brain trusts and collections of expertise and wisdom ever gathered together during the many processes of policy formulation which our country has undergone over the past eight years. I say this because I want to make it clear that I expect nothing trivial or mediocre from this extraordinary group of people.

EXPECTATIONS

In fact, South Africa as a whole has a great deal of expectation. Now more than ever,

public debate is focusing on the features of an electoral system which can produce genuine accountability of the elected representatives to their voters. There is general recognition that it is incumbent on us to strengthen the bond of accountability. We must do so with a system that also meets the other criteria of fairness, inclusiveness and simplicity. The criterion of fairness is entrenched in the constitution as part of the requirement that the electoral system yield a generally proportional outcome. The requirement of inclusiveness has somehow been accepted within our political debate since the opening of CODESA, as we realise that ours is a country characterised by extensive demographic, ethnic, cultural, religious and social diversity. Such a plural society needs to be represented by a system which gives value and provides a voice to all the segments of our society. It must therefore make provision for the representation, or perhaps even the over-representation, of minorities, however such minorities may aggregate in the future, whether they are political, ethnic or cultural minorities.

The element of simplicity has also been accepted in our political debate as a given. It is what led us to adopt simple ballot papers which allow even people who cannot read and write to express confidently their political choice. However, we need to ensure that the quest for simplicity does not hinder democracy. In fact, I remember how at the World Trade Centre those opposing the notion of a double ballot paper, argued that our electorate was not sophisticated enough to deal with two ballot papers for national and provincial elections respectively. Our electorate proved them wrong as there were no reported difficulties in understanding the function of the two ballots.

The process of democratic consolidation has increased the electorate's sophistication. We witnessed this clearly during the last local government elections, which were based on a much more complex electoral system. Most of the constituencies understood the difference between PR lists and constituency representatives. They might not have understood the intricacies of the system, but by and large they understood how people would be chosen to represent them.

It is a proven fact that throughout the world, a vast majority of voters do not understand, or for that matter care to know, the mathematical intricacies of the various formulae adopted in the design of an electoral system. They know how to use the system and they understand what the system will yield depending on their input. After all, this is what we all experience everyday whenever we use many of the technological gadgets which surround our daily lives. We understand how they work, even though their internal functioning is far beyond common comprehension. For this reason, I believe that in designing an electoral system for South Africa we must not allow a subliminally condescending quest for simplicity to deter us from adopting a system based on features which promote and consolidate democracy. These features should require voters to become increasingly proactive in the electoral process and empower them to participate in the electoral process with greater electoral awareness. In itself the electoral system should promote individual and collective political growth, paving the way to a day when the majority of voters may be regarded as empowered and well-informed opinion makers.

To this end, it is necessary that the electoral system assists in shifting emphasis away from leaders, ideologies and rhetorical political imagery, to focus instead on the basic bread-and-

better issues that voters are really concerned about. In this way, the electoral system will contribute to ensuring that the will of the people fuels the process of democracy.

PROMOTING ACCOUNTABILITY THROUGH THE POLITICAL PROCESS

I hope that this roundtable can tease out how an electoral system can help to promote accountability through the political process. Strengthening accountability requires the development of mechanisms which enable the electorate to be informed on the relevant issues, to voice their opinions on such issues, to know what action their political representatives take and to hold the individual representative accountable if his or her conduct or stand is not consistent with the electorate's wishes. We need to ensure that political representatives perform in terms of producing political activities that are relevant to the will of the people. Within this context, this roundtable should also pose questions relating to the role of political parties in promoting or deflecting accountability. Political parties undoubtedly have an important role to play in extracting discipline from their members. However, they may also become the only vehicle for political accountability.

The decisions that emerge through this process may—as a consequence of the electoral law yet to be drafted—shape the type of democracy, politics, political discourse and interaction between politics and civil society for decades to come. As the minister technically responsible for this line function, I do not wish to offer any direction or in any way influence the course of your deliberations. I must, however, disclose that I am a genuine democrat. I will sacrifice my privileges and prerogatives as a party leader on the altar of democracy. I have been involved in South African politics for half a century and in electoral processes for decades. I witnessed the electoral processes of the erstwhile white areas first and then in Indian and coloured areas. We held elections in the erstwhile KwaZulu government, and I witnessed elections taking place, with a greater or lesser degree of democracy, in many of the other self-governing territories and TBVC states. I have seen elections taking place within my own political party and within many others. Throughout this process I have witnessed enormous changes.

'BE BOLD IN PROMOTING DEMOCRACY'

We have moved forward in leaps and bounds. Democracy has grown at a rate and pace which many of us believed to be impossible. We are far from having implemented the full measure of democracy of which our country is today capable, and which our people expect of us. Moreover, what we provide should respond not only to the needs of the present. We must anticipate future changes and demands, and implement that which can accommodate them. For this reason, I wish to plead with you all that whatever direction you may wish to take, have the courage, the integrity and the vision to be bold in promoting democracy, not only to meet the full extent of today's democratic demands, but also tomorrow's.

Do not be timid, parsimonious or insecure in dispersing democracy, because democracy is dispersed only at precious and rare junctures of history, after which the purse strings of

democracy often tend to be tied. I therefore urge you to enable an Electoral Act which will empower voters so that they may become citizens and opinion makers, and create political representatives who will be accountable to them.

We need to maintain a delicate balance between the powers and prerogatives of political parties and the fundamental functions, duties and responsibilities of elected political representatives. Within this context, we must also ensure that the accountability to which elected political representatives are subjected, forces their own political, professional and personal growth. Too often, when political accountability is concentrated only on political parties, political representatives have no incentive to become more competent, effective and efficient, and they tend to try to please only the party leaders rather than the electorate. I make this point from the perspective of many decades of personal experience during which I witnessed many elected representatives being more concerned about pleasing me than getting the job done to please the electorate. I have also witnessed people being more concerned that the parliamentary records indicate their punctual attendance at meetings and sessions than making any significant contribution while they were there.

We must therefore accept that the electoral system we design will have a bearing on the type of elected representatives who will be serving in our various legislatures in the future, how they will perform their work and how their performance will be audited.

The constitution also requires that this process determine the number of members in the National Assembly, which can be between 350 and 400. In order to make this determination, one would need to have a clear notion of the type of work elected representatives will be required to perform under the political accountability established by the new electoral system.

Within this context, you must also consider whether an electoral system should provide for techniques aimed at controlling the internal democracy of political parties, as happens in other countries. This latter issue is closely tied to the thorny question of whether we should maintain an imperative mandate as the foundation of our democracy, or whether our electoral system should espouse a free mandate as the basis on which political representatives operate. My desire is that, in your deliberations you promote techniques which make political representatives more visible, outspoken and independently minded, and that they be penalised in one way or another if they become ineffective, invisible and indolent.

Moreover, our electoral system must reflect the nature of our form of state, which comprises three distinct spheres of government. Within the constitutional schema, when a province passes a provincial constitution, it may provide for legislative structures that are different from those set out in the national constitution, for instance the establishment of a bicameral system. A provincial constitution could itself determine how members of such reshaped legislative structures are elected which, in essence, would be the cornerstone of an electoral system. Such a new provincial electoral system would need to be implemented by either national or provincial legislation. This aspect needs to be taken into account by the new Electoral Act which should decide whether a province that has adopted a constitution providing electoral structures that are different from those contemplated in the national constitution, should receive the assignment of passing an

electoral law for that province consistent with that provincial constitution. These are complexities that emerge from our own constitution, and which must be addressed to ensure that the end product of our work meets the future demands of a constitutional system that is undoubtedly at the very beginning of its evolution and which, in my opinion, will rely to a much greater extent on the contribution that provinces can make towards its proper and effective functioning.

There are many other complexities at work within our fledgling constitutional structure. In respect of the third sphere of government, we have already moved from a PR party list system to a mixed system that relies on constituencies. In so doing, we have introduced an element of increased complexity. I do not wish to offer direction to the many options which I know have been considered by the ETT. I know a great deal of attention has been paid to a MMC system limited to a small number of members to be elected in each constituency. This would ensure inclusiveness by allowing small political parties to be represented while ensuring a generally proportional outcome by virtue of its combination with the PR system. I also know that consideration has been given to an electoral system resembling that adopted at local government level. I have also read proposals for MMCs based on a large number of elected representatives, similar to the present system of national and regional lists. This latter approach would effectively multiply the number of regional lists and shrink the national list.

There are obviously many more recognised options that this roundtable may consider and many more which it can formulate. I urge you to accept that even within the present system we do not have a straight PR system since we are effectively operating on the basis of nine MMCs and one national list.

LACK OF MEDIA ATTENTION

The difficulty that I have—which perhaps other members of this roundtable may also encounter—is that while many such electoral options are well-known to the experts in the field who are capable of assessing their pros and cons for our democracy, public debate has indeed been lacking. Personally, I have not read much in our newspapers engaging public debate on these issues. One would have expected our media to run articles describing the various options for an electoral system and soliciting different viewpoints to assess their respective advantages and disadvantages. The lack of attention by our media to important debates relating to our democratic institution is most lamentable.

In the early 1990s, I tried to promote public debate on the issue of our form of state to elicit public response on whether South Africa should be a unitary, a provincial or a federal state. At the time the information provided in the media was inadequate. On this occasion, it is almost non-existent. I therefore feel that this roundtable should consider whether it should not formulate two or three options on which we can seek greater public participation and public input. I would like our universities, university students, trade unions, churches and all the other building blocks of society to be able to focus on the way forward. It is regrettable that they have not already sufficiently done so, in spite of having been given plenty of time and opportunity to participate. I want to avoid the all too

frequent scenario in which, once government finalises the product, all those who had plenty of opportunity to make contributions to its formulation suddenly point out defects in the product, or complain that they did not have any input.

I also wish to urge political parties to come together on issues relating to electoral law and to overcome any sectoral political divisions. Great progress has so far been made in this direction. Remarkably, the process of electoral policy formulation has thus far not been characterised by political divisions, political point scoring or factional arguments. I pray this continues during our roundtable. Electoral law should not be an issue on which political parties have different views—it should serve all equally since, through the normal cyclical turns of the wheel of democracy, today's majority may become tomorrow's minority.

I hope this process of policy formulation affords us the opportunity to consolidate democracy. I hope the political parties represented here rise to the challenge of exercising true leadership and promoting democracy rather than self-interest; that they serve the interests of the people, both present and future generations, rather than assessing how the electoral system can procure advantages to them. This is a time when we must show the greatest measure of love for our country and love for democracy, as well as the greatest measure of statesmanship.

In welcoming all the participants, I wish merely to impress the type of spirit which I hope can inspire your deliberations, leaving to you the difficult and delicate task of finding the content and substance for the future electoral law of South Africa.

Shared aspirations: The imperative of accountability in South Africa's electoral system

WILMOT JAMES AND ADRIAN HADLAND

CONSTITUTIONAL CONSIDERATIONS

We can believe what we choose. We are answerable for what we choose to believe.

—John Henry Newman

In a country where the constitution is supreme, it is no idle exercise to refer to its underlying values when considering possible changes to an institution as important to our national life as the electoral system. While the electoral system itself cannot by any means guarantee a perfectly democratic state, few would contest that the manner in which a society chooses its representatives plays a crucial role in determining the broader political climate. JJ Rousseau argued two centuries ago that “the instant a people gives itself to representatives, it is no longer free”,¹ a claim resting on an overstated concept of radical individualism surely,² yet it is true that electoral systems influence the way parties campaign. They mark the conduct of the political elite and can assist or retard political alliances.³ It may also have a significant impact on the level of representation experienced by women.⁴

There is no clearer guide to how society intends its political climate to operate than in the values that characterise its constitution. The validity of a constitutional value-check is, furthermore, bolstered by the courts' own precedents. As one commentator points out: “South African courts have already indicated a firm commitment to a value-based approach to constitutional interpretation.”⁵ A bolder articulation of these values in the public discourse becomes an important step in assessing the suitability of criteria for the purposes of choosing a new electoral system. But which values are relevant?

The values underlying the South African constitution draw on a variety of histories, bodies of knowledge and experiences. They come as tributaries of a river—now democratic in the ebb and direction of its flow—from our radical liberal, dissident Afrikaner, Africanist, black consciousness, charterist and Marxist streams, from Ghandhi's *Satyagraha*, Ethopianism and from African communal mores associated with *ubuntu* rooted in the governance of small-scale hunter, gatherer and farming societies, and from centuries of legal, political and philosophical doctrine emanating from the various corners

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of the globe. And none of these too, for South Africans produced a unique charter under conditions of post-cold war globalisation, by extraordinary national consensus, and it bears the mark of the inspiration of our past and the challenges of our future.

The values that guide the constitution are statements about a ‘desirable state of affairs’: they are ‘ought’ epistemological statements. Together, the constitution and its founding values seek to define, in the words of Judge Mahomed, the shared aspirations of a nation.⁶

But it would be untrue to say that every value selected for inclusion in the final constitution was done so with unanimity. The process of drawing up first an interim constitution in 1993 and then the final one in 1996 was nothing if not a testament to the human capacity to negotiate. The corollary of negotiation, naturally, is compromise. Values were placed on the table and negotiated, just as materially as civil service salaries and the shape of the economy. For instance, *ubuntu* and the need for national unity and reconciliation featured clearly in the (post-amble) of the interim constitution but were either excised or downgraded by 1996.⁷

In all societies, values occupy a contested terrain. As history progresses, so sets of values compete, their constituent elements strengthening or diminishing. This can happen over short periods of time. But even as new codes of behaviour develop or consolidate in a society over the longer term, these are constantly challenged. In every arena—from the formal gatherings of a society’s chosen representatives to the choices made deliberately or even subconsciously in an individual mind—values are assigned infinitely adjustable degrees of relative worth.

The 1996 constitution contains within it many values drawn from a wide spectrum of human endeavour. Some suggest that the pattern of constitutional values has been left “deliberately vague”⁸ to allow, perhaps, for the country’s supreme law to adapt and evolve in the way that all bodies of law do. Certainly, South Africa’s constitution is unique. Its drafters, for instance, decided not to model it on the US constitution, with its appended Bill of Rights, but rather to give central importance to the concept of human dignity and human rights.⁹ Equally prominent is the constitution’s defining moral elevation: that South Africa will be guided by the principles of non-racism, non-sexism and democracy.

But there are other elements to the constitution, other values, which are more of a ‘second tier’ nature. This is, in part, concerned with the evolution of constitutions themselves and with the development of our collective understanding of human rights.

The international committee of distinguished philosophers that conducted the preparatory study for the Universal Declaration of Human Rights noted that the historical development and expression of our understanding of human rights has moved through three periods. Civil and political rights were the focus in the 18th century, economic and social rights were key in the 19th while cultural rights became important in the 20th.¹⁰

The South African constitution reflects this development as well as its own context and location. It begins, according to Richard Buchanan, with a statement of cultural rights, which were only formally discovered in the preparatory work for the Universal Declaration. Only then does it go on to seek “to integrate civil and political rights, as well as economic and social, placing central emphasis on human dignity”.¹¹

This matrix of rights does not support a uniform valuation, as the limitation clause itself makes clear. The relationship between a right and a value is naturally close. The essential content of the right, argues Harold Rudolph, is in reality no more than the values and practices the right is designed to maintain: “In other words, the wording of the right encapsulates those values and practices that society considers important and therefore worthy of protection”.¹²

The prominence of ‘second generation rights’ clearly signals South Africa’s ‘Africaness’, social democratic commitments, as well as its location in the developing world.¹³ Lourens du Plessis asks the question: How African is the 1996 constitution? His initial answer is ‘not very’, based as the final constitution is on the accepted forms of liberal democracy.¹⁴ Du Plessis argues that compared to the African Charter on Human and People’s Rights (the so-called Banjul Charter), South Africa’s own founding document “appears to be rather un-African”.¹⁵

Unlike the Banjul Charter, the 1996 constitution does not highlight, for instance, the primacy of family, individual duties or the rights of peoples. It nevertheless contains, Du Plessis points out, several elements (values) that signal its emergence from a country on the African continent “showing Africa’s colonial past as well as many of the predicaments that beset typical African societies”. The rights to have access to basic services, schooling, health care and clean water are clear markers. So too is the recognition of the status and role of traditional leadership, according to customary law.¹⁶

Law doctrines of various kinds inform not only the constitution itself but have much to do with the values considered to underpin it. Common law, for instance, is “a resourceful body of doctrine that already recognises many of the rights that are now provided for in the Bill of Rights”.¹⁷ The foundational norms of criminal law, private law, due process, administrative law and the law of contract, “reflect communal mores rooted in the legal tradition and enshrined in the Bill of Rights”, argues Du Plessis.¹⁸

And what about values that are more recently acquired, for instance the primacy of community consultation? Allister Sparks recalls that at the height of the turbulent 1980s, the UDF issued a policy statement concerning the country’s constitutional future.¹⁹ “Drawing on the experience of its own *modus operandi* at the time, it advocated … collective decision making and a high degree of consultation with the community.”²⁰ The notion was so ‘highly democratic’ it was almost Grecian, but it evolved, naturally enough, from the political culture of the townships.²¹

Consultation does feature in the 1996 constitution, for example, in its dictates on participation. Section 1(d) elevates popular participation in (accountable) government to one of the basic values on which the new South Africa is founded, argues Du Plessis.²² In a sense, though, broad consultation—of the sort created in the townships-under-siege of the 1980s—is now a common feature of contemporary political culture. Arguably, it is at the very essence of our national identity. For what is *rainbowism* other than a passionate, almost obsessive, determination to hear and acknowledge all viewpoints? It is *audi alteram partem* in its truest and most vital form. But to what degree should it be built into an electoral system? Perhaps the answer lies in accountability, to which we will refer later.

While values, rights, foundational norms and principles are ubiquitous in the 1996

constitution—and, as we have seen, vary in their weight—several provisions of the constitution provide a very specific framework for South African elections. These, naturally, must impact profoundly on the criteria for choosing a new electoral system. As Glenda Fick has set it out, the constitution's founding provisions are key:

In the first place against a background of constitutional supremacy (provided for in s1(c) and s2 of the constitution), s1(a) stipulates that the state is founded on ... the values of human dignity, the achievement of equality and the advancement of human rights and freedoms. Secondly, s1(b) provides that South Africa is founded on non-racialism and non-sexism. Thirdly, without expressly referring to the electoral system, s1(d) recognises universal adult suffrage, a national common voters' roll, regular elections and a multiparty system of democratic government, to ensure accountability, responsiveness and openness. Multipartyism, accountability, responsiveness and openness (in the sense of accessibility, participation and diversity) are all values that must be taken into account when designing the electoral system envisaged by the constitution.²³

But along with the detailed requirements set out in the constitution, there is arguably another imperative. As Nijzink and Murray have argued, the constitution also has a transformative function unusual in comparative founding documents:

The South African constitution is very different from many other constitutions. Unlike most constitutions, it does not simply intend to stabilise the country, securing existing patterns and power relationships. Its project is to transform South Africa ... in other words, the constitution demands change.²⁴

Judge O'Regan calls this challenge a "call to action".²⁵ South Africa has a constitution "that compels transformation", she argues:

If each of us chooses to select the value system adopted in our constitution, we shall be making a brave and bold choice that will enable us to overcome our history and to attain the constitutional vision of a society based on equality, freedom and dignity.²⁶

It is a call worth remembering when considering the criteria for selecting an electoral system. Ideally an electoral system should reflect this challenge. It should seek to transform, or at least allow for the possibility of transformation, in a direction that embraces the overarching constitutional vision and the values that underpin it.

A new electoral system must, of course, reflect these values as well as contribute to the attainment of the broader vision. It is with this in mind that the ETT has focused on four values on which to base the selection of an electoral system. These are, in no particular order: fairness, inclusivity, ballot simplicity and accountability. Our experience, we believe, has been strong on the first three and weak on the last, inevitably so perhaps as a consequence of having a pure system of PR.

FAIRNESS: A FOUNDING VALUE

Keep up appearances; there lies the test; The world will give thee credit for the rest.
—Charles Churchill

In electoral terms, the principle of fairness is taken to mean that every eligible voter should have the opportunity to vote and that each vote is of equal value.²⁷ It also implies that the result of an election should reflect the aggregated wishes of voters and that competing parties are treated fairly in the calculation of the results and in the consequent distribution of seats. Fairness confers legitimacy on an election and forms the basis of the electorate's acceptance of the outcome.

Fairness, it could be argued, also supposes a particular conceptualisation of humanity. According to O'Regan, the ontological starting point of the 1996 constitution lies in humans being understood as individual, moral agents who are the bearers of both rights and responsibilities: "Indeed, the concepts of democracy and human rights flow from a vision of human beings as moral agents."²⁸ In this way, the constitution asserts the possibility of human agency and, indeed, seeks to amplify its potential.²⁹ The constitution "envisages members of our society as being responsible moral agents who are worthy of being treated with respect". Being treated as such promotes individual and social well-being, encourages good behaviour and makes possible a shared sense of identity and personal character.³⁰ The principle of fairness has a rich grounding in the 1996 constitution and has a very clear lineage from the values of human dignity and equality. The principle also derives, in turn, from the doctrine of natural justice (in particular, its antipathy to bias) as well as from common law.

As Collins Parker has pointed out:

The requirement that an administrative body or an administrative official should act fairly primarily implies acting in compliance with the rules of natural justice i.e. giving an interested party an opportunity to be heard before a decision is made and the decision-maker being unbiased.³¹

Fairness can also be understood as a fundamental requirement for legitimacy. The perception and reality of an election being conducted on the basis of rules and procedures that are fair and just form the basis of the electorate's acceptance of an outcome.

Our constitution defines the formal requirements of legitimate elections as including universal franchise and regular, free and fair elections,³² but it goes further by asserting the importance of 'human dignity', advancing 'human rights and freedom', achieving 'equality' in a manner that is 'non-racial' and 'non-sexist' and deferring of the rule of law.³³ A weak interpretation of this is non-discrimination in the conduct of an election, such that, for example, access to polling stations and the demarcation of electoral districts ought not to discriminate nor be seen to disadvantage any voter on the grounds of race, sex, religion, ethnicity, language and/or any other politically irrelevant marker of social difference. A strong interpretation would be to actively promote—to introduce as a practising norm—social integration in our manner of drawing electoral boundaries and conducting elections in the first place, a point of some significance given the high historical level of racial and ethnic segregation in our built and geographical environment. A choice can therefore be made between the weak and strong interpretation of the constitution when it comes to the value of legitimacy.

Representation of elected public officials on grounds of race, ethnicity and/or sex is seen to fall outside the design of the electoral system. It is the responsibility of political parties

in the compiling of their lists and, therefore, considerations of political culture and priorities, in honouring the constitutional values of ‘non-sexism’ and ‘non-racism’ in representation. Still, political parties would add to the legitimacy of our electoral system if they were to honour the values on which the constitution rests, in the sense of providing the diversity of representation among those holding public office as a complement to the spread of electoral voices PR creates.

It would be true to say that fairness, defined in these terms, has been upheld in the various national and local elections held in South Africa since 1994. It is crucial that this remains the case and that fairness constitutes a founding value for the choice of a new electoral system. Of course, the question of whether the ‘crossing-of-the-floor’ under a pure system of PR violates or compromises ‘fairness’ is one requiring careful consideration for its possible longer-term impact on legitimacy and political stability. At face value, it appears as if legislation being considered for party changes of our elected representatives is motivated by ad hoc, momentary, even arbitrary considerations, without much concern for its longer-term influences on public perceptions of the fairness of voting conduct and electoral outcomes.

INCLUSIVENESS: A HISTORICAL IMPERATIVE

Hell, I never vote for anybody. I always vote against.—WC Fields

It is widely held that South Africa has one of the most proportional electoral systems in the world.³⁴ With an extremely low threshold for minority parties and a high degree of proportionality between seats and votes—in, for instance, the 1994 election—it is clear that inclusiveness is one of the strengths of the current system.

The requirement for inclusiveness holds special currency given the nature of South Africa’s history of exclusion. Our constitutional framers affirmed the proposition made by those involved in the early 1990s negotiations, that, for its inclusive potential, PR is better suited to a country divided as profoundly by race and ethnicity as South Africa is. Chapter 4, section 46 ‘Composition and Election’ reads that:

(1) the National Assembly consists of no fewer than 350 and no more than 400 women and men elected as members in terms of an electoral system that … results, in general, in proportional representation.³⁵

As opposed to the FPTP single-member constituency system, PR allows for even a minority of votes cast nationally to invite representation beyond a minimum threshold in parliament and, therefore, a voice for demographic minorities that otherwise would simply not be possible. For a country divided by the calculated fractiousness of apartheid, it was seen as necessary and appropriate for nation-building and social cohesion purposes to allow for the multitude of parties spawned by a system of PR, and thank goodness for it.

The argument in favour of PR was historically compelling in the period before 1994, where negotiations were first on, then off, then on again, where it is estimated that over 20,000 people died as a result of politically motivated violence and where the place of the IFP and those, shall we say, of the white right in the founding election, were dangerously,

precipitously uncertain. Things are much calmer now and the nation-building efforts of our first two governments had their effect in consolidating the ethos of a united South Africa.

Recently, nation-building has worn a little thin, to which the response has been a call for a ‘new patriotism’ and a ‘moral regeneration’ of our social fabric. There is the perception that the TRC did not do that much reconciliation; that our dominant classes are resisting mobilisation of their resources and assets for national purposes; and that the moral space for affirmative action has narrowed and the national commitment to reconstruction and development has waned.

Still, South Africa at this time does not face imminent collapse into racial or ethnic blocs or a breakdown in social order. But neither do we cohere or have patterns of associational life of the depth and durability that cut across racial and ethnic divisions. Beyond the constitutional requirement for ‘in general, proportional representation’, the social question therefore remains whether the value of ‘inclusiveness’, and therefore maximum minority representation of voices, is still sufficiently compelling to retain. As a first approximation, it appears premature in our national development to abandon PR, and its importance therefore remains central to the design of our electoral system.

SIMPLICITY: COMMUNICATING MEANS AND RESULTS

O Holy simplicity!—John Huss

A distinction should be drawn between voting as an act of completing a ballot form and the collective meaning and complexity of enumeration and the global outcome of the sum total of all such acts. Though it is not a constitutional requirement, our electoral system, administered by the IEC according to the specifications of an act of Parliament, is based on the simplicity of voter requirements in the polling booth—a cross made against a party (name and logo/emblem) and a photograph of a publicly recognisable associated personality, made twice, one for the National Assembly and another for the appropriate provincial legislature. It is always desirable to have a simple balloting procedure, but particularly so when educational levels such as ours are poor and the voting population is relatively inexperienced.

Of course, one should never underestimate the political sophistication of even a formally illiterate (or formally miseducated) voting population nor the effects of formal and informal voter education. Our population is a politically engaged and electorally interested one with consequentially high motivational levels; though how long these last as our political life matures remains to be seen. Still, simplicity in the mechanics of casting a ballot minimises the number of spoilt ballot papers on face value and, in turn, minimises doubts regarding the credibility of elections. It is also true that the educational profile of our population is improving, that efforts in the area of civic education are becoming more intense, and therefore that the degree of balloting complexity a younger generation of voters can manage is itself shifting.

Still, it is entirely possible to have a simple balloting procedure within a complex electoral system. The ordinary voter does not have to understand or take an interest in the

arithmetic complexity and mathematical sophistication of aggregating vote counts and translating these into seats. But the voter must be able to make a fair connection between electoral results and seat allocation, between the aggregate vote and aggregate outcome; otherwise the legitimacy of an election might be compromised. It is therefore not enough to insist on simplicity of voting; it is also necessary to communicate the meaning of the results in a manner that promotes a public understanding of calculations in crude form, however complicated they might be in their detail, to ensure legitimacy for an election.

ACCOUNTABILITY: PLAYING WITH FIRE

Democratic society demands that those who seek public office accept its consequences, one of which is to have to abide by higher standards of scrutiny than citizens who elect a strictly private life.—Irving Louis Horowitz

The absence of direct accountability in South Africa's current political system has been the source of much soul-searching and gnashing of teeth, not least by the ETT. As ETT chairman Van Zyl Slabbert admitted in a recent paper, "no other principle has exercised the minds of the members of the task team more than the principle of accountability".³⁶ Given the rich depth and often conflicting nature of the body of literature on the subject, this is of no great surprise.

Accountability has been described variously as the management of expectations, the reduction of agency costs and as an objective property.³⁷ It has been summarised simply as 'answerability'³⁸ and spelled out with a great deal more complexity. Ian Thynne and John Goldring define it thus:

[accountability exists] in the context of a relationship with an institution or person which or who is in a position to enforce their responsibility by calling them to account for what they (and/or their subordinates) have or have not done subject to an institution's or a person's oversight, direction or request that they provide information on their action or justify it before a review authority.³⁹

South African commentator Etienne Mureinik has argued convincingly that the aspiration to accountability translates 'pre-eminently' into a call for rationality review, because it demands the reasons for a decision.⁴⁰ "The literature on democratic accountability offers little conceptual consistency," bemoans Downs.⁴¹ The vexed nature of accountability lies in its paradoxical contrariness. Described by one author as "an ambiguous and ill-defined concept",⁴² it is both central and peripheral to the democratic process. In essence it conjures the very spirit of democracy ("Instinctively, I feel democracy is about accountability," writes Van Zyl Slabbert⁴³). At the same time, and at a mechanical level, accountability takes many forms, some unconnected to the formal political process.

Writing about the British system, William S Livingston argues that "the real accountability of the prime minister and cabinet is exercised through a variety of institutions, arrangements and understandings".⁴⁴ These include the rules and practices of the political party, the pattern of debate, relationships with senior civil servants, the work of the press and even the quaintly British notion of 'what's proper'. Few of these fall into the ambit of electoral law, either in Britain or in South Africa.

Historically, the key moment in the development of accountability occurred in the middle of the 18th century.⁴⁵ Livingston argues that this was the moment when the principle of accountability was transformed “from one that perceived opposition as criminal into one that accepted it as legitimate but denounced it as politically inept”. Locally, it has been shown that citizens rely on a panoply of traditional, organisational, governmental and community structures to seek redress or obtain responses to problems in a way that facilitates accountability without reference to formal political structures or elected officials.

Certainly there is a considerable degree of accountability already built into the South African polity and into its electoral system. Regular elections every five years or so, as demanded by the constitution, provide the ultimate sanction. Cabinet ministers are individually and collectively accountable to the president, as well as to their party, while the executive as a whole is intended to be accountable to parliament.⁴⁶ The effectiveness of the latter arrangement remains moot.

But for many, this is simply not enough. As Tom Lodge has pointed out:

South Africa’s simple list system of PR is chiefly criticised because it reduces the personal accountability of parliamentary representatives as well as encouraging the executive to adopt an authoritarian predisposition in its relations with the legislature.⁴⁷

Adds Ben Reilly: “A lack of accountability of elected members to voters … [can] undermine the legitimacy of the electoral system.”⁴⁸ This lack of accountability is almost certain to be emphasised with the likely passage of ‘crossing the floor’ legislation. By allowing elected representatives to switch parties, even after they have been placed in a legislative from a closed national list, is to condone an even weaker link between constituencies and their representatives. This argues even more strongly for a tighter link to be introduced through the electoral system itself.

While the ANC, along with a few other parties, has assigned constituencies on a voluntary basis, this has been functioning ‘unevenly’ at best.⁴⁹ There is a widely held view that party managers hold too much power under the closed list system. Ordinary MPs, even those belonging to a party holding an overwhelming majority in the National Assembly, simply have “little incentive to rebel” according to some.⁵⁰ “Many of us feel,” suggests Jørgen Elklit, “that it should be possible to hold individual political personalities accountable for their actions. One should at least aim at a closer connection than is now the case between geographical localities and representatives.”⁵¹

There are, as always, pitfalls. Introducing personalities into the electoral system, rather than parties, may usher in venality.⁵² It could also lead to the subversion of national priorities and interests as representatives seek to woo voters and direct resources into their local constituencies. Writers have also pointed to the possible negative impact of directly elected representatives in terms of what this may do to the internal stability of the ANC⁵³ as well as to the position of women in national and provincial legislatures.⁵⁴ Over-large constituencies will also nullify the benefits of constituency-based representatives and can render apparent accountability either unworkable or simply false. Surface accountability is like skin-deep transparency: it is essentially dishonest and misleading. Neither of these consequences would contribute much to the crowning glory of the South African

constitution: the cherishing of human dignity. Whether or not a system without adequate direct accountability measures up to the base values of full public participation, fairness or inclusiveness remains moot, particularly in South Africa.

What we do know is that we accept minimal direct accountability at great risk. We have to ask whether such risk is worth it. Yasmin Sooka argues that a lack of accountability creates the potential for a repetition of conflict.⁵⁵ Alienating the population by removing its directly elected representatives creates the possibility of marginalising groups or communities, so that they resort, perhaps, to extra-parliamentary or possibly illegal or even violent activities. There are few greater causes of social upheaval, after all, than unmet expectations. A lack of accountability has the potential to damage national stability, particularly in the face of the incredibly tough challenges currently being served up to national policy planners as a consequence of globalisation or due to increasing inequity, deepening poverty or joblessness. It's not so much whether we can afford to introduce direct accountability into our electoral system, it's a matter of whether we can afford not to.

Neither can public representatives be allowed to forget or lose sight of whom they are representing. In the words of National Assembly Speaker Frene Ginwala:

In South Africa, the gap between those with the resources to influence government and those whose influence, for historical reasons, is limited by poverty and disadvantage, is deep and wide. Thus there is a very real danger that while the voices of the powerful may be heard, the majority remains imprisoned in the silence to which their history and circumstances have condemned them.⁵⁶

CONCLUSIONS AND CHALLENGES

The current South African electoral system has much to recommend it. Its proportionality is at the forefront of global electoral methods and it in many ways reflects the values entrenched within the constitution and which are held so dear. In terms of simplicity and fairness, these too feature prominently in the current system and it is essential that they continue to hold such currency. But while there exists a degree of accountability for elected politicians in the present system, this level remains inadequate. Elected representatives are unaccountable to the South African people, save for those many, but not enough, moved by personal values and the drive to be so. This is a critical weakness. MPs at national level and MPLs at provincial level do not have to appeal to or satisfy voters to be re-elected as individuals subject to typical performance appraisals in the marketplace of politics. What they have to do by force of institutional circumstance is satisfy leaders of political parties in order to remain on the all-important lists. However, the aggregate performance of elected representatives matters greatly. The problem is that individual performance becomes camouflaged in the 'aggregate' to the lowest common denominator.

The challenge is to create greater opportunities for individual accountability, one avenue for which resides in the design of the electoral system, without sacrificing the inherited assets of nation building. We say opportunity for the design of an electoral system simply makes greater accountability possible; to unleash a dynamically democratic system requires also the ethos of good governance and insistent, transparent, measures on

the part of party leadership. It is certainly the opinion of the ETT that party structures have a greater role to play with regard to accountability in any case, whatever the final system will be. As Elkliet has argued:

Parties can usually be held accountable and voters reflect their attitudes through their voting behaviour. But many of us feel that it should be possible also to hold individual political personalities accountable for their actions. One should at least aim at a closer connection than is now the case between geographical localities and representatives.⁵⁷

Similarly, the authors of this paper feel that the constitutionally sound principle of accountability must be used in evaluating a future electoral system for South Africa.

Of course, there is always the question of the practical implications of a redesigned electoral system: how far it goes, whether there is enough time to take care of the detail, to train and re-train staff, to educate and re-educate the voting population, and matters of budget. For parties, there is the question of list management and campaign strategy. These are all critical considerations; for any and all changes must be feasibly and practically managed, they must work, and they must not undermine electoral and overall political stability before and after elections. Still, the practical considerations ought not to determine or compromise our value choices, that which we see as desirable, for our citizens now and all future generations of citizens who will either curse or praise us for our perspicacity.

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Panel contributions

PANELISTS:

PANSY TLAKULA

ATHALIAH MOLOKOMME

PALLO JORDAN

THE ELECTORAL SYSTEM AND HUMAN RIGHTS—PANSY TLAKULA

IN 1996 SOUTH AFRICA ADOPTED A CONSTITUTION, WHICH PROCLAIMS THAT THE COUNTRY belongs to all who live in it, united in their diversity. It further proclaims that the people of South Africa, through their representatives whom they freely elected, adopted the constitution as the supreme law of the country, in order to heal the divisions of the past and to establish a society based on democratic values, social justice and fundamental human rights. Through this the people aim to lay the foundation for a democratic and open society in which government is based on the will of the people, and to build a united and democratic South Africa.

The importance of this constitution cannot be underestimated. Through it, we opened a new chapter in the history of South Africa. It is this very document that in the words of the post-amble of the interim constitution: "... is a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence". It is this very document that has laid a secure foundation for us to transcend the divisions of the past and has helped us to strive towards national unity and reconciliation.

CONSTITUTIONAL VALUES

The stated values in the constitution include "human dignity, equality, the rule of law, universal adult suffrage, regular elections and a multiparty system of democratic government to ensure accountability, responsiveness and openness". These values are a blueprint of how we have agreed to govern ourselves and should be called upon to guide our elected representatives, our public officials and indeed the nation as a whole, as we consolidate our young democracy. We must draw from these values as we seek to give meaning to various provisions within the constitution. The choice of an electoral system in 1993 was informed by these values.

One writer characterises an electoral system as the "most specific manipulative

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instrument in politics".¹ To avoid this, it is important as we ponder over the choice of a final electoral system, to bear these values in mind. Our decision whether to change the current system or not must be motivated by broader national interests rather than narrow partisan concerns. As a young nation with diverse people and cultures, we have undoubtedly made considerable progress in building a viable nation that is working together in service of the common good. Since it is accepted that an electoral system plays an important role in uniting divided societies, it is important to consolidate the gains made so far by choosing an electoral system that will strengthen national reconciliation, harmony, peace and political stability.

DEFINING CHARACTERISTICS

An electoral system can only give effect to the spirit and values of our constitution if it has the following characteristics:²

- It must result in a legislature that is representative of the entire nation and that fairly reflects the opinions of the whole electorate and not just the majority. As one writer aptly put it: "A legislature must be an accurate map of the whole nation, a portrait of the people, a faithful echo of their voices, a mirror which reflects accurately the various parts of the public."³ The commitment of our constitution to multiparty democracy can only be achieved through an electoral system which will result in a government that mirrors its people.
- The commitment of our constitution to equality can only be strengthened through a system that will not exacerbate existing racial and ethnic divisions. Such a system must assist in ensuring that the formation of political parties is based on national concerns and shared constitutional values rather than entrenched ethnic or racially exclusive interests, and must also ensure that party support and voting do not take place along these lines. Placing emphasis on geographical considerations in the choice of an electoral system instead of considerations such as gender and skills may have the unintended consequence of restoring the racial and ethnic enclaves of the past.
- The value of universal adult suffrage can only be achieved through an electoral system that is accessible to both political parties and the electorate. Such a system must enable as many parties and candidates as possible to participate in electoral processes. This will in turn enhance voter enthusiasm and voter turnout, in the sense that voters are more likely to participate in elections if there are parties that they can strongly identify with. The right to freedom of association will thereby be promoted. It must also enable all people, irrespective of their level of education, to exercise their right to vote without unnecessary difficulty. A complicated electoral system may compromise this right.

ACCOUNTABILITY

With respect to accountability, an electoral system on its own cannot make elected representatives accountable. At best, it can be a conduit through which the people can hold their elected representatives accountable.

South Africa's present system was not chosen in a vacuum; its choice was informed by the historical context of our nation at the time. As we discuss the choice of a final electoral system for our country, it is important to bear this context in mind. We must also ensure that in attempting to improve the weaknesses in our current system, we do not introduce elements that will sacrifice values and aspirations contained in our constitution.

Before we change the present system, we must ask some difficult questions, for instance, whether the issue of accountability will genuinely be addressed through the system we want to adopt. Unlike Wilmot James, I think it is appropriate to first ask whether there is a need, at this point, to change the present system. Only if the answer is 'yes', can we then ask 'how'. We must undertake a comparative analysis in order to determine whether in countries where a system applies that we want to introduce, elected representatives are indeed accountable to the electorate. We must also bear in mind that electoral systems that are successful in homogeneous societies might not necessarily work in a diverse society such as ours.

We must embark on an in-depth analysis of our present system, studying its advantages and disadvantages, and assess whether the disadvantages outweigh the advantages. If they do not, then we must ask whether there are other mechanisms through which accountability can be addressed.

Finally, we have to accept that no perfect electoral system exists and that no electoral system can address all societal ills. In a country with a history such as South Africa's, however, an electoral system can go a long way to strengthen our young democracy and a human rights culture.

NOTES

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- 2 A Reynolds, *Electoral systems and democratisation in Southern Africa*, Oxford University Press, 1999, pp 91-92.
- 3 Pitkin, quoted in Reynolds, *ibid*, p 241.

THE IMPACT OF AN ELECTORAL SYSTEM ON WOMEN'S REPRESENTATION—

ATHALIAH MOLOKOMME

THIS ROUNDTABLE HAS NOT BEEN CONVENED TO INSTRUCT SOUTH AFRICANS ON WHAT ELECTORAL system to adopt, but rather to share ideas, based on experiences in other countries, of the types of considerations that should be taken into account in selecting an electoral system.

I will comment on how societal values can be enhanced through the choice of electoral system and will explore specifically how the choice of an electoral system can advance or retard women's participation in politics and public life.

VALUES AND NORMS

Firstly, a word on the issue of values and norms. Values are a contested terrain; they compete with each other and are constantly being challenged. There are, however, certain universally accepted values—such as human rights, equality and democracy—which are not negotiable, and the South African constitution reflects this.

The values of a particular society usually reflect the power relations within that society; and dominant interests usually prevail based on what those values are. It follows, therefore, that a defining document is needed which contains the basic values that a society agrees upon, usually as a compromise, and which they can resort to as the agreed source of their values. In countries with a written constitution, the constitution is the reference document for these values.

THE INCLUSION OF WOMEN

One of the values reflected in the South African constitution is the principle of inclusivity, and my presentation focuses on the inclusion of women in the political process. The South African constitution is clear that non-sexism is a fundamental principle or value. How can the electoral system enhance or retard the enactment of this principle?

Evidence from SADC countries and beyond demonstrates that the PR system is more conducive to the election of women than the constituency-based system. For example:

- With respect to women's representation, two of the top three SADC countries have PR systems—South Africa and Mozambique have reached the target of 30% women in parliament, while the Seychelles has a mixed PR and constituency-based system.
- During South Africa's 1995 local government elections, which were based on a mixed system, women won 27.9% of the PR seats, and only 10% of the constituency-based seats.
- In Namibia, there is a record 41% of women in local government where PR is applied, and less at regional level where the constituency-based system applies.
- The last Lesotho elections delivered more women MPs partly as a result of mixing PR with FPTP.

Importantly, a PR system alone does not guarantee increased representation for women—some PR systems are better than others. PR works best for women when combined with

a quota (for example, as in the ANC in South Africa and Frelimo in Mozambique). In South Africa, the fact that the ANC has a quota system changes the whole complexion of parliament. The effect of changing the electoral system can therefore have adverse consequences for women's representation. Party-based quotas are risky for women and it is therefore better to have these quotas legislated or mentioned in the constitution. Since the principle of non-sexism is enshrined in the South African constitution, there are strong arguments that the constitution should provide a mechanism, i.e. the quota system, by which equal gender representation can be achieved, as is the case in Tanzania.

All parties in South Africa have a constitutional responsibility to adopt mechanisms that will implement the values enshrined in the constitution. Intra-party democracy is important, and party electoral systems should reflect the values of the constitution.

Although the constituency-based system may be said to establish a more direct link between the candidate and his/her constituents, this is often overstated. A constituency system also focuses too much on the individual and not on parties, and what they tell voters they stand for.

In my view, political parties should be held to account—through their representatives, of course—for what they promise, whether the system is PR or constituency-based. Whether women would be more accountable depends on if the political party they belong to espouses and practices agreed values and implements people-friendly policies. The value of inclusiveness is critical and fundamental to the participation of minorities—but women are not a numerical minority. An electoral system should therefore ensure that women are represented in proportion to their numbers.

PALLO JORDAN

I WANT TO BEGIN BY CONGRATULATING DR WILMOT JAMES ON AN EXCELLENT PAPER THAT really gets to the heart of the issues. I was particularly attracted by the idea of values and the notion that values are invariably assigned differing degrees of worth or weight. Dr James even suggests that values are adjustable: I am not quite sure what he means by that, but I read in it the idea that their worth is 'negotiable'.

The paper attempts to locate South Africa's current electoral system within the particular historical context in which it was arrived at. Perhaps it is proper at this time to recall the political environment in which our electoral system was decided upon; this will also answer a number of questions as to whether we should change it in the first place and, if we are going to change it, what changes need to be made.

What strikes one about South Africa's constitutional process was the remarkable degree of consensus which emerged very early on. Even before negotiations began there was consensus on the unsuitability of the FPTP system for South Africa and, if my memory serves me well, it was not given a second thought in the entire constitutional negotiating process.

The second remarkable aspect of our constitutional negotiations was the speed at which all players agreed on a body of values that should be reflected in the electoral system. These values are competently treated in Dr James's paper and are the values of fairness, inclusivity, simplicity and accountability.

ASSIGNING WORTH

If we accept Dr James's assertion that differing degrees of worth are assigned to various values, what worth do we assign to these four essential values? Does, for example, the value of fairness have the same relative weight as that of simplicity? Does inclusivity have the same relative weight as that of accountability? These questions must be seriously considered when discussing adjustments to the current electoral system.

I believe that fairness is an important value because without it our elections have no legitimacy: lack of perceived fairness is a recipe for instability.

Simplicity—that electors understand the system and how it produces the results it does—is also an important value, but one whose significance will decline over time as people become accustomed to the electoral system.

Inclusivity is, I believe, the most important of the values that were agreed upon. South Africa was, and in many respects still is, a highly fractured society. There are obvious fractures along, for example, racial lines which we inherit from our history but there are other important fractures that are perhaps not given the same profile. These include gender and class, which define advantage, disadvantage, inclusion and exclusion. Fractures also exist between urban and rural areas and within rural areas there is a further fracture between commercial agriculture and the former 'Bantu homelands'.

The question to ask, therefore, is: how does one address this multiplicity of fractures with an electoral system that will give everyone the feeling of being included?

Recall that as we reached 1994, many of these lines of fracture suddenly received huge prominence. Groups of Afrikaners, for example, tried to disrupt the constitutional negotiating process, arriving at the Kempton Park World Trade Centre with their armoured personnel carriers, broadcasting illegally, etc. But there were also many other Afrikaner groups that participated very actively in the negotiating process and wanted to keep it on track.

Among the Africans, there were parties that wanted to keep the negotiating process on track and insisted on the constitutional negotiations proceeding but there were some, predominantly African parties, that withdrew.

About a month before the 1994 elections took place, we weren't quite certain whether the elections were going to be successful or who was going to participate.

INCLUSION

I strongly believe, however, that our political system is successful today because of the feeling of inclusion that it fosters. No sector of South African society, be it demographic minorities or political minorities, have felt excluded from the process. We managed to turn around those who initially wanted to sabotage the process by giving them a stake in the new system.

Therefore, not only is the principle of inclusivity of paramount importance, it is almost a guarantee of political stability. Imagine where South Africa would be now if Constant Viljoen and his followers had stayed outside the process in 1994. But imagine also what would happen if, having been previously included, we now adopted a system that made minorities feel excluded.

The importance of our democracy is such that anything that is a threat to political stability—and will therefore undermine our democracy—should be strenuously avoided.

ACCOUNTABILITY

The issue of accountability is given a high profile in Dr James's paper. While I agree with him that every electoral system wants to create a situation in which public representatives are accountable to the electorate, there are some questions that one has to ask as a hardnosed politician rather than as an academic.

First, is there any example in the world today of an electoral system that assures personal accountability on the part of public representatives to the electorate?

The hard political reality is that unless one is a party of one, public representatives are subject to party discipline, party policies and party platforms to which they must submit themselves.

Second, if it were at all possible, would we want a situation in which electoral law prescribed forms of personal accountability on the part of public representatives to the electorate and what would the consequences of that be?

Lastly, is a system of personal accountability practical given the very complex society we live in today?

CONCLUSION

We may fault the South African system with respect to accountability, but I do not think the reasons thus far forwarded by researchers are sufficient to warrant a radical rethink of the electoral system.

As society normalises and we become accustomed to democratic practices, political parties operating within the system will themselves design mechanisms for making their public representatives more accountable. At the same time, electors will begin to impose on public representatives the sort of constraints that make them accountable.

Questions and answers on electoral options and core values

SELECTED AND EDITED

Question: The notion of ‘constituency’ in South Africa is currently based on geographical delineation as compared to an interest, linguistic or cultural constituency. Is there a possibility for considering an alternative kind of constituency arrangement, which has the potential of offering a greater degree of accountability in a large country like ours?

Response Dr Pallo Jordan: The point about different types of constituencies is well taken. When I referred to the highly fractured nature of our society I was in a sense trying to capture that, in addition to geographical constituencies, various other constituencies exist, which we might lose sight of unless our electoral law actually creates the space for them to express themselves and to find some form of expression through the political system. However, are these minority constituencies disruptive to society and to the stability of our democracy? Even if they are not potentially disruptive, is it desirable or undesirable that they should be able to express themselves through the political process? I think it is desirable that they have the capacity to express themselves through the political process because it is only by feeling included that they acquire a stake in society and gain the sort of confidence in the system which makes people want to work within it and for it, and not to engage in unconstitutional extra-parliamentary actions.

Comment: I was told that our electoral system can be likened to a horse race, but that because we use a PR system, parties can look for the fastest running donkey instead of a horse as there is no accountability on the ground.

General response Dr Wilmot James: The question of accountability relates to the political ethos of a country—how powerful is its democratic culture and therefore how powerful is the democratic spirit in that ethos? [...] An electoral system that is responsible for managing the way in which people actually vote, can make a contribution to that, but it does not solve the problem. It would be naive to think that an electoral system redesign will deal with the question of accountability all by itself. It will not, but it will make a vital contribution to it. There is a sense in which accountability would be greater if an avenue was created for it within the electoral system.

Freedom of association is guaranteed in our constitution [...] but when one speaks about the drawing of electoral constituencies around groupings of people established on the basis of freedom of association, then one runs the risk of reproducing inequalities and establishing groupings that, in the past, were partly responsible for high levels of

fractiousness. It is therefore highly undesirable to see voluntary association relating to language or culture coincide with political boundaries and other elements of division. Against this background, the drawing of constituency boundaries is a crucial consideration.

South Africans are being given a rare opportunity to decide on the design of their electoral system [...]. It is an opportunity to cast in legislation, the features of the electoral system [...] and I think that inclusiveness as a principle, as a value, has to be part of that redesign. The principle of fairness, which is a timeless issue, is also a quality that must be part of the redesign. The question of simplicity is not timeless, but [...] rather related to educational improvements in our country [...]. The more educated we become, the more sophisticated our political system can be. The final principle, accountability, is also a timeless quality. It is important to look carefully at our electoral system in relation to its contribution to the issue of accountability, understanding that it is not going to fix the overall problem.

Comment: I agree with Dr Molokomme's comments on the issue of women's representation. Take, for example, this forum, which has brought together people from various organisations and political parties, but which reveals by its composition that there is still a problem in terms of women's representation in communities. Much work still needs to be done to educate South Africans regarding the role of women in politics, economics and in social life. The status quo will remain until women are recognised as political citizens.

Comment: One of the questions asked in the survey is the extent to which the ward system used at local level improves accountability. The survey results reveal that people do not know who their ward councillors are and cannot track them down when they do. For me, this means that adjusting constituencies may not necessarily address the issue of accountability.

Question: Dr James mentioned that greater accountability is a motivation for direct representation. Now, bearing in mind the inherent inequalities in South African society, if one adopts direct representation [...] one would assume that the candidates with more resources and money would always win an election, as evident in the American system. How would an electoral system of this kind address inequality?

Comment: I do not know why the issue of resources has disappeared so quickly from the South African political debate. The reason I ask is that the first issue on which President Mugabe of Zimbabwe was demonised was the issue of proportional funding of represented political parties.

General response Dr Pallo Jordan: The area of accountability is obviously an extremely broad one. I have lived in countries with individual constituency representation and to me, what has always distorted accountability of public representatives to the geographic

constituency is the issue of party discipline. When I was living in Britain, for example, a local public representative held a very strong opinion on the issue of the death penalty and had campaigned on it for decades, but could never get it on the House floor. When he finally did succeed, the only way the various political parties could handle it was by an open vote. Luckily there was already a shift in public opinion so that most of them felt comfortable voting for the abolition of the death penalty.

In another instance, a public representative held strong views on matters such as nuclear disarmament. The constituency he stood for kept returning him precisely because of his stance, but this was contrary to the party platform and, as a result, the parliamentary whip was taken away from him. In other words, ‘in parliament you wear our label, but you are not quite part of this political party’.

Various things therefore distort accountability. In a system using party discipline—whips, etc.—it is unreasonable to believe that someone who represents a geographic constituency is going to do what the constituency voters want, rather than following the party leadership. It does not, of course, mean that one should therefore have a system, which encourages public representatives to flout the views of the electorate. The question, however, is how does one then design an electoral system to create that sort of accountability.

Question: In my view, the notion of accountability presented here is very narrow. It does not take a number of factors into consideration. Regrettably, the debate concerns the subjective notion of accountability and not values and norms.

Secondly, I would like to have clarity on the notion of direct accountability and direct representation which, I imagine, means input from constituencies. Where does this nirvana exist? Is there any empirical evidence available from countries with mixed systems?

Response: On the issue of accountability, one cannot present one extreme end of the spectrum and then use that as the primary argument. In a mixed system there is clearly dual accountability. That is, a public representative will be accountable to his/her political party, but there will also be some direct accountability to the constituency, big or small, that elected him/her to parliament.

At present we have a system in which there is no direct accountability between public representatives at national and provincial level and the electorate—only accountability to political parties.

Comment: The four values mentioned above are foundational, but I suspect if you were to ask the electorate which of the four is most problematic, it would be the issue of accountability which, indeed, has been highlighted. I think there will be large consensus on the others. The issue is not about fairness, inclusivity or simplicity, but more about accountability.

Response Pansy Tlakula: On the question of accountability, politicians have a very important role to play because they are taking advantage of the fact that voters do not know to contact them with complaints regarding their areas. The question of

accountability can be addressed once voters are aware of their rights—that is, that they have the right to demand that politicians deliver. I am concerned that changing electoral systems may affect stability and familiarity. People are already confused about the different systems that we, as the IEC, use for the general and local government elections.

Question: First, to what extent does Dr James believe that accountability within the electoral system is reliant on political culture, or on issues other than the system itself? Second, how is accountability to the electorate handled in other societies using a PR electoral system, for example Finland and Sweden? Third, within the future electoral system, how is accountability to the electorate going to be balanced with accountability to the political party?

Finally, what is a constituency? On the national list there is one constituency called South Africa and on the provincial list we have nine constituencies. One must therefore not make the mistake of referring to constituencies as if they do not exist; the only issue is that of size. In other words, if one is talking about district municipalities and metropolitans as being new constituencies and having multi-member constituencies, the principle is exactly the same as the current system, just smaller.

Response: The most important accountability is to the groups of voters that put a particular party into power. One therefore has to look at whether a constituency system of whatever kind renders this accountability more intense or dilutes it in some way.

At present, there are mechanisms for enforcing accountability between elections, for instance: the way elected officials consult with their constituencies; whether people are brought on board and kept on board; quality development processes; report backs and so on. Because of the fractured nature of constituencies in this country, it is possible that any geographic constituency system that is smaller than the current provincial one can dilute rather than enhance accountability. The smaller the constituency becomes, the less likely it is that the small number of members will be able to service that constituency effectively, or even just their own target group of voters in that area. I am referring here to groups such as the disabled or elderly, which form strong constituencies at a provincial level but which may be marginalised at a local level. It is possible that once one has MPs responsible for a particular area, they will become more accountable to the strongest interest groups in that area that can guarantee they will be on the list again during the next election.

It is therefore important to consider not just the ‘party accountability versus individual accountability’ issue, but also to whom, exactly, do you account and how best to organise interim accountability. For the ANC as a party, it may still be easier to organise broader accountability at a local level. However, for parties with a few members in a few places, or parties that see themselves as having a national minority constituency, a geographic constituency system becomes more difficult. We need to think a little bit broader than just the law, examining our own political parties, our collection processes and the best way to ensure that we remain accountable to the people who voted for us.

Response: In terms of which areas the electoral system is successful and unsuccessful, surely the test is: if you are accountable to a group of people, they must have some ability

to impact on your future. Under the current system, if political parties and their representatives do not perform, the electorate can impact on the future of that political party. However, the electorate cannot impact directly on the future of that individual representative. For the individual, therefore, keeping the party happy, and not serving the electorate is the issue.

Public representatives have a range of responsibilities including providing leadership, representing the interests of the electors they represent as well as serving the people who have elected them. Now, under a system in which there is no constituency representation the measure of serving and the accountability for providing or not providing service is simply nonexistent. When individuals are elected in a constituency-based system, it is accepted that the party they belong to has a policy platform and that in terms of national and broad policy issues, their representative has a primary responsibility to the party. However, in terms of serving a geographic constituency, a public representative in a constituency system can in fact be held accountable come re-election time.

Response: South Africa's current system has been used for three elections and I believe it has worked well for us. I do not think it needs to be changed drastically, but merely reviewed.

Question: First, what exactly do we mean by values? It seems from the discussion as if values have no fundamental lasting effect and that they change according to fashion. There is a need to introduce a degree of precision into the debate because it seems to me that we are using the concept of 'values' interchangeably: as a set of ethical moral principles; and as rules. I would say that we are talking about the fundamental order of things—human dignity, achievement of equality and civil rights—which are references to fundamental values, foundational principles that have a certain ethical, moral efficacy. In addition, there are principles that issue from these values, for example, inclusiveness, simplicity, and even to some degree accountability. Second, are there any shared or common values that inform our collective values? We all collectively want to advance the vision of South Africa's identity. This means, therefore, that if there are collective values, or if we identify ourselves with those collective values, then at the very least we should be saying that *all* political parties—whatever angle, vision or view of the state they hold—are actually part of that collective engendering of those common values, whether these be equality, non-racism, non-sexism, etc.

Response Dr Wilmot James: My understanding of a value is that it is a definition of a desirable state of affairs, of a quality that we want certain institutions and individuals to have. The question for us is: beyond our considerations of inclusivity, simplicity and fairness, beyond those three things which we say are important qualities for our political system to have, how crucial is accountability as a value?

I certainly would want to argue that accountability is another important value, but the reason for this conference, for this whole process in fact, is to sound out the South African population as a whole—and we will be presented with some ETT research findings on that score.

If accountability is an important value for our political system to achieve, then how can our existing electoral system be adjusted—not transformed but adjusted—in order to contribute to that? I welcome questions about how this is possible without being naive about it. Constituency systems in the FPTP tradition, are not by definition necessarily more accountable. Therefore, asking how one achieves greater accountability with an existing PR system is precisely the right question to ask. The model we would adopt in order to achieve that is partly the purpose of this conference. If you agree that it is important for accountability to be one of the encapsulating values of an adjusted electoral system, how that will be achieved in practical terms is something for us all to consider on the basis of examining the details and the model.

Comment: Having listened to inputs made this session by both the speakers and the panellists, I think one could be easily confused. South Africa has values that are entrenched in the constitution and those values must guide us, irrespective of which political party or constituency we come from. But there are also international values. South Africa is party to a number of covenants which espouse values to which we ascribe. That should therefore be the starting point when discussing any electoral system.

I think the whole process of reviewing our electoral system is very important, not just for those attending meetings such as this. It is important for all South Africans to have a sense that this process is occurring and that they can make their own contributions in terms of whether they think this system works or not.

I do not necessarily believe there is a good argument for changing the current system. If we do decide it needs changing, we need very good reasons as to why it is not working and this needs to be well communicated, in appropriate and relevant ways, to academics, politicians and, importantly, to ordinary South Africans.

Question: When examining an electoral system and values, are we also considering African values, such as communalism?

Response Dr Athaliah Molokomme: If you prioritise the values discussed, there is much which overlaps and cross-pollinates. Every country with a written constitution has collective values that are reflected in that constitution. The assumption I made was that the South African constitution is the document to consult if one wants to discover what the values of this society are. There will, of course, sometimes be differences in the interpretation of constitutional values, but even those would have to adhere to the basic values and principles. The issues of values and principles, objectivity and subjectivity, are very sensitive issues, and when one adds the issue of Africanness or non-Africanness, it gets even more complex because the definition of what is 'African' and what are 'African values' is also highly contested. The African Charter on Human and People's Rights reflects certain values of communalism, family, etc. but under our traditional South African system some groups did not have a voice, and I could immediately cite women in this instance. I have some problems with moving the African conception of values to a point. A fully inclusive debate is needed. Gender equality is apparently not an African value, so we will face some very serious problems on this issue.

Electoral options and core values: A summary

TOM LODGE

I WILL ATTEMPT TO DRAW THINGS TOGETHER AND HIGHLIGHT THE MAIN POINTS WHILE RAISING one or two questions about them.

In the key paper, Wilmot James and Adrian Hadland identified four values that are inherent in the constitutional order, and which shape any electoral system. These are fairness, inclusiveness, simplicity and accountability. Fairness relates to those aspects of the system that ensure that every vote is of equal value and that the parties are treated fairly in their representation in parliament. Inclusiveness refers to the need for a system to be as all-embracing as possible in terms of drawing in groups across the political spectrum to induce shared goals and shared values between them. The system should also be inclusive through ensuring that all groups, however they may be defined, are represented within legislatures. The system should be simple, open and easy to understand.

In terms of accountability, the paper stressed the importance and desirability of what James and Hadland call 'direct personal accountability'. This requires a parliamentary representative to be answerable in some way to a group of people, so that this group (voters/electors) feels personally represented by an individual in parliament. The paper suggested that without this very personal link between voters and their representatives, there is a risk that certain communities may feel disengaged from the political system and become marginalised. Marginalised communities are more likely to be susceptible to disaffection, rebellion and violence. James stressed that it is not really a question of whether one should adapt the system to enhance direct personal accountability, but whether one can afford not to.

The paper suggested that the South African system performs well with respect to the first three values—fairness, inclusiveness and simplicity—but that it performs rather badly when it comes to accountability.

Interestingly, the discussion in response to the paper was cautious, with people questioning whether the current system was as fragile as James said it was. Does it require change as badly as he thinks it does? Does it succeed in certain areas that might be compromised if it is changed?

One of the more powerful points that Pansy Tlakula made was that if we introduce an element of geographic representation—that is, if we define constituencies with reference

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to districts and make individuals accountable to those areas—we strengthen any divisions that already exist in our system between neighbourhoods, groups and communities. In other words, we might intensify the extent to which our political culture is divided; and it is already considerably divided.

Athaliah Molokomme noted that the present system functioned well when combined with a voluntary quota—at least with respect to the ANC—in ensuring that a certain proportion of women find their way into parliament. She pointed out that comparative research from PR systems throughout the world suggests that, on the whole, PR systems—whether combined with quotas or not—tend to ensure that women are better represented in parliament, and that this aspect should not be compromised.

Pallo Jordan discussed the history and considerations that informed the adoption of the existing arrangements between 1992 and 1996. He made a powerful point that the essential principles that helped to shape the design of the electoral system were the results of rapid and wide consensus across a broad political spectrum that was negotiating the system at that time. His implication is that one should not discard such consensus lightly or tinker around with something that is the product of consensus in a merely speculative or experimental way; that process was rare and certainly unprecedented and will be very difficult to reproduce.

Jordan also pointed out that inclusivity can be defined in a variety of ways. Our system is inclusive, he said, not simply through ensuring that people who otherwise might not be elected get into parliament, but also in that it allows participation within institutionalised formal politics for an incredible range of political groups. It is also inclusive in the sense of being friendly to the participation of all kinds of minorities, however they may be defined in terms of culture, social identity or gender.

The most important questions that Jordan raised were on the vexing issue of accountability. He said that no system is going to guarantee accountability—constituency-based parliamentary systems do not necessarily produce particularly responsive or accountable MPs.

Like Jordan, I have my own personal memories of a constituency-based system derived from Britain. The first time I voted, the Labour Party candidate for whom I voted barely knew the name of the town to which he had been assigned by head office. Essentially, party list systems can work just as well in a constituency-based system as in a PR system. A party may or may not choose to exercise centralised authority over the selection of candidates but increasingly commonly they do, and have done so for a very long time, almost irrespective of the system that is used.

ACCOUNTABILITY

I turn now to the issue of performance around accountability. For Wilmot James there seems to be no question about it: the South African system is weak on accountability, and we cannot afford not to strengthen personalised links between voters and their representatives. He suggested that the consequences of not doing so would be calamitous, risking large-scale political disaffection, marginalisation of communities and so on. I am

not so certain that our system is so weak on accountability. There are, of course, several types of accountability.

In one sense, our system is very strong. It reinforces accountability between representatives and their party leadership. Some people think that this undesirable because it encourages authoritarian relationships between rank and leadership in parties. Some suggest, however, that this strengthens the authority of the executive *vis-à-vis* parliament. All this may be true. These are not necessarily bad things in themselves and they do represent a form of accountability.

It is also possible within our current system to introduce other kinds of accountability, to define constituencies more creatively than simply by chopping up the country into different bits and assigning people to them. There was an early attempt in our system to do this, but I think it ran out of steam. There was a stage when different groups, for example within the ANC, nominated certain MPs to appear before those groups to explain themselves, particularly trade union nominated MPs in the first parliament. This is a system of accountability that is fairly well understood in certain social democratic countries, for example Sweden, and it may be worth reconsidering.

I would also like to examine the issue of accountability with respect to public opinion. Many may agree with Wilmot James' opinion that there needs to be a greater degree of personal accountability between individual representatives and groups of voters than exists in the system at present. Whether this will produce better parliamentarians, a more legitimate system, or strengthen links between parliament and the community thereby avoiding the disaffection, which we are told might be the consequence of prolonging the existing system is, I think, questionable.

Some years ago a series of surveys were conducted on trust, exploring the extent to which ordinary people trusted institutions. These were national sample representative surveys conducted over a period of three years. It was discovered that people trusted national institutions more than local institutions, with regional ones coming somewhere in-between. In other words, the more contact people had with institutions, the less they trusted them. The more that officials were personally accountable to voters, the less inclined voters were to have confidence in them. This does not necessarily mean that local institutions were doing a bad job, but it may well mean that parliamentarians might do their jobs better if they did not have to feel accountable to the specific needs and sectional concerns of particular groups of voters.

VALUES

Finally, on the issue of the extent to which values change or imperatives alter, I am not convinced that what we have been discussing here are necessarily values in the sense of principles that should never be violated, as opposed to pragmatic considerations that may change when circumstances change. Simplicity, for example, does not seem to me—as it does not seem to Pallo Jordan—to be of such pressing importance as, for instance, fairness. Simplicity may even become less important, whereas fairness will surely always be important.

There was a slight suggestion in Wilmot James' paper (one that was not necessarily endorsed by the authors) that now that the threat of armed rebellion in our society has receded, there is less need for the system to be as inclusive as it used to be, and that we can perhaps afford to dispense with some of the 'fringes' in our political system.

I think it is worth keeping this argument in mind because the changes and models we will be discussing at this roundtable, if implemented, would probably result in a narrowing of the political spectrum represented in parliament. Some may believe this to be positive, some may believe this to be negative, but it certainly raises the issue of whether inclusiveness is as important now as it was in 1994.

An African perspective on electoral system options

DAY ONE
SECOND SESSION
PART A

Review of electoral systems and democratisation in Southern Africa

KHABELE MATLOSA

INTRODUCTION

That democratic governance is one of the current key development challenges facing the world in general, and Southern Africa in particular is indisputable.¹ Although the entire world has witnessed impressive progress towards democratic governance following the collapse of the ideological bipolarity of the cold war era, enormous challenges still exist. It is thus gratifying to recognise that even within UN circles the issue of democratic governance is currently a focal policy issue, the idea being that member states will be encouraged to reform their political systems. It is therefore fitting that the UNDP Human Development Report of 2002 focuses on democratic governance and human development under an appropriate theme: 'Deepening democracy in a fragmented world'. The UNDP poignantly observes that:

around the world, more people are recognising that governance matters for development—that institutions, rules and political processes play a big role in whether economies grow, whether children go to school, whether human development moves forward or back. So, promoting human development is not just a social, economic and technological challenge; *it is also an institutional and political challenge.*²

The worldwide transformation towards democratisation and commitment to democratic rule by governments and other critical policy actors has not left Africa in general, and Southern Africa in particular, untouched. Hyslop reminds us that:

in the 1990s Africa appeared to be poised between two possibilities for its future. On the one hand there was the apparent success of South Africa's democratic transition; on the other hand the path of disaster typified by events in Rwanda, Burundi, Zaire and the surrounding region. The early 1990s had brought a wave of democratisation to the continent; by mid-decade, however, it remained unclear whether there was a decisive change or merely a superficial shift.³

This phenomenal development, which the renowned American political scientist, Samuel Huntington⁴ prefers to term the Third Wave, has expressed itself through recent

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commitments by African governments to embrace democratic rule through various continental and regional initiatives. At continental level, the newly established AU, which was formally launched in Durban, South Africa, in July 2002, has openly committed member states to democratic governance, which will be monitored from time to time through peer review. Inextricably linked to this is NEPAD—a continental socio-economic and political revival plan pioneered by presidents Thabo Mbeki (South Africa), Olusegun Obasanjo (Nigeria), Abdoulaye Wade (Senegal) and Abdelaziz Bouteflika (Algeria)—which was unanimously adopted by the OAU Summit in Lusaka, Zambia, in 2001 and further embraced wholesale by the AU Summit in South Africa in 2002. The NEPAD initiative unequivocally states that the key pre-requisites for sustainable development in Africa are:

- peace, security, democracy and political governance initiatives; and
- economic and corporate governance initiatives.

This perspective is also shared by UNECA, based in Addis Ababa, Ethiopia, which has initiated various country studies to monitor progress towards democratic governance on the continent, with the ultimate aim of producing the first ever continental report on governance in Africa (a report that will, incidentally, come in handy for the AU peer review process).

At regional level, Southern African states have made impressive strides towards democratic governance since the 1990s. Somolekae aptly captures this transformation as follows:

In Southern Africa, the end of one party rule in countries like Malawi, Tanzania and Zambia, as well as the end of minority rule in South Africa and Namibia have all marked the ushering in of [a] new era of hope and renewal. Although the current situation in the DRC and Angola constitutes a notable setback in the region, there is still reason to believe that the democratisation wave which has been sweeping the region since the 1990s has not lost momentum.⁵

Somolekae's understandable optimism is vindicated, and indeed validated, by the commitment of the Southern African states themselves to democratic governance mainly through the SADC Treaty signed in Windhoek, Namibia, in 1992. The SADC Treaty states that the major objectives of the regional integration scheme include:

- evolution of common political values, systems and institutions;
- promotion of peace and security; and
- strengthening and consolidation of long-standing historical, social and cultural affinities and links among the peoples of the region.

It is against this continental and regional backdrop that we are better positioned to appreciate the strides made thus far by SADC member states towards democratic governance and to identify key challenges that still bedevil their political systems. Like various other parts of the world, the Southern African region is undergoing a profound political transformation. The era of authoritarianism of either a civilian or military variety which marked the region's political landscape during the 1960s, 1970s and 1980s has been eclipsed by an era of multiparty political liberalisation. However, whether political liberalisation is synonymous with democratic consolidation still remains a moot point. It is also arguable that, indeed, sustainable democracy already exists in Southern Africa and

has begun to be consolidated. Most importantly, this political liberalisation under way in the region is fundamentally steeped in and steered towards the western-type liberal democracy in a majority of the states and has indeed become part of the political conditions for aid by western donors upon whom these states so overwhelmingly depend for economic survival. This raises an important question on the form and content of democratic changes in the SADC region. Who drives the democratisation process in Southern Africa? Is liberal democracy an appropriate democratic model for the region? Is it in accordance with the dominant political culture in most SADC member states? If not, then does the region need to steer its political system towards a social democratic model as suggested by the renowned Nigerian social scientist, the late Claude Ake?⁶ Who determines the form and substance of the democratic process? Who sets the rules for the current political change in the region? What are the roles and responsibilities of internal forces and external actors in the process of democratisation? Do electoral systems add any value to the democratisation process? Does the region need to hold regular elections for democracy to be nurtured and consolidated anyway? These are complex questions each of which would require a separate article and comprehensive discussion. However, for the purpose of the present discussion, we focus mainly on the last two questions only in order to establish the impact of elections and electoral systems on democratisation.

This paper aims to discover possible linkages and interfaces between electoral systems and the democratisation process. The discussion takes the following form:

- an overview of elections and governance;
- an outline and some analysis of various electoral systems globally and throughout the SADC region;
- a comparative analysis of the more dominant electoral systems in the region, namely the constituency electoral system or what is commonly known as FPTP system and PR system; and
- a summary of the key assumptions and observations made in the paper.

In the concluding section, a thought-provoking (and perhaps also controversial) proposal is made for SADC states to deliberately transform their electoral systems into some form of the mixed-member proportionality system. The most compelling rationale for this proposal is that the adoption of a common electoral model for the region would deepen regional integration in the political arena—a crucial determinant for economic integration.⁷

Furthermore, a more harmonised electoral system on a regional scale would also help regional states monitor and peer review each other in terms of progress (or lack thereof) towards democratisation in line with the SADC Treaty signed in Windhoek, Namibia, in 1992.

OVERVIEW OF ELECTIONS AND GOVERNANCE

It is widely accepted that elections are a crucial, albeit not the only, ingredient of democratic transformation. The value of an election to a democracy is either enhanced or reduced depending on the nature of the electoral model/system being used. Whereas an

election is basically a process of choosing leaders, an electoral system is a method or instrument of expressing that choice and translating votes into parliamentary seats.

As the region made strides in its transition from war and violent conflict towards peace and reconciliation in the 1990s, yet another transformation was under way: the transformation from mono-party, one-person and military rule towards political pluralism and multiparty democratic governance. Among various other key ingredients of this transformation are the holding of regular elections and electoral systems that underpin the electoral process itself.

All regional states have embraced the practice of regular multiparty elections bar two, namely, the DRC and Swaziland. Although Botswana and Mauritius have managed to institutionalise regular multiparty elections since their political independence, a majority of the SADC member states have embraced multiparty elections since the 1990s. Zambia showed the way with its epochal multiparty election of 1991, which saw the demise of *de jure* one-party rule. In countries like Namibia (1989), Mozambique (1994) and South Africa (1994), elections played a more profound role as they acted as conflict resolution instruments while ensuring peace, reconciliation, democracy and stability. In Lesotho (1993), the election acted as a midwife for the birth of civilian rule marked by a fragile democracy following a military interregnum of about eight years. The only major setback was the aborted election in Angola (1992), which failed to resolve the protracted violent conflict. However, following the death of UNITA leader, Jonas Savimbi, early in 2002, prospects for peace, reconciliation and stability in Angola are much brighter, and elections could possibly be held in 2004.

Table 1 below provides a snapshot of the electoral process in the SADC region in the recent past.

Table 1: SADC elections calendar

Country	Date of last parliamentary election	Date of next parliamentary election	Nature of legislature	Size of legislature	Ruling party
Angola	1992	Not known	Unicameral	220	MPLA
Botswana	1999	2004	Bicameral	47	BDP
DRC	1993	Not known	Dissolved	210	Trans. Gvt
Lesotho	2002	2007	Bicameral	120	LCD
Malawi	1999	2004	Unicameral	177	UDF
Mauritius	2000	2005	Unicameral	70	MMS & MSM
Mozambique	1999	2004	Unicameral	250	Frelimo
Namibia	1999	2004	Bicameral	104	SWAPO
Seychelles	1998	2003	Unicameral	35	SPPF
South Africa	1999	2004	Bicameral	400	ANC
Swaziland	1998	2003	Bicameral	65	Exec. Monarch
Tanzania	2000	2005	Unicameral	231	CCM
Zambia	2001	2006	Unicameral	159	MMD
Zimbabwe	2000	2005	Unicameral	150	ZANU-PF

Source: SAPES Trust Databank

Elections refer to a process by which people (variously referred to as voters, the electorate or the governed) periodically choose their national and/or local leaders to manage public affairs on their behalf. Elections therefore:

- provide a routine mechanism for recruiting and selecting individuals to occupy seats in representative institutions;
- provide periodic opportunities to review the government's record, assess its mandate, and replace it with an alternative;
- accord the elected government domestic and international legitimacy as well as moral title to rule; and
- act as agents of political socialisation and political integration, providing a unifying focus for the country.⁸

Elections take place on the basis of certain accepted procedures, rules and modalities that are peculiar to individual countries in Southern Africa. There is a combination of the legal and the institutional framework necessary for elections. The legal and institutional set-up is commonly referred to as the *administrative system* of elections. The management and administration of elections is commonly the responsibility of the election management bodies as depicted in Table 2.

Table 2: Electoral management bodies (EMBs) in the SADC region

Country	Nature of EMB	Nature of appointment	Tenure
Angola	—	—	—
Botswana	Independent electoral commission	Nominated by an all-party conference	No term limit
DRC	—	—	—
Lesotho	Independent electoral commission	Established by the constitution and appointed by the king	3 years
Malawi	Independent electoral commission	Established by the Electoral Commission Act and appointed by the president	Term ends 30 days after election results
Mauritius	Electoral supervisory commission	Established by the constitution	5 years
Mozambique	National electoral commission	Established by the electoral law	Term ends 120 days after elections
Namibia	National electoral commission	Established by the constitution and appointed by the president	5 years
Seychelles	One commissioner	Established by the constitution and appointed by the president	7 years
South Africa	Independent electoral commission	Established by the constitution and appointed by the president	7 years
Swaziland	Electoral committee	Appointed by the king	—
Tanzania	National election commission	Established by the constitution and appointed by the president	5 years
Zambia	Independent election commission	Established by the constitution and appointed by the president	7 years
Zimbabwe	Electoral supervisory commission	Established by the Electoral Act and appointed by the president

Source: *Electoral Institute of Southern Africa*

The administrative framework is combined with the procedures, rules and regulations that govern the manner in which voters exercise their choice and legislators occupy their seats in parliament. A combination of these procedures, rules and regulations is commonly referred to as the *electoral system*. Although this paper does touch on the administrative machinery for elections where appropriate, it focuses primarily on the electoral system. The choice of an electoral system is crucial for the credibility of the electoral process, the acceptability of the election outcome and, of course, the legitimacy of rule itself. Certainly, the credibility of the process, the acceptability of the outcome and internal and international legitimacy of the rulers are all important ingredients for political stability in any given country. Whereas elections simply accord the electorate a right to choose their representatives in the legislature, the electoral system sets specific systemic rules, which determine “who votes and how votes are counted”.⁹ An electoral system thus determines the manner and pattern in which votes are matched with the allocation of seats in parliament. An electoral system is therefore “a method of converting votes cast by electors into seats in a legislature. Electoral systems are thus practical instruments through which notions such as consent and representation are translated into reality”.¹⁰

THE ESSENCE OF ELECTORAL SYSTEMS FOR DEMOCRACY IN SOUTHERN AFRICA

An electoral system refers to a method that a given country adopts for choosing national leaders. It encompasses procedures, rules and regulations for the electorate to exercise their right to vote, and determines how elected MPs occupy their allocated seats in the legislature. Procedures, rules and regulations governing elections are commonly defined by both national constitutions and specific electoral laws. The administrative obligations and management of elections are the responsibility of specific public institutions (see Table 2) assigned to this task, either as government departments (as in Zimbabwe) or as independent electoral commissions (as in South Africa). There are many electoral systems throughout the world and there is little consensus as to which is best for democratic governance and political stability. Each country adopts an electoral system that best suits its own political traditions, culture, history and party systems. As Jackson and Jackson aptly observe, “each political system offers certain benefits and disadvantages in terms of the representation of different groups in society”.¹¹

Globally, four main types of electoral systems exist: SMP, SMM, PR and MMP with multiple variations within and permutations among them. The essence of each of these systems is summed up in Table 3, which highlights their distinctiveness in terms of constituency representation and party representation.

The political history of Southern Africa, and the concomitant political culture, have had a significant impact on the nature of electoral systems that individual states have adopted since the independence period. The majority of Southern African states were under British colonial rule and, upon independence, they adopted the Westminster constitution and the political arrangements that go with it. It should be noted in this regard that very few Southern African states have thus far made a deliberate effort to adopt an electoral system of their own choice through popular internal consultation. Those that have include South

Africa, Namibia and, recently, Lesotho. The rest of the SADC member states operate electoral systems that are part of the legacy of an inherited political and constitutional arrangement left behind by the departing colonialists in the 1960s. Consequently, the British SMP or the FPTP electoral system has become a dominant political feature of elections in the SADC region, given that Britain was indeed the dominant colonial power in the region. Table 4 clearly illustrates the different electoral models used in the SADC region.

It is worth noting that the electoral systems that Southern African states have adopted are not a product of public debate or broadly based internal political consensus. The stark reality is that electoral systems in the region were “generally hardly ever debated and carefully chosen on the basis of consensus among political players and the population at large”.¹² Independent Southern African states have simply inherited these systems from the colonial rulers together with other constitutional frameworks.¹³ It is not surprising, therefore, that out of 14 SADC states, eight operate the FPTP system, given that Britain was a dominant colonial power in the region. Only three SADC member states, namely

Table 3: Types of electoral systems and representation

<i>Electoral system</i>	<i>Constituency representation</i>	<i>Party representation</i>
SMP	<ul style="list-style-type: none"> Maintains traditional link between representative and constituents Representatives often elected on a minority of total votes (wasted vote thesis) 	<ul style="list-style-type: none"> Distortion of votes:seats ratio Minor parties disadvantaged unless support is regionally concentrated Discourages multiplication of parties; tendency to two-party system; one party; dominant party system
SMM AV	<ul style="list-style-type: none"> Both maintain traditional link between representative and constituents 	<ul style="list-style-type: none"> Distortion of votes:seats ratio ‘Wasted vote’ thesis does not apply; small parties survive even if unsuccessful
Second ballot	<ul style="list-style-type: none"> In both cases representatives usually elected by a majority 	<ul style="list-style-type: none"> Tendency toward multiparty system
PR a. party list b. STV	<ul style="list-style-type: none"> Individual representatives usually owe election more to party than to voters Representatives forced to compete for ‘first preference’ votes 	<ul style="list-style-type: none"> Approximate congruence between vote shares and seat allocations Minor parties usually gain ‘fair’ representation; easy entry for new parties Tendency toward multiparty systems
Mixed plurality/ PR = MMP	<ul style="list-style-type: none"> Maintains traditional link between representative and constituents 	<ul style="list-style-type: none"> Approximate congruence between vote shares and seat allocation Minor parties usually gain ‘fair’ representation

Source: R Jackson, and D Jackson, A comparative introduction to political science, Prentice Hall, N. J., 1997.

Table 4: Electoral system, size of legislature and nature of representation

Country	Electoral system	Size of legislative	Number of ruling party seats	Percentage ruling party seats	Appointed seats
Angola	FPTP	220	129	53.7	0
Botswana	FPTP	47	33	54.2	7
DRC	FPTP	210	—	—	—
Lesotho	MMP	120	79	66.0	0
Malawi	FPTP	192	93	47.3	0
Mauritius	Mixed	66	54	51.7	4
Mozambique	PR	250	133	53.0	0
Namibia	PR	104	55	76.1	6
Seychelles	Mixed	34	30	61.7	0
South Africa	PR	400	266	66.4	0
Swaziland	FPTP	85	—	—	30
Tanzania	FPTP	274	244	89.1	42
Zambia	FPTP	158	69	46.0	8
Zimbabwe	FPTP	150	63	53.0	30

Source: SAPES Trust Data Bank

Mozambique, Namibia and South Africa, have adopted PR, while three others—Lesotho, Mauritius and Seychelles—operate some combination of FPTP and PR. The distinctions between the FPTP and PR as dominant electoral systems in Southern Africa are worth considering. It is to these that the next section now turns.

THE FPTP AND PR ELECTORAL SYSTEMS: A COMPARATIVE PERSPECTIVE

FIRST-PAST-THE-POST SYSTEM

The FPTP or SMP system is the simplest of the electoral systems in the world. It is also the most commonly used electoral model, and draws on the traditions of liberal democracy in the UK, the US and Canada. Of the 52 states in Africa, 18—mostly former British colonies—use the FPTP electoral system. In the Southern African region this system is used by Botswana, the DRC, Lesotho, Malawi, Tanzania, Swaziland, Zambia and Zimbabwe.

The principal tenets of this system are many and varied. First, a country is divided into relatively equal constituencies from which only one representative is chosen to occupy a parliamentary seat on behalf of that constituency. It is as a result of this tenet that the FPTP is reputed for ensuring the accountability of the MP to his/her constituency. This is one of its major strengths *vis-à-vis* other electoral systems. Second, candidates contesting an election in constituencies stand in their own right as individuals and not as political parties even if their candidature is endorsed by parties. This feature of the FPTP is often misunderstood by politicians and leads to serious problems, especially during the primary elections, emanating from conflict between constituencies and party leadership on choice of candidates. This can result in intra-party squabbles, faction fighting and at times even a rupture of parties into fragmented splinter groups (as witnessed in Lesotho [1998] and

Zimbabwe [2000]). Disgruntled party faithfuls have had to stand as independent candidates while in some instances parties have made a ruling not to place candidates because disagreements had not been resolved, even by the courts of law. Third, this electoral system allows for independent candidates to contest elections in their own right. Fourth, the winner of an election contest in any constituency may secure a simple plurality of votes and not necessarily the majority of votes, leading to winners by minority vote both at constituency level as well as national level. Neither the candidates themselves, nor the parties that endorse these candidates, need an absolute majority of votes to form a government. This situation leads to the all-pervasive problem of 'wasted votes' whereby a considerable proportion of votes does not form part of the calculation for the election outcome. There is no more vivid demonstration in recent times of a minority government brought about by the FPTP system than the 2001 parliamentary election in Zambia. Table 5 depicts a situation in which the ruling MMD won the election on a paltry 44% of the votes cast. Surely if a government wins an election on less than 50% of total valid votes, this simply becomes a pyrrhic victory and constitutes disenfranchisement and wasted votes?

Table 5: Zambia parliamentary election results 2001

Party	Seats	%
Agenda for Zambia (AZ)	0	0
Forum for Democracy and Development (FDD)	13	9
Heritage Party (HP)	4	3
Movement for Multi-party Democracy (MMD)	62	43.66
National Christian Coalition (NCC)	0	0
National Leadership for Development (NLD)	0	0
Patriotic Front (PF)	1	1
Social Democratic Party (SDP)	0	0
United Party for National Development (UPND)	47	33
United National Independence Party (UNIP)	12	8
Zambia Alliance for Progress (ZAP)	0	0
Zambia Republican Party (ZRP)	2	1
Independents	1	1
Total	159	100.00

Source: *Electoral Institute of Southern Africa*

For instance, Lesotho's 1998 election and Botswana's 1999 election results ignored the choice of almost 40% and 46% of voters respectively due to this system. Furthermore, this situation has undermined the legitimacy of governments in the region and has led to major conflicts, as the Lesotho case clearly demonstrates. The 1965 pre-independence election in Lesotho delivered a marginal victory for the BNP, which won the election race on a minority vote of about 42% of the total valid votes. It was no wonder that the BNP government suffered a severe legitimacy crisis soon afterwards. The party was subsequently defeated by the opposition BCP in the election of 1970 in which the BCP won 50% of the total valid votes. However, the ruling party then annulled the election,

declared a state of emergency and institutionalised authoritarian rule between 1970 and 1986, when it was dislodged from power by the military.

Fifth, given the very nature of this system it tends to unduly advantage dominant parties, and this leads to a one-party/dominant party system or a two-party system (duopoly). In the case of the dominant party scenario, witness for instance how the BDP has managed to stamp its political hegemony through this system in Botswana, yet the country has not been subjected to major political conflict. Table 6 illustrates the election results in Botswana between 1965 and 1999. Three important observations are worth noting from this data. The first is that, from the first election to the present, the BDP has entrenched its political hegemony over the Botswana polity through a form of de facto one-party system. The second is that representation of parties in the Botswana national assembly is certainly not broadly inclusive, and this also undermines oppositional politics. The third is that the unfettered political hegemony of the ruling BDP and the marginalisation of opposition parties tends to trigger a feeling of bitterness on the part of opposition politicians and a lack of confidence in the system. In the case of Lesotho, this has also resulted in overtly violent conflict.

Table 6: Botswana parliamentary election results, 1965–1999

Party	1965	1969	1974	1979	1984	1989	1994	1999
BDP	28	24	27	29	29	31	27	33
BPP	3	3	2	1	1	0	0	0
BIP	0	1	1	0	0	0	0	0
BNF	—	3	2	2	4	3	13	6
BPU	—	—	—	—	0	0	0	0
BCP	—	—	—	—	—	—	—	1
BAM	—	—	—	—	—	—	—	0
Total	31	31	32	32	34	34	40	40

Source: M Molomo, In search of an alternative electoral system in Botswana, *Pula*, 14(1), 2000.

The outcome of elections between 1965 and 1999 in Botswana vividly demonstrates the hegemony of the BDP in the context of a dominant party system anchored on the FPTP electoral system and liberal democracy, as Table 6 clearly demonstrates.

Despite the fact that the FPTP electoral system in Botswana has not really led to openly violent political conflicts, it has ensured and entrenched the dominant party system in a way that excludes and marginalises other key actors in the political system. In this manner the foundations of Botswana's world acclaimed liberal democracy still remain shaky. This in part explains Molomo's recent critique of Botswana's electoral model:

There are growing concerns in Botswana that while the FPTP electoral system has consolidated electoral competition in the country, it has in many respects denied the electorate the chance to shape their political future ... Democracy is ... about ensuring that electoral outcomes reflect the will of the people. The FPTP electoral system has fared poorly in this regard.¹⁴

It is on the basis of the deficiencies of the FPTP that observers, including Molomo

himself, have raised trenchant arguments for Botswana to reform its electoral system. According to Molomo, “what is desirable is the formulation of an electoral model that provides for an effective link between MPs and their constituencies and also one that allocates seats in proportion to the popular vote”.¹⁵ His suggestion for an ideal alternative electoral model is the adoption of the MMP electoral system akin to the one that Lesotho has just adopted. For Botswana, this could mean that the current 40 constituencies are retained and contested on the basis of the FPTP to retain the accountability element. Then the proportionality element could be addressed by the introduction of, say, 20 more seats “allocated on the basis of the party poll of the popular vote. This system would address both issues of linking MPs to particular constituencies and constituting a representative parliament”.¹⁶

As with Botswana, the FPTP system has ensured a de facto one-party system in Lesotho (see Table 7). However, unlike in Botswana where one-party hegemony has been sustained and reproduced under conditions of political stability, in Lesotho the reverse has been the case until the electoral reform of 2002. Despite the fact that they share common

Table 7: Election results in Lesotho, 1965–2002

Year	Main parties	No. of votes	% of votes	No. of seats
1965	BNP	108 162	41.6	31
	BCP	103 050	39.7	25
	MFP	42 837	16.5	4
1970 (election annulled)	BCP	152 907	49.8	36
	BNP	120 686	42.2	23
	MFP	7 650	7.3	1
1993	BCP	398 355	74.7	65
	BNP	120 686	22.6	0
	MFP	7 650	1.4	0
1998	LCD	355 049	60.7	79
	BNP	143 073	24.5	1
	BCP	61 793	10.5	0
	MFP	7 460	1.3	0
2002	LCD	304 316	54.8	77
	BNP	124 234	22.4	21
	BAC	16 095	2.9	3
	BCP	14 584	2.7	3
	LPC	32 046	5.8	5
	NIP	30 346	5.5	5
	LWP	7 788	1.4	1
	MFP	6 890	1.2	1
	PFD	6 330	1.1	1
	NPP	3 985	0.7	1

Source: K Matlosa, and J Akokpari, Lesotho after the 2002 Election: Focus on the electoral system, democratic governance and stability, 2002 (mimeo).

electoral systems, the difference between Lesotho and Botswana as regards political stability is surely the result of other factors—principally: resource endowment; political culture; and the institutionalisation of governance. All three factors have stood Botswana in good stead and have nurtured its liberal democracy which today is globally acclaimed. In the case of Lesotho, lack of resources, political intolerance and the personalisation of governance have given rise to violent conflict.

Table 7 demonstrates how the FPTP system can also lead to a one-party parliament (particularly in the case of the 1993 elections), disenfranchising a considerable number of voters with adverse effects for democratisation and political stability. Although the conflict that engulfed Lesotho after the 1993 and 1998 elections emanated from a multiplicity of factors, the electoral system had a role to play in this instability. Hence the government and the interim political authority have agreed on the reform of the electoral model towards the MMP system. This author contributed directly to the debate concerning Lesotho's electoral reform and was one of the proponents for the adoption of the MMP.

Although the FPTP system is conventionally regarded as critical for ensuring political stability of the political system because it does not lend itself to coalition governments, in other countries it has helped accentuate already existing conflicts, as in Lesotho in 1993 and 1998 and in Tanzania in 2000. It is interesting, though, to note that the same system has not triggered major political conflicts in Botswana. The most interesting outcome of this system in the region so far is the ushering in of a possible two-party (duopoly) system scenario in the recent Zimbabwean general election (see Table 8).

Table 8: Zimbabwe parliamentary election results, 2000

Party/Representation	Seats	%
ZANU-PF	62	51.7
MDC	57	47.5
Zanu-Ndonga	1	0.8
Non-constituency Parliament Members	12	
Provincial Governors	8	
Chiefs	10	
<i>Total</i>	150	100%

Source: *Electoral Institute of Southern Africa*

Of the total 120 elected parliamentary seats, the ruling ZANU-PF won a simple majority of 62 seats (about 49% of the total valid votes) while the main opposition, the MDC, secured 57 seats (about 46% of the total valid votes). ZANU-Ndonga came third with only one seat and less than 1% of the total valid votes. Only time will tell whether Zimbabwe will evolve into a two-party (duopoly) system as this outcome seems to suggest. The challenge for ZANU-PF is to play politics of accommodation that allows room for divergent opinion—including that which is highly critical of its own policies—within the framework of a multiparty system. On the part of the MDC, the major challenge is to prove that, beyond

the election, it is a viable, vibrant and sustainable opposition party able to engage the dominant party constructively within the framework of politics of consensus. Both parties will play a crucial role in either making or breaking the seemingly emergent two-party (duopoly) system in Zimbabwe from which the region could learn significant lessons.

Sixth, the FPTP system is also known for its marginalisation of smaller parties as it entrenches the hegemony of either one or two dominant parties. This feature has implications for the inclusivity and representivity of the legislature in its law-making and decision-making functions. It is generally accepted that the more inclusive and more representative the governance system, the more legitimate a government is in the eyes of the electorate. It is, in part, due to this system that opposition parties are generally weak, ineffective and fragmented in countries using the FPTP system, and this reinforces either a one-party system or dominant party situation. Equally important here is the critique that the FPTP does not increase gender equality and women's participation in the political process.¹⁷ Table 10 vividly demonstrates this stark reality.

PROPORTIONAL REPRESENTATION SYSTEM

The PR system is more complex than the FPTP. It draws its inspiration from the traditions of social democracy, and a number of countries have adopted this system, among them Denmark and Sweden. Although the system has multiple variants, the most commonly used is the party list. In Southern Africa, only Mozambique, Namibia and South Africa use the party list variant of PR.

PR has a number of tenets and features with implications for election results, democratisation and political stability. First, the whole country is considered as one single constituency for the election; hence there is no need for the delimitation of election boundaries. Rather than being a constituency-based system, it is instead an opinion-based electoral system. Put simply, voters' choice is not bound by geographically confined electoral zones, but is driven, rather, by their opinions/inclinations regarding the ideologies and manifestos of contesting parties. Second, candidates do not contest elections as individuals, but as party candidates appearing on a prepared list. This explains why in the Southern African context the PR system does not provide room for independent candidates to contest elections—as, for instance, the FPTP system would. Voters also do not elect individuals but political parties. The party list of candidates is “usually equivalent to the number of seats to be filled”.¹⁸ As Jackson and Jackson observe “essentially ... in all party list systems the election is primarily to ensure that the legislature reflects the relative popularity of the parties: individual candidates are a secondary concern”.¹⁹ This links to the third feature, namely that, after election, members of parliament are accountable to the party rather than to voters. Hence, PR is usually criticised for its inability to ensure the accountability of the MP to the electorate, while subjecting him/her to the dictates of the party leadership. The winner is determined by a calculation of total proportion of votes of each party relative to the overall valid votes cast. Using a threshold for qualification of parties to enter parliament (e.g. 0.5% in South Africa) qualifying parties are allotted parliamentary seats in equal proportion to their electoral strengths.

Fourth, unlike FPTP, PR is reputed for encouraging more inclusive and fairly representative mechanisms of governance. PR lends itself easily to coalition governments. Whereas coalition governments could be a recipe for political instability, if well managed, coalition governments, or what are also referred to as governments of national unity, could prove useful in building politics of consensus and compromise—as the Mozambican and South African experiences clearly show. The inclusivity of the Mozambican electoral system can be demonstrated by the nature of the election results in 1999, as Table 9 illustrates.

Table 9: Mozambique's election results, 1999			
<i>Party</i>	<i>Candidate</i>	Presidential election	
		<i>Total votes won</i>	<i>% of total votes won</i>
Frelimo	Chissano	2 338 333	52.3
Renamo	Dhlakama	2 133 655	47.7
Total		4 471 988	100.0
Parliamentary election			
<i>Party/Coalition</i>	<i>Total votes won</i>	<i>% of total votes</i>	<i>Parliamentary seats</i>
Frelimo	2 005 703	48.53	133
Renamo	1 603 811	38.81	117
Other	532 789	12.66	—
Total	4 132 303	100.00	250

Source: SAPES Trust Data Bank

In this way, the PR system has been found to be extremely useful as a conflict resolution mechanism, especially for countries emerging from violent conflicts such as Mozambique, Namibia and South Africa.²⁰

Witness, for instance, the enormous contribution of the inclusive and broadly representative PR system to the South African political transition. It ushered in, first, a government of national unity following the 1994 election; and it subsequently nurtured and consolidated peace, reconciliation and political stability through the second successful 1999 election. Although, of course, various other factors are at play in South Africa's stable democracy, no doubt PR has played a role in the remarkable progress that South Africa has made thus far in managing the most protracted armed conflict in Africa and in deepening its democratic governance. Table 10 clearly illustrates the inclusivity and representivity of the PR system in South Africa by depicting the outcome of the 1999 election.

As a conflict resolution mechanism, this system could also serve countries like Angola and the DRC well by entrenching peace and security—at least as part of the political settlement of the war. This suggests that before the PR system can contribute positively to the constructive management of conflict, a solid peace agreement to which all belligerent parties adhere, must be in place.²¹ Furthermore, the system is considered conducive to enhancing gender equality in politics and increasing the participation of women.²² In a recent study, Molokomme discovered that although PR by itself is not a sufficient

Table 10: South Africa's election results, 1999

Party	Total votes won	% of total valid votes	Parliamentary seats
African Christian Democratic Party	228 975	1.4	6
African National Congress	10 601 330	66.4	266
Afrikaner Eenheids Beweging	46 292	0.3	1
Azanian People's Organisation	27 257	0.2	1
Democratic Party	1 527 337	9.6	38
Federal Alliance	86 704	0.5	2
Inkatha Freedom Party	1 371 477	8.6	34
Minority Front	48 277	0.3	1
New National Party	1 098 215	6.9	28
Pan-Africanist Congress of Azania	113 125	0.7	3
The Government by the People Green Party	9 193	0.06	0
The Socialist Party of Azania	9 062	0.06	0
United Christian Democratic Party	125 280	0.8	3
United Democratic Movement	546 790	3.4	14
Vryheidsfront/Freedom Front	127 217	0.8	3
Abolition of Income Tax and Usury Party	10 611	0.07	0
<i>Total</i>	<i>15 975 052</i>	<i>100</i>	<i>400</i>

Source: <http://home.global.co.za>

guarantee for increased women's participation in the legislature and cabinet, it is certainly a catalyst in this process. Table 11 depicts women's participation in parliament in the SADC region, and from this table it can be seen that those countries using the PR electoral system are far more successful than those using FPTP.

Table 11: Women in parliament in the SADC region

Country	Election	Seats	Women	% Women	Electoral System
Angola	1992	224	34	15	FPTP
Botswana	1999	47	8	18	FPTP
DRC	1970	210	-	-	FPTP
Lesotho	1998	112	10	9	FPTP
Malawi	1999	193	16	8	FPTP
Mauritius	1995	65	5	8	Mixed
Mozambique	1999	250	71	28	PR
Namibia	1999	99	19	19	PR
Seychelles	1998	33	8	24	Mixed
South Africa	1999	400	119	30	PR
Swaziland	1998	95	7	7	FPTP
Tanzania	1995	275	45	16	FPTP
Zambia	1996	150	16	10	FPTP
Zimbabwe	2000	150	13	9	FPTP

Source: A Molokomme, *Building inclusiveness in SADC's democratic systems: The case of women's representation in leadership positions*, Paper presented at the Southern African Elections Forum, Windhoek, Namibia, 11-14 June 2000.

The SADC states signed the Declaration on Gender and Development during the 1997 summit in Blantyre, Malawi. The summit committed member states to equal gender representation in all key organs responsible for decision making within the state by the year 2005. In this regard, member states committed themselves to achieving at least 30% representation of women in decision-making structures in the short term. It is within this context that Table 11 must be understood. It is clear from the table that the top four countries in terms of the representation of women in parliament are South Africa, Mozambique, Seychelles and Namibia. Three of these operate the PR system, while one operates a mixed system. The bottom four countries in terms of representation of women in parliament are Swaziland, Malawi, Mauritius and Lesotho. It is instructive that three of these operate the FPTP system, while one operates a mixed system. A plausible argument can hence be made that PR is surely a better system for the enhancement of gender equality in the legislature. The MMP is the next best system for this purpose, whilst the FPTP is the system that appears least to support increased women's participation in the legislature.

TOWARDS ELECTORAL SYSTEM REFORM

This paper has established the interface between electoral systems and democratisation in Southern Africa. It argues strongly that for an electoral system to add value to democracy, it must enhance the accountability of the MPs to their constituency while at the same time ensuring the broader representation of key political forces in the legislature. In this way a political system becomes more inclusive and participatory, and accords the rulers legitimacy to govern. This further ensures that the region's political systems are not destabilised. SADC states must make deliberate efforts to address election-related conflicts and war by, among other things, reforming their electoral systems.

A majority of SADC states have embraced the principle of regular multiparty elections. The dominant electoral systems used in the region are FPTP and PR. These electoral systems differ fundamentally in terms of their essence and features as well as their impact on election results and the political stability necessary for democratic governance. We have argued that elections and electoral systems are a crucial, but not the only, prerequisite for political stability and democratic governance in Southern Africa. Generally, PR is more conducive to stability and broad representation in the process of governance than FPTP. However, despite its multivariate defects and deficiencies, FPTP also appears to enhance the accountability of MPs to the electorate.

A reform process aimed at the adoption of a combination of the FPTP and PR systems could stand the SADC region in good stead in terms of nurturing and consolidating democratic governance. The Lesotho electoral reform process could help the region with lessons of experience in introducing MMP as a preferred electoral model. This model is used mainly in Germany and New Zealand. Lesotho used this electoral model during the 2002 elections for the first time.

Its main tenets are:

- constituency-based seats are retained—constituency vote;

- party-based seats are introduced—party vote;
- a total of constituency-based and party-based seats make up the legislature;
- a specific formula is developed to regulate entry into parliament and the calculation of seats (e.g. in New Zealand two conditions apply, namely that: a party must gain at least 5% of party votes; and it must win at least one constituency seat). In Lesotho, the entry threshold is determined by each party's quota of total valid votes cast; and
- voting may take place on the basis of either two ballot papers or a single ballot paper. The latter is used in New Zealand and could prove convenient and cost-effective for the SADC region. Lesotho uses a rather cumbersome system of a double ballot which has a great potential to bureaucratise the voting process and is also financially costly.

Although we are making a strong recommendation that SADC states deliberately steer their electoral systems towards MMP, it should be noted that this system is rather complex. This is so because it combines two systems into one. In fact the most difficult aspect of this system is concerned with the formula for entry of MPs into the legislature and the allocation of seats. Consider for example Table 12 which illustrates the allocation of seats on the basis of MMP to opposition parties. Since the ruling LCD had captured 77 out of 78 contested seats, it did not qualify for compensatory seats within the MMP framework.

Table 12: Allocation of seats on the basis of the new MMP system, Lesotho 2002

Party name	Total party votes (valid votes)	Constituencies won by party	Party's allocation of compensatory seats	Total no. of seats	% Party of votes (valid votes)	% Seats won (constituency seats + compensatory seats)
Basotho National Party	124234	0	21	21	22.4%	17.8%
Basutoland African Congress	16095	0	3	3	2.9%	2.5%
Basutholand Congress Party	14584	0	3	3	2.6%	2.5%
Christian Democracy Party	1919	0	0	0	0.3%	0.0%
Khoeetsa ea Sechaba/ Popular Front For Democracy	6330	0	1	1	1.1%	0.8%
Kopanang Basotho Party	1155	0	0	0	0.2%	0.0%
Lesotho Congress For Democracy	304316	77	0	77	54.9%	65.3%
Lesotho Peoples' Congress	32046	1	4	5	5.8%	4.2%
Lesotho Workers Party	7788	0	1	1	1.4%	0.8%
Marematlou Freedom Party	6890	0	1	1	1.2%	0.8%
National Independent Party	30346	0	5	5	5.5%	4.2%
National Progressive Party	3985	0	1	1	0.7%	0.8%
New Lesotho's Freedom Party	1671	0	0	0	0.3%	0.0%
Sefate Democratic Union	1584	0	0	0	0.3%	0.0%
Social Democracy Party	542	0	0	0	0.1%	0.0%
United Party	901	0	0	0	0.2%	0.0%
Independents	0	0	0	0	0.0%	0.0%
Total	554386	78	40	118	100%	100%

Source: *Independent Electoral Commission, Lesotho, 2002.*

The allocation of seats on an MMP basis follows these steps:

- *Step One:* Total valid votes cast (554,386) divided by total number of legislative seats (118) = quota of votes (4,699).
- *Step Two:* Party votes divided by quota of votes = party quota.
- *Step Three:* Subtract the summation of party quotas from the total number of legislative seats.
- *Step Four:* Any remaining vacant seats will be allocated in the order of the parties with highest decimal fraction arising from the calculation performed in step three above.
- *Step Five:* Subtract constituency seats won by each party from the total number of seats won by the party to get the party's compensatory seats.
- *Step Six:* Summation of the compensatory seats to ensure that the total tallies with the stipulated number of PR seats.

The MMP system has a great potential to deepen democratic governance and ensure political stability in Lesotho. Given its inherent representativeness and inclusivity—virtues which are bound to encourage politics of accommodation and consensus—this system has suddenly become so popular that it is termed *Ntsoepelele* in the local vernacular, which means getting a smaller share of the bread. Although at times used rather derogatorily, the *Ntsoepelele* concept aptly describes MMP, given that the ruling LCD indeed has the largest share of the cake (77 out of 78 seats) and the other opposition parties have managed to get smaller shares of the national cake.

Managing the electoral reform process should not be confined to the political elite alone. The process must involve all sectors and sections of society from the planning stages, through design stages up to the implementation and review stages. This is an area where the Lesotho reform process has been weakest, requiring a vigorous voter education programme prior to the 2002 election. The reform process must also not lead to an adoption of a particular MMP system merely because it is implemented in New Zealand and Lesotho; the reform process must be in accord with the particular political culture of each one of the SADC states. In other words, the electoral reform process must be homegrown and driven by a national vision rather than externally derived and driven by aid donors.

CONCLUSION

There is no doubt that Southern African states have made tremendous strides towards democratic governance. The 2002 UNDP Human Development Report conceives of democratic governance as encompassing the following basic tenets:

- Respect for people's human rights and fundamental freedoms, thus allowing them to live with dignity;
- Allowing people to have a say in decisions that affect their lives;
- Allowing people to hold decision-makers accountable;
- Inclusive and fair rules, institutions and practices governing social interaction;
- Institutionalising gender equality in public and private spheres of life and decision making;

- Freedom from discrimination based on race, ethnicity, class, gender or any other attribute;
- The needs of future generations are reflected in current policies;
- Economic and social policies are responsive to people's needs and aspirations; and
- Economic and social policies aim at eradicating poverty and expanding the choices that all people have in their lives.²³

Judging by the above basic tenets, it is clear that democratic governance in the SADC region still needs to be nurtured and consolidated through deliberate reform of both the political and electoral systems. As regards the reform of the political system, it is desirable that SADC member states consider adopting social democracy rather than liberal democracy. Western-style liberal democracy is certainly not enough for consolidation of real democratisation in Africa as a whole and Southern Africa in particular. Africa needs to adopt social democracy, which Claude Ake defines as:

- a democracy in which people have real decision-making power over and above formal consent of electoral choice;
- a democracy that puts emphasis on concrete political, social and economic rights as opposed to liberal democracy, which emphasises abstract political rights only;
- a democracy that puts as much emphasis on collective rights as it does on individual rights; and
- a democracy of incorporation, inclusivity and popular participation, having due regard for racial, ethnic and gender equality.²⁴

This systemic reform has to dovetail neatly with policy reforms regarding electoral systems, which most of the SADC states inherited from the departing colonial administration in the 1960s as part and parcel of western liberal democracy, as it were. This process of electoral reform is in accordance with the SADC Treaty of 1992 which, among other things, commits member states to evolve common political values, systems and institutions in order to achieve stability, peace and security. Furthermore, NEPAD identifies democracy, political governance, peace and security as crucial prerequisites for sustainable development. Pursuant to the 1992 SADC Treaty and the 2001 NEPAD document, Southern African states should reform their electoral systems with a view to deepening democratic governance. In order to evolve common political values, systems and institutions, SADC states are therefore urged to consider adopting the MMP electoral system. Although individual states should initiate the reform process, institutions such as the UN, through the UNDP, AU, UNECA and SADC, should assist this process to its logical conclusion.

It is worth noting that in fact UNECA has already begun a continental project aimed at assessing progress towards democratic governance in Africa. UNECA intends to produce the first African governance report by the end of 2002. This UNECA project investigates the three main components of governance, namely: political representation; institutional capacity; and economic governance. Electoral system reform is bound to be an important issue in this report.

NOTES

- 1 See S Huntington, *The third wave: Democratisation in the late twentieth century*, University of Oklahoma Press, Norman, 1991; M Bratton and D van de Walle, *Democratic experiments in Africa: Regime transitions in comparative perspective*, Cambridge University Press, Cambridge, 1997; C Ake, *Democracy and development in Africa*, The Brookings Institution, Washington, 1996; J Hyslop, (ed) *African democracy in the era of globalisation*, Witwatersrand University Press, Johannesburg, 1999; C Ake, *The feasibility of democracy in Africa*, CODESRIA Books, Dakar, 2000 and UNDP, *Deepening democracy in a fragmented world: Human Development Report*, 2002, Oxford University Press, New York, 2002.
- 2 UNDP, op cit, p 51, my emphasis.
- 3 Hyslop, op cit, p 1.
- 4 Huntington, op cit.
- 5 G Somolekae, Democracy, civil society and good governance in Botswana, in A Bujra and S Adejumobi (eds) *Breaking barriers, creating new hopes: Democracy, civil society and good governance in Africa*, Africa World Press, Trenton, 2002, p 187.
- 6 Ake, op cit, 1996; Ake, op cit, 2000.
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- 9 R Jackson & D Jackson, *A comparative introduction to political science*, Prentice Hall, N. J., 1997, p 371.
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- 14 M Molomo, In search of an alternative electoral system in Botswana, *Pula*, 14(1), 2000, p 109.
- 15 Ibid, p 118.
- 16 Ibid.
- 17 A Molokomme, Building inclusiveness in SADC's democratic systems: The case of women's representation in leadership positions, Paper presented at the Southern African Elections Forum, Windhoek, Namibia, 11-14 June 2000.
- 18 Asmal and de Ville, op cit, p 6.
- 19 Jackson & Jackson, op cit, 1999, p 373.
- 20 K Matlosa, Ballots or bullets: Elections and conflict management in Southern Africa, *Journal of African Elections*, 1(1), 2001.
- 21 Ibid.
- 22 Molokomme, op cit.
- 23 UNDP, op cit, p 51.
- 24 Ake, op cit, 1996, p 132.

Panel contributions

PANELISTS:

PATEKILE HOLOMISA (A'DILIZINTABA)

KWADWO AFARI-GYAN

ADEKUNLE AMUWO

PATEKILE HOLOMISA

EVEN THOUGH I AM AN ANC MP, I HAVE SURELY NOT BEEN REQUESTED TO SPEAK ON BEHALF OF the party regarding electoral issues. The ANC is endowed with many talented people who can speak authoritatively on its behalf on such matters. My observations are therefore those of a traditional leader.

In my understanding, states devised electoral systems because they had no other means of conferring legitimacy on those who sought or aspired to rule the citizens. Political parties were formed in order to facilitate the process of winning the confidence, support and loyalty of voters, which would be translated into votes on election day. On the other hand, pre-colonial Africa—and to a large extent current rural Africa—was and is ruled by leaders who acceded to their positions of authority by virtue of the customs and traditions of their specific nations. Anyone who sought to be a traditional leader, when he did not qualify, would carry the stigma of an impostor or illegitimacy even years after his assumption of office.

The institution of traditional leadership is a well kept secret in modern-day Africa largely because of its influence in the rural and still underdeveloped areas of African states.

I recently attended a meeting of traditional leaders in Zambia organised by Women for Change and was astounded at the number of traditional leaders who attended. I was under the impression that the only countries that still had traditional leaders were South Africa, Lesotho, Swaziland, Namibia and Botswana. I did not realise that there were so many other traditional leaders with the same concerns as ours, because their voices are not heard in their countries' media, yet they are influential in the areas in which they rule and continue to play meaningful roles.

The colonial and apartheid regime imported western systems of governance which consisted exclusively of the members of the settler class, who went on to oppress and discriminate against the African people. The indigenous systems of government were epitomised by how traditional leadership was simultaneously undermined and used to perpetuate the policies of the rulers, while they continued to enjoy the support and

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appreciation of the majority of the African people. The elite who led the struggle fought the exclusion of Africans from government and consequently saw themselves as prospective heirs to the colonial and apartheid rulers upon the demise of the latter's regimes. It came about that each newly independent African state adopted, without much question, the institutions and systems of governance which were hitherto the preserve of the colonial settler class.

Original African governance systems were soon relegated to history. No attempts were made to salvage whatever positive attributes were inherent in them in order to revive African values and norms.

We have been cautioned not to romanticise the communal systems of African society because though they appear, it is said, to be inclusive they were fundamentally flawed in that they excluded women. Bearing this in mind, I think that at independence, African governments should have identified and tried to correct those aspects of African systems that were not in the interests of all people, instead of throwing the baby out with the bathwater. Having assumed the position of power, the new rulers, through the inherited colonial systems, quickly adopted the worst possible stance. Even as they argued for the entrenchment of one-party states—for the sake of unity across tribal lines—these leaders used state resources and power to remain in office indefinitely. Some were honest enough to declare themselves presidents for life while others pretended this was not the case, going through the motions of elections to the one-party state they had adopted.

DILEMMA

Khabele Matlosa's paper does not discuss systems of government that bestow legitimacy upon rulers in a truly African way. This is where my dilemma as a traditional leader arises: I am called upon to deliver an African perspective on a phenomenon which is of foreign origin but which, for all intents and purposes, has been assumed to be the way of life in Africa.

Some of the countries cited by Matlosa demonstrate that the values of freedom and democracy do not automatically endure because of a particular choice of electoral system. Under the same electoral system, one country may be stable while another is not. To me, this indicates that the adoption of multiparty democracy does not necessarily guarantee the promotion of freedom and democracy.

I believe that the test of a legitimate electoral system is whether the will of the people finds expression. Both the party list and the constituency-based electoral systems do not adequately encapsulate the will of the people. Matlosa is, of course, an advocate of the PR system and naturally pointed out all advantages of PR, citing, I think, only one advantage of the constituency-based system. The point I wish to make, however, is that one can always find fault with a particular electoral system. My proposition is that when the systems supplement each other, they close whatever gaps are evident in the other.

Reasons for the failure of the PR system to adequately encapsulate the will of the people have been amply stated in Matlosa's paper. I know of instances where people were shocked to learn of the politicians whom they had elected to office as a result of the party

list system. People who would never have been elected had the voters been fully aware of their identity, suddenly find themselves representatives of an electorate which does not even like them.

Party politics is by its nature divisive. I agree that, if necessary, parties have to exercise some control over their members, but that power has to be tampered in such a way that it does not result in the elected representatives' inability to account to the people. The people, and what is in their best interests, should matter more than what is in the party's interest. In the same way that a traditional leader who acts against the interests, will and wishes of his people loses their respect and support, so too an elected representative who does not enjoy the support of the electorate should be reassigned or removed from parliament completely.

COMBINING PARTY LIST AND CONSTITUENCY

The legacy of apartheid, characterised by racial and ethnic divisions as it is, makes it imperative that the party list system be part of the country's electoral system. It is suited to addressing the racial, ethnic, religious and gender discrepancies generated by years of colonialism and apartheid. It is crucial though that each elected representative be known to his or her prospective constituency before the actual elections take place. It is not enough that those within the party know the candidate. I therefore support the proposition that a suitable electoral system for Africa is one which in some way combines party list with constituency-based electoral representation. I strongly believe that there should be some link between representatives and the represented.

TRADITIONAL LEADERS

It is, however, irrelevant to seek to perfect any electoral system for African states when the role of traditional leaders is ignored. Traditional leaders remain the link between the very distant past and the present, despite the denial in documented history, which omits to highlight their role in the wars of resistance. Traditional leaders are the custodians of African history, customs, cultures and tradition. They are best placed to mitigate against the abrasive, divisive nature of party politics when matters of national importance are being addressed.

The electoral system should therefore allow for the election of traditional leaders by their peers, with some input from the people, to parliament. Such representation could be either in the form of special seats reserved for traditional leaders in the same chamber as elected representatives or in a separate chamber, provided they have the power to delay the passage of laws under certain circumstances. I believe this is the case in Botswana, which is a model of stable government which, I wish to claim, is due to the fact that, to some extent, they accord traditional leaders their due.

The people of Africa, having been subjected to foreign domination for too many years, deserve to have the best of all worlds.

KWADWO AFARI-GYAN

THE POINT THAT KHABELE MATLOSA MAKES ABOUT THE INTERFACE BETWEEN ELECTORAL systems and democratisation is well taken. The more an electoral system offers opportunities for inclusiveness, participation and accountability, the greater the capacity to enhance the process of democratisation. In reality, the interface is not only with the form of government, but also with the substance or quality of governance.

SOME KEY ISSUES

Some of the many key issues when choosing an electoral system for an African country are discussed below:

First, the overriding consideration should always be what one wants to achieve by the choice of an electoral system. In this regard, usually, an electoral system is chosen to solve an existing problem. Matlosa points out that the PR system is “useful as a conflict resolution mechanism, especially for countries emerging from violent conflict”. He also indicates that the MMP system was chosen for Lesotho to solve the problem of violent conflicts, resulting from the inability of opposition parties to gain seats in the legislature under the FPTP system, in spite of their sizeable share of the popular vote.

As another example of problem solving, in the 2002 parliamentary elections in Sierra Leone, a district-based proportional system was adopted as a provisional measure. The country’s constitution prescribes the FPTP system for parliamentary elections. However, in 1996, because of an ongoing civil war, the national list proportional system was used. As the 2002 parliamentary elections approached, it became clear that the people did not support the national list proportional system, mainly because the rather faceless nature of representation made it impossible for them to directly know their representatives. On the other hand, the civil war had resulted in such massive internal displacement of the population that it was not feasible to divide the country into single member constituencies in a fair manner. The National Electoral Commission therefore decided to use the existing administrative districts as multi-member electoral divisions, and to use the proportional principle to allocate the parliamentary seats to the political parties. The people approved the new system at regional consultative forums, and parliament subsequently enacted it into law as an option to be used whenever the country cannot be divided into single-member constituencies.

The second factor that should be taken into consideration in the choice of an electoral system is the degree of social, ethnic and racial fragmentation of a country. In this regard, what we should be looking for is the kind of electoral system best suited to equitable representation of the various groups in the country. The extent to which an electoral system is able to achieve inclusiveness relative to the degree of fragmentation is important for consensus building on national issues and, consequently, for political stability.

The third factor is the need for open and broad-based consultation before a new electoral system is put in place. This is important for the understanding and acceptance of the system as well as for the legitimacy of the government.

The three factors mentioned are key considerations, but they alone are insufficient for the selection of an electoral system. Insofar as an electoral system interfaces with democratic governance, it should not be seen simply as a method of translating votes into legislative seats. The choice of an electoral system should go far beyond considerations relating to the advantages and disadvantages of plurality, majority and proportional systems. Indeed, the choice should be viewed in terms of a comprehensive package, which also includes criteria for demarcating electoral divisions, where applicable, and issues of local government.

DEMARCATION

Demarcation practices vary greatly. In some regions population alone is used as the basis for the demarcation of electoral divisions. There are two variants of this practice. On the one hand, where the principle applied is to create divisions with nearly as equal number of inhabitants as practicable, the total population is used. On the other hand, where the principle is that the divisions should have nearly as equal numbers of electors as practicable, only the number of registered voters is used.

In some countries a combination of population and land size is used as the basis of demarcation. Invariably though, population is given a much heavier weight than land size. Where this practice is further combined with a distinction between urban and rural electoral divisions, such that the former requires a much greater minimum population than the latter, possible imbalances in the geographical areas covered by the divisions are minimised.

In addition to the foregoing considerations, in some areas certain special factors are also brought to bear on the demarcation of electoral divisions. These factors include existing administrative and traditional jurisdictions, geographical features such as barriers to transport and communication, and the distribution of different racial, ethnic and linguistic communities.

In my view, where applicable, demarcation criteria are worthy of due consideration in the choice of an electoral system, because they impact significantly on inclusive representation. Also, in the absence of widely agreed objective criteria, periodic re-demarcation of electoral divisions can easily become a politically sensitive and potentially destabilising issue. This is a problem that Malawi, for example, might face, if it were to re-demarcate its parliamentary constituencies.

STABILITY AND DEVELOPMENT

Considerations relating to forms of local government that are able to generate development at regional, district and community level are equally important for democratic governance. Without stability there can be no development; but there can be stability without development. So, all things considered, an electoral system is as good as it promotes both stability and development. In several states in Africa, lack of viable local government systems and neglect of the countryside have been contributory factors to a

rural-urban drift of people with resultant enormous pressure on all manner of urban facilities and a volatile voter population of unemployed people, political instability and even civil war. Clearly, the centre is not all that matters; if the periphery cannot hold, the centre cannot hold, too.

OBSTACLES

Another major issue is the extent to which the electoral systems options now available are able to promote multiparty democracy against a backdrop of poverty, lack of financial resources and political environments not conducive to political contest.

Obviously, each of the above three factors constitutes a major obstacle to the practice of true multiparty democracy. General poverty tends to cause apathy towards elections or unsettling forms of political participation, poor countries are less likely to tolerate political opposition, lack of adequate funds makes political parties uncompetitive, and an environment of intolerance of opposing political views is not a fertile ground for the growth of multiparty democracy.

On the other hand, I believe that the electoral system can be used as a means to promote political participation and tolerance as well as socio-economic development and poverty alleviation. In terms of the current menu of electoral systems options available, I lean in this regard towards the MMP system because:

- it fulfils what I consider to be the need in most of present day Africa for a more direct link between the representatives and the people;
- where there is the political will, it promotes the representation of women and minorities; and
- it distributes seats more fairly among competing political parties on the basis of their respective shares of the total votes.

But the MMP system should not be adopted only as a superstructure. In each instance of its adoption, the appropriate substructures in the form of electoral division demarcation criteria and institutions of local governance must be carefully assessed in the context of the respective country.

In addition, the problem I have with PR systems relates to how the threshold is set. I think that it is fairer to set the threshold at the percentage of votes required to elect one representative. If the percentage is higher than that, it is unjustifiably punitive; if lower, it is plainly unfair. Clearly, any political party that is incapable of obtaining enough votes to elect one member to the legislature does not deserve to be represented.

The choice of an appropriate electoral system is critical for the long-term general well-being of any African country. An electoral system can help to refocus political interests and redirect forms of political participation in ways that can achieve accommodation, stability and development.

ADEKUNLE AMUWO

I HAVE BEEN ASKED TO PROVIDE A BRIEF OVERVIEW OF HOW AN ELECTORAL SYSTEM SHOULD encourage the development of political parties based on broad political values and ideologies with specific policy programmes, rather than on narrow ethnic, social, racial or regional concerns. I will also look at the Nigerian experience in terms of how an electoral system option can go some way to lessen the potential for intersocietal conflict.

THE POLITICAL ECONOMY

My major argument is that to understand electoral systems we have to look beyond them. In order words, to have an electoral system that is viable, national, productive and people-friendly, we have to look at some of the variables and factors in the entire political economy.

Nobel Prize winner for economics, Amartya Sen, wrote a book some years ago on ethics and economics. He spoke about the two wings to political economics: the ethical wing and the engineering wing. The engineering wing is about structural adjustments—putting structures in place, tinkering with constitutions, etc.—and with regard to economics, it is about production. The ethical wing is about how valuable resources in our society are distributed in such a way so as to create economic inclusion that results in ‘civic’ citizens, not just ethnic or racial citizens.

In doing this it is essential to question the nature and character of the post-colonial state, which seems to be defined today by the domination of a hegemonic, ethnic configuration.

Nigeria’s civil war of 1967-70 was fought mainly because of a crisis of marginalisation. It is difficult to run a unitary system in Nigeria, partly because of legitimacy engineering and partly because of the federal nature of the Nigerian system, not least being the distribution of both ethnic nationalities and regional sentiments. This is currently exacerbated by the Shariah issue, with the north being off the mark in terms of civic identity and where elected political officers, not Islamic clerics, are putting Shariah in place, thereby sidelining the religionists.

NATIONAL IDENTITY AND FEDERALISM

In order to create a national identity in Nigeria, the military government in the 1979 constitution, and this was replicated in the 1989 and 1999 constitution that is used today, insisted there be national political parties in at least two-thirds, that is 24 states, of the federation. The parties must be national in terms of sharing positions, with a conscious federal balance to ensure there is no domination by one group of states over another. This is because whereas all animals are equal, some animals are more equal than others. In other words, some portfolios are more important than others and even if portfolios were divided equally among the major ethnic nationalities, states and regions, those with the super ministries or departments, such as defence, home affairs and foreign affairs, would

have more real power. As a result, the northern part of the country and the party that wins the election, often has monopoly over the major portfolios.

A positive consequence of federalism is that it has insisted there be a federal, a state and a local character not only in terms of the parties formed, but also in terms of the governments put in place so that no narrow-based governments exist at any level. For instance, a government council must reflect the diversities within that council. The state or provincial level must also reflect the diversity at that level and similarly with the national level. The problem, however, is the constantly shifting identities and boundaries. Once more states are created, today's majorities may become minorities in another state, which creates demand for further states to be formed.

The electoral system—both under the military and today—has, however, insisted on proportional representation based on constituencies, but that any party that has won five per cent of the national vote can have representation in the national assembly.

RESOURCE ALLOCATION

I believe, however, that it is important also to look at resource creation and resource allocation. The young people of the Niger Delta who occasionally hold hostage management and workers of oil companies are not protesting against a lack of political representation or political inclusion, they are protesting against a lack of resources. A major source of Nigeria's revenue comes from oil. There seems, however, to be a tacit agreement between the government and the oil companies to extract minerals from the Niger Delta while giving very little back. Even people from the ethnic nationalities of the area are not given jobs and they do not have adequate representation in terms of the resources coming from their land. The region used to be home to numerous fishing and agricultural communities but today fishing opportunities are minimal because oil prospecting has despoiled the land.

ELECTORALISM

Lastly, we need to avoid the whole notion of electoralism. While the electoral system is very important, we should be careful not to involve people in a type of sociological fraud whereby they are hindered from competing in or contesting elections because of resource constraints. A consideration for Nigeria in this regard would be to do away with property qualifications that were introduced by the military. Another problem in Nigeria is that one has to pay a certain amount of money to one's party in order to become a presidential candidate for that party. The economic aspects of an electoral system are therefore important when considering the robustness and inclusiveness of that system.

Questions and answers on an African perspective on electoral system options

SELECTED AND EDITED

Comment: It sounds like [...] a link is being made between democracy and order, in relation to Mozambique, Lesotho and South Africa. I prefer a situation where order is the result of democratic practice, and not the suppression of democracy for the sake of order.

Question: I want to query the point that the ballot is more important than the bullet. Freedom fighters might say that the bullet cannot be abandoned until the ballot is secured. There have been instances in Africa where military governments were more democratic and representative of the people than civilian governments.

Response Dr Khabele Matlosa: I agree with the relationship drawn between stability and democracy. I have a problem, however, with the bullet-ballot relationship. No government that comes into power through the bullet can retain its power through the bullet and claim to be democratic. I think we must make a definite distinction between a liberation struggle and normal conditions. Liberation struggles have specific historical precedents and the armed struggles in, for example, South Africa, Namibia, Mozambique and Angola were justified, but were followed by a democratic environment. For argument's sake, however, imagine for a moment the ANC retaining its power now by force. What kind of government would that be? A military regime can never be more democratic than a civilian government.

Question: Why is it that the FPTP and best loser electoral system in Mauritius has not been successful in increasing the number of women in parliament, with this number actually decreasing?

Response Dr Khabele Matlosa: The FPTP system itself cannot ensure gender equality and the best loser system, which was supposed to compensate, has too few seats to make an impact. Added to this is the problem that even within parties themselves, internal democracy is still questionable in terms of how candidates are elected at micro level.

Question: [...] When are traditional leaders democratic and undemocratic? Why is it that the Queen of England is regarded as being 'democratic' and gets the 'royal' treatment when she comes here, but our traditional leaders are regarded as being 'undemocratic' and are not afforded the same respect. Perhaps the problem is that traditional leaders in this country are essentially local level representatives because we have no national traditional leaders who represent all South Africans. There therefore seems to be a clash between our

electoral and traditional systems.

Response Patekile Holomisa: I fully agree that we seem to pay more attention to foreign institutions than to our own, even when we have equivalents here. There is a perception that we have more respect for European kings and queens than we do for our own. The reason for this, I think, is that the more learned Africans become, the less we tend to know about ourselves and about our traditional systems and institutions.

Comment: For me, what came out of this last session clearly reveals the diversity of perspectives and experiences that exist within different African societies. This diversity should caution us against laying claims to an African perspective. The definition of an African perspective still needs to be fully addressed. It is only after many discussions such as this that we can really begin to say: maybe we are moulding some kind of an African perspective that can contribute to enriching the debate on democracy beyond the electoral process.

Response Dr Khabele Matlosa: I agree, but as we go through the electoral reform process, a number of issues have to be considered. These include quantitative and qualitative aspects as well as the consultative process and continuous dialogue. Qualitative and quantitative aspects are very important to ensure that we consider all critical elements so that the final model is the best we can have.

Question: It is generally accepted that the PR system does not allow for accountability. Dr James implied that the PR system tends to diminish accountability of the executive to parliament. Does the constituency model provide the scope for accountability of the executive lacking in the PR system?

Question: Are we now on phase two of the nation-building project? Have we solved the pre-1994 problems of racism, patriarchy and conflict, so that if we were to open the playing field, people would freely and openly use the constitution to vote, not on the basis of race, but on the issues?

Response Patekile Holomisa: Have we resolved the legacy of apartheid to the extent that we can promote other, for example constituency-based, electoral systems? The reason we are advocating a mixture of the two systems is because we recognise that the legacy of apartheid and colonialism will be with us for some time yet. We therefore need an electoral system which will ensure that various sectors are properly represented.

There is at the same time, however, a growing perception that politicians are not accountable to the electorate and that people do not know who their MPs and MPLs are.

An African perspective on electoral system options: A summary

CHRIS LANDSBERG

LET ME POSE A PROVOCATIVE QUESTION: IS THE 1994 SETTLEMENT ABLE TO DEAL WITH SOUTH Africa's problems in the long term? From the presentations here, it seems to me that the question is now firmly on the table and that if the ETT is to take its work seriously, this issue will have to be dealt with. We are not necessarily talking about what is needed right now or in the medium term, but rather what electoral system would be in the long-term national interest of the country.

How mature are we to go beyond that? How modest should we be in our attempts in adopting the more incrementalist approach? If our objective is to accommodate elite fears, interests, anxieties and concerns—on all ends of the spectrum—why fix the system if it is not broken? We could just as well stay where we are.

It is interesting that so many speakers seem to favour a mixed system. I think this is because we hope it is the best system to take us forward, it being the only one that attempts to combine the best of all worlds.

COMMENTS ON THE PANEL CONTRIBUTIONS

In terms of the panel, I heard Khabele Matlosa make a very strong argument in favour of a rules-based, independent liberal democratic system that appreciates the importance of competition and of the accommodation of various interests.

Interestingly, I first met Kwadwo Afari-Gyan in the US in 1997. He was, if I am not mistaken, the guest speaker at Ghana's 40th independence anniversary celebration there. As chair of the IEC at the time he had to deal with executive interference in electoral processes and he strongly defended the need for rules—for a system that worked. The message he sends to South Africans today is to learn from the lessons of others.

A key question raised was whether an electoral system itself is able to make a significant contribution to the developmental challenges faced by young democracies in Africa?

Adekunle Amuwo made the point concerning the distribution of resources, dealing also with development issues and inequalities in society.

If we are true to ourselves, a medium-term solution may lie in what Patekile Holomisa called 'representation'. But how do we give meaning to this notion of representation, both

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of the people and of the interests of the people? How do we become mature and move beyond elite concerns and accommodations, as important as they may be, to ask the question: What do we really need in an electoral system?

In summary, there seems to be three electoral options on offer. The preferred option, however, is a middle-of-the-road approach that tries to appreciate the importance of representation and participation of people in decision making in governance. I think maybe that is the more realistic outcome.

I was fortunate enough to attend the recent Lesotho elections. What is important about the Lesotho example is that it represented a very inclusive process and tried to accommodate various elite interests, yet at the end of the day a spoiler or two emerged. This is because the poorer the African country, the poorer the context; or the greater the levels of poverty in a country, the higher the stakes and the greater the chances are that people will fight for and contest elections—and not necessarily for the sake of consolidating democracy, but in order to survive. Whether we like it or not, we will have to accommodate elite concerns and interests.

The voters' perspective

DAY ONE
SECOND SESSION
PART B

Popular attitudes towards the South African electoral system (draft report to the Electoral Task Team*)

ROGER SOUTHALL AND ROBERT MATTES

INTRODUCTION

The ETT, chaired by Dr Frederik Van Zyl Slabbert, was established by the Minister of Home Affairs Dr Mangosuthu Buthelezi in May 2002 to review the current electoral system and to recommend any reforms in time for the next general election. Any such reforms would have to be implemented in terms of Sections 4(1) of the 1996 constitution (Act No. 108 of 1996) which states that the National Assembly shall consist of no fewer than 350 and no more than 400 members elected in terms of an electoral system that:

- is prescribed by national legislation;
- is based on the national common voters' roll;
- provides for a minimum voting age of 18 years; and
- results, in general, in PR.

Section 4(2) adds that an act of parliament must provide a formula for determining the number of members of the National Assembly.

Similar provisions (Sections 105(1) and (2)) apply to the composition and election of the provincial legislatures.

To inform their thinking, the ETT decided to commission a nationally representative survey of public attitudes about the qualities of the current electoral system, and how it might be improved (within the constraints of the constitution). The resultant survey was undertaken by four prominent South African research survey companies (ACNielsen, MarkData, Markinor and Research Surveys), and coordinated and analysed by the HSRC.

FRAMEWORK AND METHODOLOGY OF THE SURVEY¹

The specific objectives of the survey were to obtain information from the pool of potentially qualified voters concerning, principally, levels of political awareness and participation, knowledge of the current electoral system and political system, sources of information on politics and government, previous and potential voting behaviour, trust in the current electoral system and indications about what is popularly expected and desired

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from an electoral system. A recommended questionnaire was designed for the ETT by the HSRC, containing both structured and semi-structured questions. The ETT made final decisions about which question items were included in the final version.

The questionnaire was administered face-to-face to a random, nationally representative sample of 2,760 South African citizens of voting age, between the period 16 July and 16 August 2002. This included the conducting of 60 pilot interviews to ascertain the time required to administer the questionnaire and to test the formulation of the questions.

The HSRC provided a sample of the target population with the sampling population defined as all people living in households and hostels (but excluding special institutions such as prisons and hospitals) who could be contacted and interviewed. A list of all enumerator areas (EAs) based on the 1996 census was used as a sampling frame. The list contained descriptive data on the number of people and number of households for each EA in the country.

The final sample was a random, disproportionate, multistage, stratified, cluster sample. The list of EAs was stratified into nine provincial lists, and then into four population groups within each province, and further into rural and urban lists. To obtain the required sample of 2,760 individuals, 690 EAs were randomly selected from these lists with the probability of selection proportionate to population size. Finally, an implicit stratification by home language was introduced through a method known as 'controlled selection'.

Within each of the selected EAs, four visiting points were randomly selected. At each visiting point, all eligible respondents were enumerated and one respondent was randomly selected. No substitutions were allowed. If the selected respondent was not at home at the time of the first visit (normally made after working hours), two follow-up visits were made at agreed times and dates. Questionnaires were administered in the language of the interviewees' choice, with the appropriate use of show cards. Interviewers reported that the questionnaire was formulated clearly and was user-friendly.

This resulted in a sample that was representative because it was random and because each South African had an equal and known chance of being interviewed. Some exceptions were, however, necessary to enhance the reliability of the analysis. In the Northern Cape and among the three minority population groups (white, coloured and Indian respondents), strictly proportional selection would have resulted in insufficient numbers of respondents selected to support detailed analysis. Thus, a disproportionate number of EAs was selected among these strata. These cases, however, were subsequently weighted downward so that they would have the proper influence on the final national results.

ATTITUDES TOWARDS THE CURRENT ELECTORAL SYSTEM

South Africa's first two democratic, non-racial general elections (including elections for the nine provincial assemblies) held in 1994 and 1999 were conducted under a national list system of PR with no minimum fixed proportion of the total number of votes (i.e. a threshold) required for parties to gain representation in parliament or provincial assemblies. The choice of this electoral system was an outcome of the negotiation process that produced the democratic settlement, and was dictated by the perceived characteristics

of this form of PR. Notably, it had the virtues of, first, being simple to use and to explain to voters. Second, it provided for maximum representivity, thereby ensuring the inclusion rather than the exclusion of minority parties and opinions. Third, because it was inclusive, it was more likely than alternative electoral systems to encourage reconciliation and co-operation between the competing political parties—a quality that was enhanced in the first parliament by a constitutional condition requiring a government of national unity consisting of all parties winning a minimum number of seats. Overall, the idea of proportionality was seen as vital to allay suspicions that the electoral system would unfairly favour one party over another—as can notoriously happen via the manipulation of the demarcation of constituency boundaries under the plurality systems used in South Africa prior to 1994, or still in use in the US, UK and most Commonwealth countries.

If the mechanics of the national list PR system were intended to provide a system that was ‘fair’, then the political assumption on which that intention was based was that elections held under its rubric would also be ‘free.’ In the post-negotiation South African context this required that parties would encounter ‘a level playing field’ in the sense that no party would be favoured above others by the governmental or administrative machinery. To this end the 1994 and 1999 elections were run by the IEC, established under the 1994 constitution and charged with administering elections in a politically neutral way.

Given that these were the imperatives driving the selection of the present electoral system, we begin by reporting results to a set of question items that gauge public opinion about these very aspects of the current system. Because people may have different levels of knowledge about the existing system, the interviewer began this set of questions by informing respondents that:

General elections are normally held every five years. In these elections, people vote for a political party. The top people from each party’s list of candidates then go into parliament or the provincial assembly according to how many votes each party receives. Once parliament is elected, the MPs elect the president and the members of provincial legislatures elect the premiers.

The survey then asked respondents a series of questions about their opinions of the current electoral system. Looking across these questions, it is clear that a substantial majority feels that, overall, the present system is fair.² Three-quarters say they are “satisfied” with “the way we elect our government” (74%) and agree the system is “fair

Table 1: Satisfaction with the fairness and equality of the present electoral system (%)

	Yes	Neutral/Don’t know	No
Are you satisfied with the way we elect our government in South Africa?	74	5	21
Is the voting system fair to all parties?	72	11	17
Do you think that all voters were treated equally in the 1999 general election?	68	14	18
Do you think all parties were treated equally in the 1999 general election?	63	16	21

to all parties" (72%). Approximately two-thirds feel that "all voters were treated equally" in the 1999 election (68%) and that "all parties were treated equally" in 1999 (63%).

Interpreting these and all subsequent results requires that we step back and think about our criteria for evaluating responses. The typical analysis of public opinion looks carefully at issues of the balance of opinion, especially at which options are supported by a plurality or even a majority of respondents. However, readers need to consider whether normal majority/plurality/minority considerations are adequate criteria to judge these results. We need to consider whether fundamentals of the constitutional system require broader thresholds of support than simple majorities. Or, in other words, whether electoral systems require what political scientist David Easton once called "diffuse support", meaning a form of support for elements of a democratic regime that are almost consensual and cut across all societal cleavages?³

With these considerations in mind, taken together these results suggest that, at least in the public eye, the system is far from 'broke' and that, accordingly, caution ought to be exercised in 'mending it'. However, against that, it needs to be noted that fully one-fifth of respondents registered their dissatisfaction with the present system, and that around one-third were either dissatisfied or non-committal in their judgment. In other words, support for the current system is less than consensual and significantly sized minorities register dissatisfaction.

We see a similar pattern of responses to a series of questions on the breadth of representation and degree of political accountability produced by the present system (see Table 2).⁴ Four-fifths of respondents feel that the system "ensures that we include many voices in parliament" (81%) and that the system gives voters a chance to "change the party in power" (78%). Around seven in ten say the system enables voters to "influence parliament" (71%), that it produces "the best possible government" (69%), and that it allows voters to hold political parties "accountable for their actions" (68%). However, we see a notable drop off in agreement when we ask whether the system helps voters "hold individual representatives of government accountable for their actions": here, just 60% agree and fully one-quarter (25%) disagree.

Table 2: The electoral system and political accountability (%)

	Yes	Neutral/Don't know	No
Does the voting system ensure that we include many voices in parliament?	81	8	11
Does the voting system give voters a way to change the party in power?	78	9	14
Can voters influence parliament?	71	11	18
Does the voting system give us the best possible government?	69	9	22
Does the voting system help voters hold the parties accountable for their actions?	68	12	20
Does the voting system help voters hold individual representatives of government accountable for their actions?	60	15	25

All of this suggests that voters recognise that the system produces a high level of representativeness as well as provides for an opportunity for government turnover. In other words, whereas various commentators have begun to categorise the ANC—which won 63% and 67% of the national vote in 1994 and 1999 respectively—as a ‘dominant’ party, voters do not necessarily view its position as unassailable. Most voters also feel that the electoral system allows them the opportunity to make their voices heard in the halls of parliament and ensures that political parties ‘anticipate’ their reactions at the next election to what they do today.⁵

However, these results also suggest that many voters agree with those political scientists who argue that PR’s weakest area is that it does not allow the electorate to hold individual parliamentarians and government officials accountable. This is particularly notable in the context of the task that the ETT has been given; it must take into account the widespread argument that the national list PR system weakens the political accountability of individual members of legislatures by empowering party leaderships (who exert considerable influence in the construction of the parties’ lists of candidates for election). In contrast, so it is often said, constituency or geographic representation provides a more direct link between voters and their representatives, while simultaneously demanding of the latter a dual loyalty—to both their party and their constituents. We will address this question at greater length below. On the whole, however, the results in Tables 1 and 2 display a relatively high level of satisfaction with the existing system.

In order to test which factors seem to structure attitudes towards the current electoral system, the survey measured a range of basic demographic characteristics (e.g. age, race, home language, education, household type, employment, province and rural–urban status). It also measured a series of attitudinal and behavioural factors such as respondents’ main source of political information, their political knowledge, political interest, as well as their political participation in previous elections and other forms of political activity.

Statistical analysis revealed that, as in so many other areas of public opinion in South Africa, the most important demographic structuring characteristic is race. Hence, for instance, if we re-visit the issue of satisfaction with the present electoral system, we find that white, coloured and Indian respondents are considerably less satisfied with various aspects of the current system. At the same time, readers should note that the overlap is far from complete.⁶ Between one-third and one-half of white voters, and just above one-half to 60% of coloured and Indian respondents, offer positive assessments of the current system. It is also notable that between 12% to 15% of black respondents register dissatisfaction with the system. What may be most significant for the ETT is the fact that there is greatest cross-racial agreement with the items that refer to the electoral system *per se* (i.e. “the way we elect our government,” “the voting system is fair”) than with the items that refer more to election administration (“treatment” of parties and voters). Thus, although the overall objectives of the present electoral system would seem to earn relative approval across all racial groups, the mode of its implementation appears to be in considerably greater dispute. Again, however, we refer readers to the issue of how much support is required for something such as an electoral system, and how widespread that support should be.

Race makes less of a difference in attitudes toward the degree of political accountability produced by the current system.⁷ There is cross-racial agreement that the system allows people to influence parliament and produces as broadly representative a parliament as possible. Whites, in particular, are considerably less optimistic than other voters that the system enables people to hold individual representatives and political parties accountable or that it produces the best government possible. Meanwhile, interestingly, the fairly widespread misgivings among the three minority groups that the electoral system renders parties and individual politicians accountable to the voters is shared by over a fifth of blacks. As will be illustrated below, these queries about accountability are echoed in people's thinking about the relative values of alternative electoral systems.

When we examine all the possible determinants of views of the current system, (demographic, attitudinal and behavioural), race still plays a very strong role (see Appendices A and B for actual results). Even statistically controlling for differences in rural-urban status and educational status, white, coloured and Indian respondents are more negative in their assessments of the equality and fairness of the electoral system. When it comes to assessments of the political accountability of the system, only whites are significantly less positive. Moreover, these differences remain even when we control for differences in the job approval ratings of elected officials. What this strongly suggests is that racial differences in evaluations of the current electoral system are not simply a function of their disapproval of the party in government, the ANC.

At the same time, evaluations of elected officials do have a major impact on how people see the electoral system (they are the second strongest determinant after race with regard to assessments of equality and fairness of the system, and the strongest impact on assessments of accountability). In other words, the more people approve of the job performance of their MPs, MPLs and local councillors, the more positive they are about the electoral performance. Since we know from other research that evaluations of

Table 3: Fairness and equality of the present electoral system (by race) (%)

		Black	White	Coloured	Indian
Satisfaction with way we elect our government	Not satisfied	15	45	36	33
	Satisfied	81	51	56	64
	Don't Know	4	4	8	3
Treatment of parties in 1999 general elections	Not equal	15	51	38	27
	Equal	70	34	46	52
	Don't know	15	16	25	23
Treatment of voters in 1999 general elections	Not equal	12	47	27	22
	Equal	75	37	55	57
	Don't know	12	15	19	24
Voting system is fair	Disagree	12	43	26	20
	Agree	78	48	55	68
	Don't Know	11	9	19	13

		<i>Black</i>	<i>White</i>	<i>Coloured</i>	<i>Indian</i>
Voters can influence parliament	Agree	72	64	70	85
The voting system holds parties accountable	Agree	73	43	61	66
The voting system offers a way to change the party in power	Agree	81	53	73	80
The voting system gives us the best possible government	Agree	77	37	55	59
The voting system holds representatives of government accountable	Agree	64	38	57	64
The voting system ensures we include many voices in parliament	Agree	83	70	77	82

government institutions such as parliament, provincial assemblies and local councils are heavily coloured by partisan factors, we interpret this finding as suggesting that views of the electoral system are also shaped by partisan criteria. In support of this interpretation, we also point to the fact that people who identify with a political party are more positive in their assessment of the voting system. Based on the results of virtually all other research on this matter, we know that the large majority of these identifiers support the governing party, the ANC.⁸ The ETT needs to seriously consider the fact that the electoral system is viewed through a partisan lens.

THE CONSEQUENCES OF ATTITUDES TOWARDS THE ELECTORAL SYSTEM

Once we have seen the actual extent and distribution of positive public assessments of the current voting system, the next obvious question is whether they matter? In other words, are people who are more or less positive about the voting system any more or less likely to have positive views of the democratic process, or to take part in it? We examined the linkages of public views of the fairness and equality of the system, and of its political accountability, with regard to three key items. Do people feel that elections matter? Do they think that representative institutions are concerned with public opinion? And, finally, are they willing to vote in future elections?

Let us begin by examining the actual responses to these questions. Eight in ten South Africans say they want to vote in 2004 (33%) or want to do so very much (49%). Two-thirds (67%) see elections as consequential and agree with the statement that “it is important who is in power because it can make a difference to our lives”. In contrast, three in ten (29%) feel that “it doesn’t really matter who is in power, because in the end things go on

much the same". Yet people are far less sanguine about the performance of the representatives and representative institutions produced by those very elections. This is a matter we shall return to at the end of this report. But for now, we note that less than one in five believe that MPs "try their best to look after the interests of people like you" (19%) or "to listen to what people like you have to say" (19%). We find almost the same responses when the two questions are asked about elected members of provincial government.⁹

Table 5: Desire to vote in 2004 (%)

I definitely do not want to vote	8
I do not really want to vote	5
I do not know	5
I want to vote	33
I definitely want to vote	49

How much do you want to vote in the next general election in 2004?

Table 6: Importance of elections (%)

	Agree most	Don't know	Agree most	
It is important who is in power because it can make a difference to our lives	67	4	29	It doesn't really matter who is in power, because in the end things go on much the same.

Which of the following statements do you agree with most?

Table 7: Responsiveness of parliamentarians (%)

	Always	Most of the time	Some of the time	Never	Don't know
To look after the interests of people like you?	5	14	38	36	6
To listen to what people like you have to say?	5	14	37	38	6

How often do you think elected representatives in parliament try their best?

Table 8: Responsiveness of members of provincial assemblies (%)

	Always	Most of the time	Some of the time	Never	Don't know
To look after the interests of people like you?	5	14	36	38	6
To listen to what people like you have to say?	5	14	36	39	6

How often do you think elected representatives in provincial government try their best?

To what extent do these key democratic predispositions and evaluations depend on their views of the voting system? There are strong correlations between the desire to vote in 2004 and perceptions of the responsiveness of elected representatives on one hand, and evaluations of the fairness and equality of the voting system and evaluations of its political accountability on the other. The belief that elections matter, however, is only very weakly related to views of the voting system.¹⁰ With regard to their impact on future voting and perceptions of institutional responsiveness, these correlations remain strong even after we statistically control for racial differences.¹¹ Finally, we developed an elaborated model with which to predict one's likelihood of voting in 2004 and found that even once we statistically controlled for a range of demographic, attitudinal and behavioural factors, the view of the current system exercised a significant and important impact on future voting behaviour (see Appendix C). In other words, the public image enjoyed by a voting system matters: at equal levels of education, and equal levels of political interest and knowledge, the more people are dissatisfied with various aspects of the voting system, the less likely they are to come out and vote in future elections.

WHAT DO SOUTH AFRICANS WANT OUT OF AN ELECTORAL SYSTEM?

While we have recorded broadly positive popular images of the electoral system, we have also seen that political support for the system is not consensual. Significant pockets of negative and pessimistic opinions exist, located disproportionately (though clearly not wholly) among racial minorities and across voters of all races, located disproportionately amongst poorer respondents and amongst those who are less interested in politics and those who do not identify with a political party. If the ETT decides by these criteria or on the basis of other forms of evidence that some electoral reform is necessary, what guidance might they find from public opinion?

The ETT and the survey designers were conscious from the start that levels of public knowledge about competing electoral systems were likely to be scant at best. Thus, the survey took an alternative route and attempted to get at the kinds of broad values that people felt should be maximised in an ideal voting system. Two types of questions were used to get at these preferences. First, respondents were asked an open-ended question to tap what voting meant to them. Second, respondents were given a range of paired statements intended to get them to express preferences on prominent dimensions of electoral choice often identified by political scientists.

We turn first to the issue of what voting means to South Africans. The responses reveal at least three important lessons. First, South Africans exhibit a high degree of literacy on the subject. Just six per cent were unable to articulate any meaning of democracy. This is probably a reflection of the vast amount of resources put into voter education by international donors, local and international NGOs and the IEC since 1993.

Second, there is little sign of cynicism about the act of voting. Just four per cent gave comments that could be described as indifferent or negative views toward voting. Most of this four per cent responded to the effect that voting made no difference. But the important point is that this opinion is held at the moment by an extremely small

percentage of eligible voters. Thus, whatever the differences among South Africans about the efficacy of the present electoral system, there is widespread agreement that the act of voting—universally acknowledged as perhaps the key characteristic of democracy—is important.

This echoes the high turnout rates in the first two democratic general elections, estimated at around 87% in 1994 (when there was no voters' list). In 1999, 89% of some 18.2 million registered voters went to the polls. The overall turnout rate, however, differed depending on whether one used the IEC's estimate that 8% of all eligible voters had registered (which puts turnout at 72%) or survey-based estimates of registration at 76% (which puts actual turnout at 68% of all eligible voters). Whichever version is followed, it remains a fact that although the registration figure for 1999 compares

Table 9: The meaning of voting (%)

<i>Voting is about electing representatives</i>	42
Voting is about electing persons, leaders, the president	16
Voting is about electing someone who will consider our needs and rights	13
Voting is about choosing the right person or party	8
Voting is about electing a government	5
<i>Voting allows transmission of needs and demands</i>	41
Voting is about getting the things we want or need	6
Voting is about getting help to obtain pensions, electricity, water, housing	9
Voting is about getting help to get employment	8
Voting is about securing a better life	13
Voting is about transformation and improving life in the community	5
<i>Voting symbolises citizenship</i>	26
To vote is to vote for our country	1
Voting is about being involved in society, being involved in South Africa, its about taking part	2
Voting is about making a difference, contributing to society	2
Voting is about being heard	8
Voting is about getting equality/equal treatment for everybody	3
Voting is about exercising our democratic rights, fighting for our needs	9
Voting is about being recognised as a citizen	1
<i>Voting allows identification with charisma</i>	10
Voting enables you to choose a person or party you admire	10
<i>Other</i>	4 5
<i>Voting does not make a difference</i>	4
It makes no difference if you vote or not, voting is a waste of time	3
Other indifference comments	1
Don't know	6 6
<i>Can you describe what it means to you to vote?</i>	

unfavourably with most established democracies (except the US), the actual turnout figure for that election was pleasingly high, not just compared to second-generation elections in the rest of Africa but to elections in established democracies in the west.

Third, we find that voting has a variety of meanings, which can be held simultaneously. Three specific understandings of voting were mentioned most often. It is important to remember that respondents were allowed to offer more than one response. Their responses were written down verbatim and coded into broader categories after the fact. The most frequently mentioned meaning was to see voting in procedural terms, as a way to select representatives and government officials or leaders (42% of all respondents). Mentioned just as frequently, and often by the same people who offered a procedural understanding, 42% of all respondents have a substantive, or instrumental purpose: that is, they see voting as a tool for securing a material improvement in living conditions or a ‘better life’. Meanwhile, one-quarter (26% of respondents) see voting as having an important symbolic purpose, that to vote is an act of participating in a democracy and an expression of citizenship and responsibility to society. Finally, some 10% see voting as an act of identification with a party or person they admire, a figure which is surprisingly low given that 52% of respondents claimed that they felt close to a political party. This may suggest that South Africans’ partisan identification is potentially more fluid than is often assumed.

Importantly, with some exceptions, responses show few important variations according to race. White (37%), coloured (40%) and Indian respondents (37%) are more likely to see democracy in symbolic terms than black respondents (21%). Coloured respondents are far less likely to see democracy in procedural terms (22%) than all others. White respondents are far less likely to see democracy in substantive terms (14%) than all others.

But while the overwhelming majority of South Africans attach major significance to voting and signal their intent to participate in the next general election, this does not necessarily mean that they all want the same outcomes from an electoral system. In order to tap the things people want a voting system to do, we offered respondents a range of paired statements. As mentioned previously the goal was to get them to express preferences on prominent dimensions of electoral choice often identified by political scientists. We can group these questions into four major dimensions. First, some items tapped people’s positions on the dimension of the importance of “political parties versus individuals and independent candidates.” Second, a set of items examined where South Africans stand on the issue of “localised versus centralised control of political parties”. Third, some questions assessed their views on the dimension of “individual autonomy versus internal discipline” in political parties. A fourth set of questions measured people’s preferences on the dimension of “efficiency versus representation” in a legislature. Finally, one question asks people about their preferences for electing the president.

Political parties and political party discipline are a fact of life in any contemporary functioning democracy, yet systems differ considerably with regard to the extent that they allow for the autonomy of individual elected representatives. Conventionally, a key factor explaining such difference is provided by the nature of the electoral system, most particularly whether or not the latter is centred around the election by voters of

representatives of constituencies as opposed to whether they are based upon the election of parties, which offer voters a list or lists of candidates. Of course, in practice there are multiple ways in which constituency and list systems can be mixed, yet the major proposition is that individual representatives are more likely to exert their autonomy if they are subject to simultaneous pressures from their constituents (from below) and from the party leadership (from above). In contrast, candidates elected simply from a party list are deemed to be cut off from the voters between elections and hence subject only to the direct pressure from above of party leaders. Hence, although South African political parties have sought to compensate for MP's lack of direct connection to the voters by allocating them invented 'constituency' responsibilities, such 'constituencies' have no formal status.

It is in this context that the survey posed a series of questions tapping public views toward the potential role of individuals and independent candidates, the particular significance of which is that constituency-based systems feature individual candidates and provide opportunity for the election of independents, while list system elections are focused on political parties (rather than individuals) and do not allow for independent candidates.

There is substantial minority support for the idea of independent candidates: 42% say they would like to see independent candidates elected to parliament in 2004, and 35% say they would personally consider voting for one. In general, however, less than one-third (28%) prefer to vote for an individual rather than a political party.

Table 10: Individuals and independent candidates versus political parties (%)

	Yes	Don't know	No
In the next election would you like to see independent candidates, that is, candidates who do not belong to any political party, elected to parliament?	42	12	46
Would you consider voting for a candidate who does not belong to any specific political party, that is, an independent candidate, at the next election?	35	10	56
Do you prefer to vote for an individual, or do you prefer to vote for a political party?	28	2	70

Indian respondents are slightly more likely to support the inclusion of independent candidates. White voters are particularly likely to prefer voting for an individual personality rather than a political party. While black respondents are the most enthusiastic adherents of political parties, it may surprise some to see that as many as a quarter of the latter would be prepared to vote for an individual over a party. But other than these, there is little difference between voters of different racial groups.

We now turn to examine questions that measure public attitudes on the dimension of 'localised versus centralised control of political parties'. While the previous responses reveal majority sentiment behind the concept of political parties, the results to these

Table 11: Individuals and independent candidates versus political parties (by race) (%)

		Black	White	Coloured	Indian
Would you like to see independent candidates at the next election?	Yes	41	45	39	52
	No	48	44	36	33
	Don't know	10	11	25	15
Would you consider voting for an independent candidate at the next election?	Yes	33	42	37	47
	No	59	49	42	37
	Don't know	8	9	21	15
Do you prefer to vote for an individual or a political party?	Individual	26	40	26	37
	Party	72	59	73	61
	Don't know	2	2	1	1

questions suggest that while people want parties to play a central role in elections, they also want parties that are controlled in a decentralised way, from 'grassroots'.

First, close to three-quarters (71%) say they want to vote for a candidate from the area in which they live. For those who said 'yes', an open ended question solicited their own particular reasons: the most widely cited reply was the likelihood that local candidates "will be familiar with our needs", "will help look after us" or that "we know or trust them". This is reflected by the fact that two-thirds (64%) agree with the statement that MPs should "live close to the people they represent" so they can "express their opinions and promote their interests"—although one-third (32%) agreed that "it does not matter" where MPs live in order for them to represent voters. Finally, a majority (53%) agree that

Table 12: Localised versus centralised control of political parties I (%)

	Yes	Don't know	No
Do you want to vote for a candidate from the area where you live?	71	1	27

Table 13: Localised versus centralised control of political parties II (%)

Localised	Agree	Don't know	Agree	Centralised
MPs need to live close to the people they represent in order for them to express their opinions and promote their interests.	64	4	32	It does not matter where MPs live for them to do a good job in representing the voters.
All political party candidates for parliament should be chosen by members of that party before they stand for election.	53	8	39	The leaders of political parties should choose their candidates, as they know which people will become good representatives.
<i>Which of these statements do you agree with most?</i>				

all party candidates should “be chosen by members of that party” before the final election rather than by party leaders, something which can be accomplished in party caucuses or more inclusive direct primary elections. Many are the candidates in plurality systems who have had to face local resentments because they have been ‘dumped’ on their constituencies by national party leaderships.

Again, the racial profiles on this issue are remarkably similar. Contrary to what some might expect, black respondents are most likely to agree that candidates should be selected by grassroots membership rather than by party leaders, and that MPs need to live close to those they represent.

Table 14: Localised versus centralised control of political parties (by race) (%)

	Black	White	Coloured	Indian
All party candidates should be chosen by party members before they stand for election	54	51	48	46
The leaders of parties should choose their candidates	38	43	37	42
MPs need to live close to the people to express their opinions and promote their interests	66	60	59	60
It does not matter where MPs live in order for them to do a good job	31	37	37	38

Now we turn to a third set of questions that tap public preferences on the degree of autonomy. The results suggest that while respondents evince strong preference for having a say in their choice of party candidates, they are more ambivalent about how much autonomy MPs should have from their party once they arrive in parliament. Fifty-four per cent feel that elected officials should serve out their terms, compared to 38% who say that party leaders should have the right to redeploy elected members to other jobs outside parliament (as is made possible by the current electoral system). A bare majority (51%) agree that elected representatives should have freedom of expression to criticise their own

Table 15: Individual autonomy versus internal discipline in political parties (%)

Autonomy of the MP	Agree	Don't know	Agree	Party discipline
Once a person is elected to parliament, they should stay there until the next election	54	8	38	The party leadership should have the right to deploy MPs to another job outside parliament
MPs should be able to criticise their own political party	51	5	44	MPs should always be loyal to their party leaders because they were elected on their party's platform
MPs should vote according to their own beliefs	47	5	44	MPs should always vote the way their party decides

Which of these statements do you agree with most?

parties, but 44% choose the counter option that MPs owe their loyalty to their political party. Opinion is even more divided when we come to MPs voting about legislative decisions in committees and on the floor. Forty-seven per cent say that MPs should be able to vote according to their own beliefs, and 44% think MPs should always vote according to the party whip.

Again, these feelings are spread fairly evenly across the racial groups. Black respondents are slightly more likely to favour the 'party' and whites slightly more likely to favour individual autonomy. However, what is probably the most significant finding, because of their demographic majority among the electorate, is that nearly 50% of black respondents indicate that they want MPs to be able to exercise their own judgment independently of their party. MPs, a majority of respondents seem to be saying, should not just be lobby fodder, even if—as nearly as many are arguing—they should recognise their loyalty to the party on whose platform they have been elected.

Table 16: Individual autonomy versus internal discipline in political parties (by race) (%)

	Black	White	Coloured	Indian
MPs should be able to criticise their own party	49	61	50	38
<i>MPs should be loyal to their party leaders</i>	46	35	40	58
Once elected, MPs should stay in parliament until the next election	53	59	55	49
<i>The party leadership should have the right to deploy MPs out of parliament</i>	39	34	36	41
MPs should vote according to their own beliefs	45	61	58	58
<i>MPs should vote the way their party decides</i>	51	35	37	35

This ambiguity (or should we call it 'debate'?) among our respondents is echoed by their response to a question that asked them whether local government councillors elected from party lists or those elected in ward contests represented them best. The reformed local government system, as put into practice in the local government elections of 2000, has established a mixed system composed of both types of councillor. Perhaps because the system is so new, respondents were unable to offer a considered opinion. However, for what it is worth, 38% said ward councillors, 20% said list councillors, 24% saw no difference, and a final 17% did not know.

Political parties are recognised as vehicles for not only articulating and aggregating public opinion (representation) but also for enabling legislatures to work (efficiency). Representation and efficiency are both qualities which are extremely important to the health of any democracy, yet there is clearly a tension between them (as is demonstrated, for instance, by the existence of the 'guillotine' in various parliaments whereby governments are able to limit the length of debate on particular issues, thereby preventing filibustering). Meanwhile, electoral systems may impose thresholds (minimum proportions of votes) which parties must reach to win a seat in order to prevent the possibility of legislative paralysis brought on by too many small parties. When posed with

a choice between these two poles, most South Africans come down on the end of broad representation. Six of ten (59%) say that the most important purpose of parliament is to represent all parts of society, even if it requires longer and more lengthy debate and consultation. A similar 59% say that parliament should contain as many political parties as necessary, while a third (35%) agree that too many parties may make parliament unmanageable.

Table 17: Representation versus efficiency in legislatures (%)

Representation	Agree Most know	Don't know	Agree most	Efficiency
The most important thing is for parliament to represent all parts of society, even if it takes longer to debate and make decisions	59	7	34	A parliament that represents too many opinions will not be able to make decisions easily, so it is important to have a party with a strong majority that can pass laws and get things done
Parliament should be able to represent as many parties as possible	59	7	35	Too many parties may make parliament unmanageable

Which of these statements do you agree with most?

Yet again, opinion on these issues is relatively evenly spread across the racial groups. If there is any significant nuance it would appear to be that—perhaps in contrast to their relatively stronger support for independent candidates and the autonomy of MPs—white respondents give higher priority to legislative efficiency than other voters.

Table 18: Representation versus efficiency in legislatures (by race) (%)

	Black	White	Coloured	Indian
Parliament should represent all parts of society, even if it takes longer to take decisions	60	56	59	61
<i>A parliament that represents too many opinions won't be able to get things done</i>	34	40	28	36
Parliament should represent as many parties as possible	61	49	54	57
<i>Too many parties may make parliament unmanageable</i>	32	46	39	34

One final question item asked people whether or not they would like to vote for the president directly. At present, South Africa's president is first elected to parliament on a party list before being elected by parliament. In contrast to this practice, 63% of the public want the president to be directly elected by the voters, not by parliament. Of those who wanted a direct vote, the survey then asked whether they wanted the president to be elected at the same time as parliament: 85% said yes.

Table 19: Direct election of the president (%)

	Yes	No	Don't know
At present, the president is elected by parliament. Would you like to vote for the president directly?	63	28	9
<i>If Yes, would you like to vote for the president at the same time that you vote for parliament?</i>	85	12	2

Yet again, the racial profile on this issue is remarkably similar: direct election of the president is a majority preference among every group of voters.

Table 20: Direct election of the president (by race) (%)

	Black	White	Coloured	Indian
Would you like to vote for the president directly?	Yes	63	64	58
	No	29	28	26
	Don't know	8	9	16

At the same time, it should be noted that the survey did not ask respondents whether they wanted to strengthen the presidency relative to either parliament or his/her political party (a likely outcome of such a significant constitutional change). Given respondents' fairly strongly expressed views in favour of the relative autonomy of MPs and their favouring of local candidates, it could be that they would be cautious about any move that might weaken the legislature relative to the executive. On the other hand, they might reckon that a stronger president relative to parliament might represent a shift in favour of stronger checks and balances. Regrettably, this is clearly one aspect of our investigation that requires more research.

Finally, the survey posed two issues about women's representation in parliament, which simply endorses respondents' desire that South Africa's legislatures should be representative. The South African parliament is now justly famous for being one of the world's legislatures with the highest proportion (30%) of members who are women.¹² Our respondents were not reminded of this achievement, nor were they given any information concerning the number of women in either parliament or the individual legislatures. However, when asked to consider whether the existing level of female representation in parliament was sufficient, 43% felt that there were still "too few" women in parliament, while one-quarter (28%) felt the number was sufficient, and 11% said there were "too many." Another 18% said they did not know. We then asked people

Table 21: Presence of women in parliament (%)

	Too many	Sufficient	Too few	Don't know
Think about the number of women in parliament.				
Do you think that too few, sufficient or too many women get elected?	11	28	43	18

Table 22: Should parties be required to nominate more women? (%)

	Yes	No	<i>Don't know</i>
Do you think that the political parties should be required to nominate more women for election?	63	26	10

whether parties should be required to nominate more women as candidates, to which 63% responded that they should.

The South African parliament has only been enabled to achieve its relatively high proportion of women because political parties have consciously chosen to nominate women to their party lists (with the ANC, for instance, having adopted the rule that one-third of its candidates' lists must be composed of women). The broader point is that the list system enables parties to manipulate the demographic profile of the array of candidates they offer for election, so that, for instance, apart from ensuring a given proportion of women, they can also ensure (if they so desire) a given proportion of other demographic minorities (notably white, coloured or Indian candidates). In contrast, parties are far less able to influence the demographic profiles of their candidates in straightforward constituency systems, simply because constituency parties tend to insist on making their own choice of candidate. Our respondents' insistence that parties should be required to nominate more women is therefore equally an assertion than the electoral system should be able to achieve demographic proportionality.

TENTATIVE CONCLUSIONS AND FOOD FOR THOUGHT

Two main sets of findings seem to be most pertinent to the ETT's task. First, the results we have reported suggest that South Africans recognise the enormous virtues which the adoption of PR has had in terms of producing legislatures that are broadly representative of the population in both demographic and political terms. Against that, there is a widespread desire that the electoral system should also provide for greater elements of localised control over political parties and members of legislatures, and for greater accountability of parties to their memberships and to the voters at large.

Second, we have noted at various places in this report, a paradox in our findings, and a paradox visible in many different indicators of political life in South Africa. To take one view of this paradox, we have seen that while the electorate has broadly positive views of the current voting system (Tables 1 and 2), it also has quite negative views about the performance of the representatives and representative institutions produced by that very system (Tables 7 and 8).

To look at this paradox from another angle, we have seen that people have participated in relatively high numbers in the electoral process, and appear willing to continue to do so. At the same time, evidence from this and other surveys show that South Africans participate in politics between elections at much lower rates than many of their neighbours in Southern Africa.¹³ The ETT survey finds that just three per cent of South Africans said they had made contact with an MP in the previous year. In contrast, 15%

had contacted a local government councillor (a level of government with a different form of electoral system). What is important to note is that a different survey conducted before the 2000 local government election that ushered in this new system, found little difference between reported contact rates with MPs and local councillors.¹⁴ That same survey also found a second strong regional impact of electoral systems. In Namibia and South Africa, the two countries with PR, the rate of contact with an MP or attendance at parliamentary meetings or hearings was one per cent and less than one per cent respectively. Among the five countries with constituency-based systems, contact rates were seven per cent in Zimbabwe and Zambia and five per cent in Malawi and Lesotho (Botswana was the 'outlier' with a contact rate of just two per cent). While all these figures may sound low, there is a huge difference between one out of every ten or 20 people in each community having contact with an elected national representative, and one out of every 100 or 200.¹⁵ Thus, evidence from this and other surveys strongly suggests the need to increase rates of public participation and contact with formal political institutions and procedures other than voting in five-yearly elections. The implication of these two key findings would suggest that the majority of voters would react favourably to a shift towards a mixed electoral system, meaning one that provides for a stronger link between voters and elected officials than presently exists, while simultaneously preserving the valued benefits of overall proportionality and broad representation.

APPENDIX A**Determinants of evaluations of the equality and fairness of the current electoral system**

	<i>Unstandardised coefficients (B)</i>	<i>Standard error</i>	<i>Standardised coefficients (Beta)</i>	<i>t</i>	<i>Sig.</i>
(Constant)	1.788	.001		1542.914	.000
Demographics					
Lives in urban area	5.970E-02	.000	.052	224.795	.000
Neighbourhood consists of all/mostly formal housing	-6.810E-03	.000	-.010	-41.502	.000
Female	-3.715E-02	.000	-.033	-158.499	.000
Education	9.081E-03	.000	.020	81.821	.000
White	-.610	.000	-.369	-1506.903	.000
Coloured	-.322	.000	-.169	-786.095	.000
Indian	-.262	.001	-.076	-370.164	.000
Political attitudes					
Political knowledge	-8.503E-03	.000	-.006	-24.556	.000
Interested in politics	5.999E-02	.000	.082	375.646	.000
Identifies with a political party	.107	.000	.095	430.308	.000
Approves of performance of elected representatives	.143	.000	.264	1272.871	.000
Political behaviour					
Belongs to a political party	-2.406E-02	.000	-.020	-87.765	.000
Non-voting political participation	-.125	.001	-.051	-216.405	.000
Contacts officials and leaders	2.044E-02	.000	.016	75.818	.000
Voted participation in elections since 1994	8.550E-02	.000	.069	331.648	.000
N					
Standard error of the regression				0.4616	
<i>Adjusted R</i> ²					.329

APPENDIX B**Determinants of evaluations of the political accountability produced by the current electoral system**

	<i>Unstandardised coefficients (B)</i>	<i>Standard error</i>	<i>Standardised coefficients (Beta)</i>	<i>t</i>	<i>Sig.</i>
(Constant)	1.586	.001		1401.554	.000
Demographics					
Lives in urban area	4.774E-02	.000	.045	184.005	.000
Neighbourhood consists of all/mostly formal housing	-7.111E-02	.000	-.114	-444.204	.000
Female	-5.688E-04	.000	-.001	-2.484	.051
Education	-3.642E-03	.000	-.009	-33.593	.000
White	-.302	.000	-.197	-760.840	.000
Coloured	1.323E-02	.000	.008	33.101	.000
Indian	.152	.001	.048	219.828	.000
Political attitudes					
Political knowledge	4.204E-02	.000	.031	124.234	.000
Interested in politics	5.465E-02	.000	.081	350.442	.000
Identifies with a political party	.137	.000	.131	562.964	.000
Approves of performance of elected representatives	.139	.000	.277	1261.617	.000
Political behaviour					
Belongs to a political party	4.724E-02	.000	.042	176.202	.000
Non-voting political participation	5.422E-02	.001	.024	96.286	.000
Contacts officials and leaders	-1.205E-02	.000	-.010	-45.759	.000
Voted participation in elections since 1994	7.196E-02	.000	.063	286.122	.000
N					0.4508
Standard error of the regression					.252
<i>Adjusted R²</i>					

APPENDIX C					
Determinants of likely voting behaviour in 2004					
	<i>Unstandardised coefficients (B)</i>	<i>Standard error</i>	<i>Standardised coefficients (Beta)</i>	<i>t</i>	<i>Sig.</i>
(Constant)	4.504E-02	.003		15.279	.000
Demographics					
Female	9.107E-02	.001	.038	169.939	.000
Age	-3.868E-04	.000	-.005	-21.349	.000
Education	2.563E-03	.000	.003	9.694	.000
White	.134	.001	.038	130.972	.000
Coloured	-.134	.001	-.033	-144.888	.000
Indian	4.843E-02	.002	.007	30.039	.000
Political Attitudes					
Interested in politics	.250	.000	.164	683.984	.000
Political knowledge	-3.024E-02	.001	-.010	-38.710	.000
Identifies with a political party	.193	.001	.081	335.205	.000
Thinks elected officials are responsive	5.539E-02	.000	.050	217.948	.000
Thinks elections matter	6.656E-02	.000	.051	234.316	.000
Thinks current voting system is fair and equal	.233	.001	.111	409.484	.000
Thinks current voting system produces political accountability	.186	.001	.082	318.326	.000
Political behaviour					
Member of a political party	-3.091E-02	.001	-.012	-49.911	.000
Voted regularly since 1994	.593	.001	.227	975.579	.000
Participates in non voting forms of political activities	.219	.001	.043	170.378	.000
N					
Standard Error of the Regression				1.0535	
<i>Adjusted R²</i>					.208

NOTES

- * This is a draft report. Due to the speed at which the ETT required the survey results, the authors had only one week to digest and analyse the results. A final report will address any further queries or problems identified by the ETT or other readers following a public discussion of the draft report at the ETT Workshop. The final report has been published as: R Southall & R Mattes, *Popular attitudes towards the South African electoral system—Report to the Electoral Task Team*, Democracy and Governance Research Programme, Occasional Paper 1, HSRC publishers, Cape Town, 2002.
- 1 Full details concerning the questionnaire and survey methodology can be obtained, on request, from the ETT Technical Report, Parts I, II and III.
- 2 These question items are reported as a group, and are separate from subsequent questions because statistical analyses known as factor analysis and reliability analysis verified that responses to them formed a valid and reliable factor that explained 63.7% of the common variance (Eigenvalue = 2.55) and a reliability score (Kronbach's Alpha) of .80. The item that most strongly defined the scale was equal treatment of all parties (factor loading of .82) and the weakest whether the system is fair to all parties (.58).
- 3 D Easton, *A systems analysis of political life*, University of Chicago Press, Chicago, 1966.
- 4 Factor analysis and reliability analysis indicates that these items form a unique, valid and reliable factor that explains 44.7% of the common variance with a reliability score (Kronbach's Alpha) of .75. The item that most strongly defined the factor is whether the system holds all parties accountable (.68) and the weakest whether it enables voters to influence government (.43).
- 5 The concept of 'anticipated reactions' comes from C J Friedrich, *Constitutional government and democracy: Theory and practice in Europe and America*, Quinn and Co, Boston, 1950.
- 6 Statistically, the correlations (Eta) of race and an index of satisfaction with the fairness of the current system is .43, which means that race statistically accounts for 18% of the variance in attitudes toward the electoral system. Clearly there are many other things that affect how people think about politics than merely their racial categorisation.
- 7 Eta = .30, significant at .001.
- 8 Unfortunately, we cannot test this interpretation directly since the ETT chose not to ask respondents for the political party with which they identified or supported.
- 9 While technically inconsistent with the questions about (national) parliamentarians, we used the term 'members of provincial government' rather than 'provincial assemblies' because pilot tests indicated many people were not familiar with the term 'provincial assembly'.
- 10 Need to insert bivariate correlations here.
- 11 A simple model consisting only of views of the fairness and equality of the voting system, the political accountability of the system, and three dummy variables for racial minorities explains nine per cent of the variance in the desire to vote in 2004 (fairness and equality of the system, Beta = .17, and political accountability of the system, Beta = .14). The same simple model accounts for nine per cent of the variance in perceptions of the responsiveness of elected representatives (freeness and equality of the system, Beta = .13; and political accountability of the system, Beta = .09). However, the model explains just one per cent of the variance in the belief that elections matter (fairness and equality of the voting system, Beta = .03; and political accountability, Beta = .10).
- 12 Only Norway, Sweden, Iceland, the Netherlands, Denmark, Germany, New Zealand and Mozambique record higher levels of membership of women in their lower houses of parliament. See UNDP, *Human Development Report 2002: Deepening democracy in a fragmented world*, Oxford University Press, New York, 2002, pp 239-242.
- 13 See R Mattes, Y D Davids & C Africa, *Views of democracy in Southern Africa and the region: Trends and comparisons*, Afrobarometer Working Papers, 10, Idasa, Cape Town, CDD, Accra, Michigan State University, East Lansing, 2000.
- 14 Mattes, Davids & Africa, op cit.
- 15 R Mattes, Democracy without the people: Economics, governance and representation in South Africa, *Journal of Democracy* 13(1), January 2002, pp 22-36.

Panel contributions

PANELLISTS:

PAULUS ZULU

AMANDA GOUWS

RESPONSE TO THE ETT SURVEY

PAULUS ZULU

THE QUESTION TO BE ADDRESSED WAS: SHOULD THE PRESENT ELECTORAL SYSTEM BE RETAINED, changed or amended? The intention of the exercise was to elicit views and perceptions from the general public on the electoral system issue. In doing this, a number of assumptions were made. The first was that the general public is aware of the issue pursued or, at best, can be sensitised into active awareness of the issue. In other words, the issue sits in the public's subconscious in such a way that it can readily be brought into the conscious sphere where views and opinions can be expressed logically and coherently.

The second assumption was that basic values stated in philosophical, ethical and moral terms as well as in the constitution can be translated into empirically demonstrable indicators. For instance, the basic values of democracy—which encompass equality, accessibility, inclusivity and accountability—can be translated into empirical indicators such as:

- the way in which government is elected;
- fairness of the voting system to all parties;
- equal treatment of voters in the various elections that voters themselves had experienced;
- equal treatment of parties and of ideas in the elections that the voters themselves had experienced; and
- accountability of elected representatives to the voters who bring them to office.

The third assumption was that these demonstrable empirical indicators together with the triggering of an active awareness, including the expression of views and opinions, are essential ingredients in informing decision makers, in this case, on the suitability or otherwise of an electoral system.

RESEARCH RESULTS

The research results revealed that:

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Prof. Amanda Gouws is head of the Department of Political Science at the University of Stellenbosch.

- the present system is far from broke and, accordingly, caution ought to be exercised in amending it;
- the weak area in the present PR system is that it does not allow the electorate to hold individual parliamentarians and government officials accountable. This is a function of how individuals perceive the job performance of their MPs, MPLs and local councillors, but it is also shaped by party political affiliation. This becomes a complex factor because party political affiliation is not a determining variable but is determined by other factors, hence a more elaborate regression analysis is desirable;
- a majority of South Africans hold voting in high esteem as a mechanism of influencing government, as expressed in the desire and intention to vote in the 2004 elections;
- the public attaches much significance to the vote, seeing it as a tool for securing material improvement in living conditions. They see the vote as a mechanism for selecting representatives, government officials and leaders. The vote is also seen as being something symbolic, i.e. it is an act of participating in a democracy.

A number of questions in the text refer to mechanisms rather than to basic principles of an electoral system and can therefore be subsumed under the four findings referred to above.

REPRESENTATION AND ACCOUNTABILITY

In the context of research, representation and performance are essential. The present system scores high on representation but moderately on accountability. Proportional representation enables party leadership to cater effectively for representation. The question is: is performance or accountability a direct function of an electoral system or partly a function of political culture, together with the capabilities and inclinations of individual representatives? As a system, PR is not necessarily inherently incapable of effecting accountability.

This takes us into the African experience. Are we able to distinguish between an African, or for that matter a Latin American, experience or perspective from the contemporary, which is itself a function of the state of development in the material means and forces of production at a particular point in time?

I believe that changes in the relations of production shape the nature, form and performance of leadership or representation. The dominant culture at a given moment can influence the way in which leadership and representation operate. The unevenness in development in South Africa could predispose the electoral process to this shortcoming.

Finally, it is possible to combine representativeness with accountability in a PR system by developing models where strong local civil societies and political parties cooperate in the selection of representatives and in making representatives accountable to specific constituencies.

There is a distinction between attitudes and opinions on a system, as well as reactions to the performance of individuals within a system. Do individuals think in systemic terms or perceive other individuals as performing or not performing within given tasks? Research is still needed to unscramble the problem.

AMANDA GOUWS

I WANT TO CONGRATULATE THE ETT FOR THIS IMPORTANT RESEARCH THAT GIVES SOME INSIGHT into the electorate's views on the electoral system. I would, however, like to offer the following criticism on the draft report, which criticism is based mainly on what is *not* in the report.

- It was difficult to judge the results in the absence of a questionnaire. I think that the first question should have been: "Did you vote in the 1994 and/or 1999 elections?" This would have given us some indication of the respondents' familiarity with the electoral system.
- I wonder if the respondents understood the concept 'accountable'. This is a difficult concept and people may understand different things by it.
- The argument is made that information about a constituency system is scant. The questionnaire tested satisfaction with the present system but I think that respondents should have been told about alternative electoral systems and should then have been asked if they would prefer another electoral system (especially the alternative between PR, constituency-based systems and a combination of the two). They should also have been asked how they feel about a constituency-based system.
- The weakest aspect of the research is that it does not ask how voters feel about a change in the electoral system. There is no question regarding how they would feel about a combination of PR and a constituency-based system. Furthermore, there are no questions about one-party dominance.
- Table 10 compares the results for individuals and independent candidates. These questions are based on the assumption that when respondents vote for the constituency system they vote for independent candidates. This is incorrect because the candidates still belong to a party. The choice is not between parties and independent candidates in terms of the two systems, but between voting for a party where voters don't know the candidates (PR) and voting for a candidate in a constituency who still belongs to a party, but where voters know who the candidate is (constituency-based system).
- Respondents should have been asked their feelings on floor-crossing and its implications.
- The interpretation of the data regarding women in parliament is incorrect. There are a large number of women in parliament because the ANC accepted a quota system, not because women are put on party lists. Respondents should have been asked how they feel about a quota for women.
- The research results support the status quo because voters do not understand the other options and the research did not attempt to discover if voters even want another system.

Questions and answers on voters' perspectives

SELECTED AND EDITED

Question: I do not remember hearing the presenters say anything on the urban–rural dimension. Pallo Jordan mentioned earlier that the urban–rural dimension was a significant fracture in our society and that it is an important variable in the electoral process. Does the survey make any special effort to get the views of rural people—as opposed to urban people—on any of these questions? If not, then that is a serious flaw.

Response Dr Robert Mattes: The survey was well representative in every respect that census data allows us to be. The sample was stratified by province, race and rural and urban areas proportionally so that we interviewed a proportionate number of rural people versus urban people and covered the rural–urban differences within each province. We did find that urban people are slightly more likely to have positive evaluations of the current electoral system, but the difference was far less in many other demographic variables.

Comment: I was a little disappointed that the survey did not give clearer points as to what system voters would actually prefer. I want to make a few comments about the tentative conclusions I have drawn from the report.

I think the issue of localised control and having members live closer to the constituency does not necessarily support a constituency-based system, but rather the fact that local voters want some input in the drawing up of party lists.

The issue of the paradox—the positive views towards the current voting system and the negative views of performance—should not be too disturbing. Taken together, the figures show a 60% ‘okay’ rating, which is quite good midway between two elections. If one compares the approval rating of MPs with the research done on local and provincial government, one will find that parliament usually outperforms local government in terms of how satisfied voters are that their interests are being looked after effectively by members. I think again that this does not necessarily back up a change in the system and that one should look at these results in a larger context.

Then there is the issue that three per cent of voters had contact with MPs in the last year while 15% had contact with local councillors. Note, however, that there are 8,000 local councillors and only 400 MPs, which means that parliamentarians are far outperforming local councillors in terms of the number of voters they have contact with. If one takes a figure of 20 million voters, for example, based on the percentages it means

that every parliamentarian has contact with 1,500 voters while every local councillor, who is very close to the people, has contact with only 374 voters. Again, one has to look at these issues carefully before saying what indicates a choice for a change in the system.

I do, however, strongly agree with the final conclusion, which states that there is a need for increased public participation and that our political institutions and procedures must allow for that. This needs to be looked at closely if we want to safeguard our democracy, but again, I do not believe it is a strong argument for changing the system. I understand that this is a draft report and that other questions may give clearer pointers. At this stage, however, I interpret the report as saying that many improvements can be made to the system in terms of how representatives relate to their constituencies and voters, and how MPs and MPLs are selected. For me, however, the survey results do not necessarily make a strong case—as the report conclusion seems to indicate—for a complete change in the system.

Comment: I want to congratulate both Roger Southall and Bob Mattes. This is excellent work that allows us to look at a set of figures and to assess from these empirical responses what we are attempting to do in terms of enhancing the electoral system.

The survey results presented indicate to me that we are doing exceptionally well. Voters are satisfied that we have a representative basis on which the elections are taking place, and that the system is inclusive and fair. Questions are, however, being asked regarding accountability. Moving too far away from a PR system in order to address the accountability issue may tamper with the good ratings achieved for representativity, inclusiveness and fairness. Voters certainly need to be heard on the accountability issue, but I think there are a host of other mechanisms which can be used to attain accountability, such as a report back system, taking parliamentary structures and institutions to the people or public hearing processes.

Question: All the speakers have mentioned that accountability is linked to an electoral system but no reference is made to the linkages between accountability and political formation/structure. In my organisation we ‘account’ in terms of public hearings and in terms of various other political meetings held. We are struggling here with the definition of who we must account to. Is this roundtable suggesting we must account to the general public? If so, who is that general public?

Question: [...] We should be careful about understanding the survey results too literally. If three per cent of the survey’s respondents had at least one contact with their MP last year, that would suggest that every MP had contact with approximately 20 voters every week to sort out some difficulty or other. If that is the case, it seems to me that the present system is rather less impersonal and faceless than it is being made out to be. Of course, when we talk about one, two or three per cent in surveys we are in an area where one cannot be too precise, but I would certainly be interested in follow-up research and deeper exploration of the kind of contact that is going on [...].

My question has to do with the democratic variables. I wonder [...] whether those white

respondents who had direct experience of the pre-1994 system were among those that felt the present system was least accountable? Before 1994, whites had a luxurious system. Constituencies were very small and the system had to be fairly personal because there were relatively small numbers of people in each constituency voting for an MP.

Question: My question relates to what Tom Lodge mentioned and deals with the issues of fairness and equality. Did white South Africans have a better deal which they perceived to be fair and equal at the time, and which the present PR system does not provide?

Is the voting system fair? I do not know if South Africans would know any better. Without meaning it in a negative way, most of our [black] voters do not have much experience of other systems [and therefore probably require an explanation of] what other systems are possible when being interviewed for surveys of this kind.

Comment: [...] Within a year-and-a-half there were two elections: one based on a party list PR system and the other on a mixed system. Voters therefore experienced both systems and could surely form a view of which they preferred.

Response Dr Robert Mattes: A whole range of issues and questions have been raised and asked and I will try to address them systematically. First, in our defence, major research in political science usually takes six months to a year to design. We had two months from initiation to completion and during that process much happened and changed. Also, no surveys on electoral system preferences had really been done before. Under normal circumstances, therefore, we would have taken a few months to come up with different approaches to see which worked best and only then go into the field.

We [...] recommended a series of questions to the ETT and they, in consultation with the survey manager, made final choices about what they felt did and did not work. Budgetary constraints also meant that we could not spend 90 minutes in people's homes talking through issues. [...] Our focus at the time was on providing the best information we could to the ETT to make its decisions.

When working with electoral systems, no single system has a certain range of outcomes and values that it maximises. In describing systems we therefore felt it would be better, given the shortness of time, to figure out what the values are that people want and then to leave it to the ETT to see which combination of electoral system [...] would achieve that.

Double blind translations were done in each language that the survey was going to be administered in so that everyone had the opportunity to hear the survey in their mother tongue. The survey was translated from English into a home language and then back into English to make sure that the first and the results matched each other and that the same concept was being put across in the different languages [...] in order to achieve reliable and consistent responses across language groups.

I want to [...] stress that our report is not saying that the data indicates a demand for a mixed system. I am fairly optimistic regarding public opinion analysis, but when it comes to this area, I do not think one can say there is a demand for anything; there are just

different areas of support or opposition for different ways that electoral designers may wish to go.

I do think there is a lot of satisfaction with the present system but there are some main concerns. [...] There are other things people want out of an electoral system that cannot be provided by, or are very difficult to provide in, a pure PR system. [...] In party terms, demographic terms, the current system is putting the right types of people into the legislature but there are high levels of dissatisfaction in terms of what they are actually doing there. Therefore, when you ask about one of the main goals of the legislature in listing the people's interests and opinions and representing them, the results are extremely negative. Less than one-fifth have anything positive to say about what provincial or national legislatures are doing in that regard. There is satisfaction with some of the things that are done very well but there is room to move into some type of mixed system. At the same time the data show no clear support for a pure constituency system because it would not do the things that people like about the current system.

Another point I would like to make is about the 60% threshold. In normal public opinion analysis 60% is fine when looking at majorities, minorities, supportive government policies, outputs and what incumbents do. However, when it comes to issues of constitution and the choice of democratic regime, should support not be at higher levels? [...]

Lastly, the contact rate. I think the point is less than the comparison between local and national government. It is interesting that there is disparity now. Three years ago both were equally low. A major point that comes out of a range of public opinion analyses in Southern Africa, is that poorer, much more rural societies have significantly higher rates of contact between their people and their representative systems.

South Africa is, however, unique in Africa in terms of the very low levels of participation between elections, and the electoral system must be seen to address that.

Popular attitudes towards the South African electoral system: A summary

FINK HAYSON

REGARDING THE FOUR VALUES THAT HAVE BEEN IDENTIFIED AS BEING CRITICAL FOR A SOUTH African electoral system—that is, fairness, simplicity, inclusivity and accountability—the survey findings give an impressive bill of health to at least three them. The findings suggest that there is public confidence and an awareness that the electoral system should cultivate diversity in the representation and extent of representation in the legislature and that it should be one which is fair to both voters and parties.

As someone who works in conflict ridden areas in other parts of the world—this year in Sudan, Burundi and Sri Lanka—I want to emphasise that the consequences of an electoral or political system that is not inclusive, are politically disastrous. As mentioned earlier, the fault lines that emerge 20 years after an electoral system has been decided on are not necessarily the fault lines that existed at the time of constitution drafting. It is therefore important to approach the question of inclusivity broadly, not only in relation to historical divisions, but in regard to divisions that may still emerge, particularly those which hold out the possibility of correlating political boundaries and identity boundaries, which can become an explosive mix.

IMPORTANT SURVEY RESULTS

For me, the following survey results are important. Respondents generally thought the electoral system was fair, with 74% saying they were satisfied with it, that they found it produced a generally representative parliament, and that they appreciated the fact that it accommodated diversity and catered for the many voices which should be heard in South Africa.

Most of the respondents (78%) found that the electoral system gave them as voters a say in government. Some 68% said it was an electoral system which promoted party accountability and, what I found to be impressive, that it promoted some enthusiasm for voting. In other words the report indicates that voters were generally literate about our electoral system and a significant number intended voting in the next election—this echos the relatively high voter turnout we have seen.

I was particularly impressed with those questions that tested people's understanding of

Prof. Fink Haysom is an attorney and a member of the ETT.

the values which should underlie our electoral system and the appreciation which voters show for it, in particular the preference for representivity over and above efficiency. I thought some issues were paradoxical and the report points to them.

The report tests and uncovers the level to which ordinary voters want some degree of accountability over their representatives and, as correctly pointed out, we have not really pinned down the meaning of 'accountability'. The best suggestion, I think, came up in the first session—that we are looking at a concept of answerability, some capacity to punish those who do not perform their tasks adequately.

What really emerges from the survey is that there is a desire for more localised control over MPs, which includes the view that a person should be elected and that representatives should come from the area in which the voter lives. There was some preference for the idea of autonomy of MPs. I interpret this to mean a view that MPs who carry the sentiments of their constituency should be able to represent that and carry it through to their party leadership. In other words, the sense that MPs should be responsive to what people are feeling, but that such responsiveness may not exist within the party if MPs have no autonomy. There is also some support for the notion of independence, but in at least three of the categories just mentioned, the figure is around 40–50%. There are therefore as many people in favour as there are against, so it is by no means a strident call for a new system.

What I found most distinctive was the indicator which showed a high degree of disillusionment regarding the responsiveness of MPs, with only 38% really feeling that their MPs would always give them the time of day. This is something we need to look at but I am not sure it can be directly addressed by the electoral system.

THE RESULT

What do we make of it all? One cannot say that there is a clear call for a SMC, FPTP system. There is clearly a feeling that more contact between voters and their representatives would be desirable and that the party should be more accountable. There is also clearly some feeling of the need for internal party democracy, with people wanting to have MPs closer to them; MPs who respond to their issues and who can carry their concerns upwards.

One or two issues could have been explored further, such as electoral system complexity versus effectiveness and the question of open list systems as well as the ordinary voter's assessment of important performance indicators in public representatives. It would have been illustrative to have had the direct question: would you like to see the electoral system changed?

I do not think the survey results are an unambiguous call for a new system, but rather a call for greater levels of accountability over MPs. What does this mean? How far would people go to trade off accountability against some of the other values they quite clearly appreciate? I find the report very useful and a solid basis upon which to make more informed choices about what is and is not possible.

Conclusion—Day one

FREDERIK VAN ZYL SLABBERT

MY THANKS AGAIN TO MINISTER BUTHELEZI FOR HIS WIDE-RANGING AND PROVOCATIVE PAPER. It touched on most of the issues that subsequently became topics of discussion and will no doubt continue to be discussed in further sessions here. The important point that came out is that the ETT does not operate in a vacuum. We were given clear terms of reference by Minister Buthelezi. One of those was to look at the current system and at possible adjustments to it within the relevant South African context. This means that we have to look at our society and ask what key issues could affect electoral politics negatively or could be a source of instability. In order to do that, however, one needs to develop a set of criteria in terms of which one judge's the adequacy of electoral systems. This is where Wilmot James' core values concept—of fairness, inclusivity, simplicity and accountability—came to the fore.

Importantly, there is no fixed order of hierarchy regarding these four core values. This can create a dilemma that comes from the concurrent pursuit of multiple desirable goals. Our politicians want democracy and economic growth; they want human rights as well as law and order; service delivery and fiscal discipline; privatisation and full employment. Somewhere along the line, one needs to engage in trade-offs.

ACCOUNTABILITY

There is therefore an obvious tension between these core values, which resulted in the ETT having to prioritise them. The primary values for us—and which are characteristic of the current system—are fairness, inclusivity and simplicity, but the issue of accountability was not fabricated by us. We had a number of meetings with the political parties, civil society and the media, and guess who hammered the issue of accountability?

The ETT's task is to devise the most appropriate electoral system to recommend to Minister Buthelezi to put before Cabinet, and we soon found ourselves grappling with the concept of accountability.

Accountability is not a self-evident concept. There is, for example, the military concept of accountability as well as the corporate concept; there is the accountability of the Constitutional Court in terms of the core values of our constitution. The key question was: what is the relationship of an electoral system to accountability? We soon came to the conclusion that an electoral system of whatever kind cannot solve the problem of

accountability. It can, however, contribute to it in some way. We also soon realised that we were not going to sacrifice the benefits of the current electoral system in pursuit of the ideal concept of accountability, because we do not know what that is. Does one, therefore, adjust or amend the current system? Does one start looking at alternatives that point in a certain direction?

The second session began with the question of an 'African perspective' in electoral systems. This is a difficult issue because it means different things to different people. For Khabele Matlosa, however, it was the African experience of trying to develop a liberal democratic political system. The dilemma we face is the response of people, particularly on the sub-continent, to the implications of a liberal democracy.

What was beautifully, and tragically, highlighted for me is the tension between liberal democracy (modernity) and traditionality. I have no solution to this pervasive and complex tension. Various traditional systems operate at different degrees across Africa. In South Africa it is fair to say that a quarter of the electorate live under, and many accept, traditional authority. How does one marry that with the tendency of a liberal democracy? There is a fundamental conflict here.

So when we talk about the African experience it is really how (as I understood it from the contributions here) African countries pursue a liberal democratic system, while trying to cope with the tensions this generates—and the same applies in South Africa.

SURVEY FINDINGS

The last session covered the ETT research findings. Allow me to give some background to that research. As Minister Buthelezi mentioned, I was approached to head up the task team in March 2001 and it was only on 22 March 2002 that I was officially appointed. The ETT was launched—that is, we had our first meeting—in the second week of May. At that meeting we had to work out a programme of action, which included commissioning research. To commission research, however, one needs money, so I went on a begging trail, approaching Norway, Denmark, Sweden and the UK. I was overwhelmed by the generosity of their response and the rapidity of that response. We soon had enough money to pay for the research, but that was only half the problem.

We had to decide what kind of research we wanted done and how much time we had to do it in. The committee then had to construct a questionnaire to determine the average voter's awareness and experience of the current electoral system and how voters responded to it. Owing to serious time constraints, the research was split between four companies. As it was, we received Southall and Mattes' draft report last night after they had worked on it constantly for the past week. Naturally, some things may have been overlooked but the demographics were certainly there. I ask your indulgence as we await further report findings and, of course, more research is obviously needed.

IN SUMMARY

I have found it fascinating listening to the arguments presented here and the degree of

participation. The one thing we are still unsure of is the issue of accountability. The parties claim it is their responsibility to ensure they are accountable to their support base, but can an electoral system contribute to that? We will see tomorrow when the contributions put forward alternative models.

A practical discussion about theoretical models

DAY TWO
FIRST SESSION

What electoral systems are available? An international perspective on the current debate in South Africa

JØRGEN ELKLIT

INTRODUCTION

Political scientists and analysts around the world agree that electoral systems can be subdivided into three main categories, namely:

- plurality and majority systems;
- semi-PR systems; and
- PR systems.¹

There is also general agreement among those who make their living out of categorising electoral systems, that when we move from less free to more free countries, and further on to established democracies, then the share of PR systems increases from less than half of all the cases to more than half of all the cases. The main explanation for this difference is that the freer and more established the democracy in question, the more such a democracy endorses and supports the basic democratic values of inclusivity and fairness, and therefore also PR.

Generally, the more that values such as inclusivity and straightforward fairness (which point in the direction of some kind of PR) are treasured, the more democratic the political culture is in a country. It should also be remembered that a lack of interest in PR in many emerging/new democracies is partly due to the simple historical fact that many of these countries inherited their electoral systems from the colonial era—or adopted those used by the colonial powers at home—and did not fully appreciate what other options were available.

This presentation will focus on electoral systems aiming at PR or—to use the familiar formulation in the South African constitution—“in general, proportional representation”. The main reason for focusing on the family of PR electoral systems available is that the ETT’s brief is to keep to the requirements of the constitution.

‘IN GENERAL’ PR

We can debate forever what is meant by the expression “in general, proportional representation”. I believe that all the different systems that are classified as PR systems—because they intentionally attempt to achieve a reasonable correspondence between vote

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shares and seat shares for individual parties—do produce ‘in general’ PR. I see it as an umbrella concept, which is particularly attractive because it is nonspecific, but also because it allows for inclusion of specific systemic elements, which taken alone must detract from proportionality. Such elements may have been introduced for political reasons, but are in general considered acceptable because they only detract minimally from the ideal level of proportionality.

An example of this is the formal electoral thresholds in Germany and Denmark, which have both been approved by the courts as not violating the proportionality objective, even though they obviously decrease the general level of proportionality by purposely excluding all parties with less than five per cent of the vote in Germany and less than two per cent of the vote in Denmark.

There is no unanimous agreement on the best way of measuring proportionality, or disproportionality. There is therefore no need to go into any particular detail about what the general level of proportionality (or disproportionality) should be, before we could claim that it was satisfactory (or the contrary). As long as we are dealing with electoral systems whose main objective is to achieve a reasonable degree of proportionality—and as long as they have not been grossly manipulated to produce a particular result—then my claim would be that we have electoral systems which will in effect produce ‘in general’ PR, as the South African constitution requires.

The term was included in the constitution to avoid any detailed prescription which would complicate, or even inhibit, future discussions. Such debate we have seen unfold over the past five to six years, not only in relation to the electoral system issue,² but also in relation to floor crossing. I see the formulation as a clever political precaution that needs no clarification, as this could ruin the reason why it is there in the first place, which apparently was to leave some room for manoeuvring.

A robust conclusion of research into the possible effects of different electoral systems—e.g. on the proportional representation of the political parties in the assembly—is that the electoral system as such (the formula, as it is sometimes called) has a major impact on the number of seats that a specific pattern of popular support will make available to the various contestants. However, this result follows from research on variations across the three different electoral system families mentioned and not from analyses of variations within the family of PR systems.

Within this family we do not see similarly strong differences between levels of proportionality as when we compare systems belonging to the three main families. The immediate consequence is that it is not particularly important for the overall proportionality of the outcome of the election if we use one or another of the various PR formulas available (on the same vote distribution, of course), and especially if the number of seats to allocate by PR is not too small. Examples of such calculations are plentiful in the scholarly literature.³

Between 70 and 80 countries now use an electoral system that can be categorised as aiming at ‘in general’ PR, even though this specific expression is, to the best of my knowledge, only used in South Africa—which testifies to the foresight of some of the South African electoral system negotiators. Many types of PR systems have developed

over the past 100 years or so; this presentation will not go through all of them, or even most of them—this would be both confusing and boring. More importantly, such an exercise would be of no real value because the variation between the PR systems is basically the different combinations of various electoral system components, and the differences in their effects on the level of proportionality is then explained by the combined effects of these different systemic elements.

Research on electoral systems has distilled the most important constituent parts of these PR systems. By this I mean that they—separately and together, but always within the PR family—have the most decisive influence on the level of proportionality that can be obtained.

An overview of the various components—namely: formula, constituency structure, surplus seats, formal electoral threshold, possible electoral alliances, vote splitting and lists—is provided so that at the end of this exercise we will have an electoral systems design tool kit, which will include the basic elements required to have ‘in general, proportional representation’.

PR COMPONENTS

Which of the seven components—all of which are present in various combinations in all PR electoral systems—are the most important? Obviously, what we see as important depends on what we prioritise. All the various options that exist in relation to each of the seven systemic components have some merit, and particularly so when we look at the way in which they interact. One can therefore argue in favour of each and every option and also in favour of many of the combinations. We must not forget, however, that we are still looking only at members of the family of PR systems and their various mutations.

If I had to identify the most important elements for achieving a high level of proportionality—which is of fundamental importance as it reflects the respect for inclusivity and fairness in the allocation of seats—I would opt for the constituency structure (especially the constituency magnitude component) and the issue of whether or not there is a formal electoral threshold (combined with the surplus seat). If accountability was the main issue, I would still point to the constituency structure, but I would also include the type of lists used.

Lists of candidates come in many different forms, namely:

- closed lists, where the order of candidates cannot be changed;
- open lists, where personal votes cast by the voters directly for each individual candidate determine who gets elected or not; and
- semi-open (or semi-closed) lists where personal votes under certain circumstances can influence who gets elected, thereby overriding the order of priority established by the party.

Understanding how the various semi-open lists actually work in different countries is not easy, but the use of open or semi-open lists has generally been seen as a good way of introducing a clear element of accountability into PR electoral systems, as it allows voters to reward or punish individual politicians who in the voters’ opinion have not done a

proper job or have represented them in a way they do not approve. These types of lists therefore allow an element of accountability and have been introduced for exactly that reason.

But 'importance' is not an easy topic to discuss, as people have different political value systems, and consequently appreciate and cherish different basic values also in relation to

Table 1: PR electoral system components

<i>Formula</i>	Quota methods	<ul style="list-style-type: none"> Divide votes by some predefined quota to see how many seats each party is entitled to Rules for handling 'remainders' required STV a special case
	Divisor methods	<ul style="list-style-type: none"> Divide by some string of divisors to see what quotients entitle parties to a corresponding number of seats (d'Hondt; St. Laguë; modified St. Laguë, etc.)
<i>Constituency structure</i>	Constituency magnitude	<ul style="list-style-type: none"> The number of seats in a constituency is important for the level of proportionality which can be obtained
	Tier structure	<ul style="list-style-type: none"> One-tier systems: entire country or some sub-division Two-tier systems: usually entire country plus some subdivision, which is less important for the overall level of proportionality
<i>Surplus Yes/No seats</i>		<ul style="list-style-type: none"> Only relevant in two-tier systems: are surplus seats available if a situation should arise where there are too few compensatory seats available to ensure full proportionality?
	Yes/No	<ul style="list-style-type: none"> Normally used to decide which parties are entitled to compensatory (or top-up) seats. Per cent or fixed number of valid votes cast, or one or more seats at the lower-level tier?
<i>Electoral alliances possible</i>	Yes/No	<ul style="list-style-type: none"> Normally to allow parties to join forces to pass a formal threshold, but then what is the purpose of having a threshold? Less important in other respects.
<i>Is split voting (or vote splitting) possible?</i>	One ballot	<ul style="list-style-type: none"> Why combine two-tier systems with a one-ballot system?
	Two ballots	<ul style="list-style-type: none"> Allows voters to vote differently on the two levels in two-tier systems, which makes sense, but may have drawbacks/disadvantages
<i>Lists</i>	Closed	<ul style="list-style-type: none"> No voter influence on the order in which candidates are selected to fill the number of seats won by parties
	Semi-closed	<ul style="list-style-type: none"> Some voter influence is possible (the Netherlands, Belgium, and elsewhere). Various variations
	Open	<ul style="list-style-type: none"> Candidates are chosen on the basis of the number of votes cast for them as individuals. Will normally require that the names of all candidates are printed on the ballot paper STV as a special case

electoral issues. In relation to electoral systems, such basic values may include simplicity, inclusivity, fairness and accountability. We shall not dwell on these values, but it is easy to see that they must impact on how one chooses one's electoral system elements.

To illustrate: I have said that we do not have to be too concerned about the specific PR formulas used, as all the standard formulas will in general provide for proportional representation, especially when the constituency magnitude is not too small. But under specific conditions small differences in relation to seat allocation can be identified between the various divisor methods—d'Hondt tends to be more favourable to big parties, pure St. Laguë to small parties, while the standard Hare quota method (with so-called largest remainders) does not differentiate between big and small parties. This is more fair, and the use of a modification of that method in the current South African system (the so-called Droop quota), testifies to a strong element of electoral fairness, which is reflected in the present electoral legislation of this country. It has, however, been demonstrated that there appears to be a higher average level of disproportionality when using Droop quotas than when using Hare quotas.⁴

There is general scholarly agreement on the importance of the constituency magnitude for the level of proportionality that can be achieved. In cases like South Africa or Denmark where the entire country is effectively one multi-member constituency—with 400 seats in South Africa and 175 in Denmark—proportionality is not a serious problem, in spite of the formal two per cent threshold in Denmark. The dominance of the national level on seat allocation in two-tier systems of this type, which also includes countries like Germany, Sweden, Lesotho and New Zealand, explains why the seat allocation system used at the lower level (or tier) is of no real significance for the level of proportionality that can be achieved.

The reason is that a large number of seats allows one to come very close, percentage-wise, to the vote distribution. If seats are being allocated on the basis of the national vote distribution, then seat allocation at the lower level—whether it is South African provinces, Swedish or Danish counties, or SMCs, as in Lesotho or Germany—is not particularly important for the level of proportionality attained. But even here, things get better when you can distribute the seats in the lower-level MMC by PR, because then a smaller number of national, compensatory seats will be needed to provide full national proportionality.

It is not unimportant how seats are allocated at the lower level, but it is more important that other values, such as accountability, can be pursued at the lower level. If these multi-member, lower-level constituencies are too big, this is not possible, but if they are smaller (e.g. on average six to nine seats) then it is easier for voters to put a face to their representatives—i.e. to those who have been elected in their district to represent them, at the same time as they are also representing the entire country. That is one reason why systems with relatively small MMCs are seen as a constructive way of combining various political value considerations in some PR countries.

If this argument is taken to its logical conclusion, then we will end with the MMP model used, for example, in Lesotho and Germany where some seats are allocated in SMCs (sometimes 50% of the total number of seats), while the rest are used as compensatory seats, to allocate to those parties which have won less than their proportional share of the

seats in the constituencies. This system has often inspired reflection and thinking in South Africa.⁵ A major problem, however, is that it requires that a fairly considerable share of the seats are compensatory seats, if full proportionality is still to be achieved,⁶ and then there is only a correspondingly smaller number of seats to be used as SMC seats. The unavoidable consequence is that the constituencies become too big to provide the close linkage between voters and representatives, which is the *raison d'être* for having SMCs, and which would most certainly also be a problem in South Africa.

It is not easy to establish an overview of how these variables interact. Table 2 combines the components, the number of ballots and the constituency structure (number of tiers + character of the lower-level tier(s) in the case of two- and three-tier systems).

Table 2: Combining number of ballots and the constituency structure

Number of tiers	Entire country	Provinces or regions	Smaller units, e.g. counties	Single-member constituencies	Number of ballots	
					1	2
1		X	X	n/a	The Netherlands	n/a
					Israel	
					Spain	n/a
					Finland	n/a
2		X	(X)	n/a	South Africa	
		X	(X)	n/a	Denmark	
					Norway	
3		X	X	(X)	Sweden	
		X		(X)		Germany
			X	(X)		Lesotho
				Bolivia	New Zealand	
						Hungary

(X) indicates the less decisive level (or tier)

Table 3 illustrates how the current South African system scores in terms of the seven individual electoral system components. The idea is to demonstrate how all seven components are in one way or another inherent in all PR systems, and therefore also in the current South African system.

The next step is to include another country (see Table 4). Denmark is an obvious choice⁷ because it differs from the South African system, which demonstrates how legislators can be attracted by different solutions when electoral systems are designed. Table 5 juxtaposes Germany and the Netherlands, to give a feel of how these two electoral systems score on the seven PR electoral system components. Germany was chosen as a natural follow-up to our earlier remarks, and the Netherlands will show what the system looks like in a one-tier country.

CONCLUSION

- PR electoral systems belong to a specific family of electoral systems, which all provide for ‘in general, proportional representation’; intra-family variation in levels of disproportionality, etc., is much smaller than inter-family variation—that is, between, for example, PR systems and majority systems.
- Seven basic electoral system components were identified. These components are essential when it comes to the construction of an electoral PR system because they are our electoral system design tool kit. Electoral system engineers must decide on all seven (maybe only by default).
- It is easy to get confused when comparing electoral systems and their constituent elements. However, in two-tier systems one should always start by identifying the decisive tier. If this is the national level (as in South Africa, Denmark, Sweden, Germany, Lesotho, New Zealand, etc.), then the systems will display a number of similarities, for example, regarding the level of proportionality.

Table 3: How the current South African system scores

<i>Formula</i>	Quota methods	<ul style="list-style-type: none"> • National level: Droop quota + largest remainders (max. five). Subsequent unawarded seats to be awarded by highest averages of votes per seat • Provincial level: Droop quota + largest remainders
	Divisor methods	Not applicable
<i>Constituency structure</i>	<i>Constituency magnitude</i>	<ol style="list-style-type: none"> 1. National constituency: 400 (200) 2. 200 seat allocated proportionally to nine provinces (1999: variation 4-46, with an average magnitude of 22.2)
	<i>Tier structure</i>	Two tiers, national level decisive
<i>Surplus seats</i>	Yes/No	No
<i>Formal electoral threshold</i>	Yes/No	No
<i>Electoral alliances possible</i>	Yes/No	No (- but declaration of support for another party possible, to allow that party to benefit from the votes cast at a level where the party is not running)
<i>Split voting (or vote splitting) possible</i>	One ballot Two ballots	Yes, ballot goes to same party at both levels —
<i>Lists</i>	Closed Semi-closed Open	Yes — —

Table 4: Comparing South Africa and Denmark

		<i>South Africa</i>	<i>Denmark</i>
<i>Formula</i>	Quota methods	<ul style="list-style-type: none"> National level: Droop quota + largest remainders (max. five). Subsequent unawarded seats to be awarded by highest averages of votes per seat Provincial level: Droop quota + largest remainders 	<ul style="list-style-type: none"> National level: Hare + largest remainders
	Divisor methods	—	<ul style="list-style-type: none"> Multi-member constituencies: Modified St. Laguë
<i>Constituency structure</i>	Constituency magnitude	<ul style="list-style-type: none"> National constituency: 400 (of which 200 are compensatory seats) 200 seats allocated proportionally to nine provinces (1999: variation 4-46, with an average magnitude of 22.2) 	<ul style="list-style-type: none"> National constituency: 175 (of which 40 are compensatory seats) 135 allocated proportionally to 17 multi-member constituencies (2001: variation 2-16, average 7.9)
	Tier structure	Two tiers, national level decisive	Two tiers, national level decisive
<i>Surplus seats</i>	Yes/No	No	No
<i>Formal electoral threshold</i>	Yes/No	No	<p>Yes: parties must fulfil any one of three requirements to be entitled to compensatory seats:</p> <ul style="list-style-type: none"> a seat in a multi-member constituency 2% of all valid votes average number of votes per seats in two of three 'provinces'
<i>Electoral alliances possible</i>	Yes/No	No	No
<i>Split voting possible</i>	One ballot	Ballot goes to same party at both levels	Ballot goes to same party at both levels
	Two ballots	—	—
<i>Lists</i>	Closed Semi-closed	Yes —	<p>Parties choose if they will run a semi-closed or an open list</p>
	Open	—	<p>Parties choose if they will run a semi-closed or an open list</p>

- Systemic elements such as constituency magnitude, constituency structure, the formal electoral threshold (if any), and surplus seats (if any) have a greater effect on levels of proportionality than the other elements in PR systems.
- Under PR, issues related to gender, ethnic group and interest group representation are more easily settled than in the other electoral system families. Under closed list systems (and particularly with many names on the list, i.e. in large constituencies), political parties can more easily place representatives of such groups on the list in such a way that they gain representation (South Africa is a good case in point here). Under open and semi-open list systems, parties are more inclined to present candidates from these groups (women, various ethnic groups, and/or interest group representatives) in order to attract their votes.

It will be difficult to improve the current South African electoral system by importing electoral system elements found 'out there'. The only two elements to consider are:

Table 5: Comparing Germany and The Netherlands

		Germany	The Netherlands
Formula	Quota methods	Niemeyer (=Hare) quota + LR	Hare Quota
	Divisor methods	—	d'Hondt for remainders
Constituency structure	Constituency magnitude	<ul style="list-style-type: none"> • National constituency: 656 (328 are compensatory seats, but they are allocated in the federal Länder) • 328 seats are allocated in SMCs 	<ul style="list-style-type: none"> 150 seats in one national constituency
	Tier structure	Two tiers, national level decisive	one national constituency
Surplus seats	Yes/No	Yes (13 in 1998), so the eventual size of the Bundestag was 669	N/a
Formal electoral threshold	Yes/No	<ul style="list-style-type: none"> • 5% of the national vote, or • 3 single-member seats 	Yes. The Hare quota (100% / 150 = 0.66667 % of the national vote) is also the formal electoral threshold
Electoral alliances possible?	Yes/No	No	Yes
Split voting possible	One ballot	—	One ballot only, so split voting is not a possibility
	Two ballots	Yes, and it is being used more and more	—
Lists	Closed	Closed	—
	Semi-closed	—	Semi-closed
	Open	—	—

- the formula, especially how seats not allocated by full quotas are handled; and importantly
- the constituency structure—that is, whether or not the benefits will outweigh the costs if the lower-level, less important provincial sub-units are replaced by smaller units, which are still MMCs, and where seats are still being allocated by PR.

NOTES

- 1 See for example, A Reynolds and B Reilly, with K Asmal et al., *The international IDEA handbook of electoral system design*, International IDEA, Stockholm, 1997, p 18ff; A Lijphart, *Electoral systems and party systems: A study of twenty-seven democracies, 1945-1990*, Oxford University Press, New York, 1994.
- 2 M Krennerich & J de Ville, Constituency elements within proportional representation systems and the electoral reform debate in South Africa, in J Elklit, *Electoral systems for emerging democracies. Experiences and suggestions*, Ministry of Foreign Affairs/Danida, Copenhagen, 1997, p 84.
- 3 See, for example, D Nohlen, *Wahlrecht und Parteiensystem. Über die politischen Auswirkungen von Wahlsystemen*, Opladen: Leske Verlag + Budrich, 1990, pp 85, 193-194; J Elklit, *Danske valgsystemer: Fordelingsmetoder, spærreregler, analyseredskaber*, paper, Department of Political Science, University of Aarhus, Aarhus, 2002, p 10.
- 4 Lijphart, op cit, p 96.
- 5 See, for example, M Faure, *The electoral systems issue in South African politics*, Occasional Papers, Konrad Adenauer Stiftung, Johannesburg, 1999.
- 6 Cf., for example the outcome in the May elections in Lesotho, J Elklit, *Lesotho 2002: Africa's first MMP elections*, *Journal of African Elections*, 1(2), 2002, pp 1-10.
- 7 Elklit, *Danske valgsystemer*, op cit.

Electoral systems and accountability: A proposal for electoral reform in South Africa

MURRAY FAURE* AND ALBERT VENTER**

INTRODUCTION

South Africa had used the British FPTP system of electing representatives to parliament for more than 80 years. It remained essentially unchanged since its implementation at unification in 1910 until its replacement by a new electoral system with the 1993 interim constitution and the subsequent election of April 1994. Variations of the FPTP system were also used for the election of the old provincial councils in South Africa, as well as the provincial legislature of South West Africa, now Namibia. It also 'served' the former system of homelands with its various legislatures, and was adapted to suit the needs of the three-chamber parliament brought about by the 1983 constitution.

Towards the end of the 1980s it became clear that South Africa was irrevocably moving towards some major form of political transition as well as a new electoral dispensation. President De Klerk's speech in parliament on 2 February 1990 marked a watershed and an acceleration in the negotiation and transition process. Timetables for constitutional reform were set, and a new urgency characterised the negotiation process. The five years that preceded the adoption of the interim constitution in 1993 also witnessed an intensification in the debate on electoral options for the new South Africa.

While many of the proposals for electoral reform in this period differed with respect to technical detail, a remarkable degree of consensus characterised the debate in at least two aspects. The first was that the old FPTP system was patently unfair since it over-represented large parties, and especially the ruling party in the system. The second agreement among those who participated in the debate at that time was that some form of proportional representation was highly desirable.

After the adoption of a PR list system in 1993 and putting it to its first test in the election of April 1994, the electoral reform debate was once again sparked off. On the one hand there was some experience-in-use of the new system that needed to be assessed, and on the other hand, the country still had to move towards its final constitution which, in principle, left the door open for some adjustments to, *inter alia*, the electoral system. To this end the Constitutional Assembly convened its Theme Committee Two to debate electoral options for consideration by the law-makers.

When it became evident after the Arniston Bosberaad in 1996 that the 1994 PR list

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system would be retained for the 1999 general election, speculation as to what type of electoral system South Africa should change to for the 2004 election gained momentum once again. This phase in the debate resulted in the EISA Roundtable on electoral reform held in 1998 and a number of positions again being taken by political parties and scholars subsequently. This phase of the debate has carried over into the present time.

This paper argues for electoral reform. It commences with a brief overview of the features of the present system. This is followed by an account of the electoral systems debate during the past five years in order to provide a context for the argument that follows. The three options which have dominated the debate are then reviewed to provide justification for choosing whether to retain the present system or to propose reform. An argument is presented for changing the present electoral system to an MMP system with SMCs. The basis of the argument is that such a system will significantly increase the responsibility of members of the legislature towards their constituents. The argument is made in full awareness of the remarkable successes which the present system has registered. The South African electorate will be even better served by introducing an element of geographical representation into the present electoral system. Such a change will facilitate the arduous task of consolidating our young democracy. The longer the present electoral system is retained, the more its shortcomings will become institutionalised, and this will have negative implications for democracy in South Africa. While the present electoral system was probably an optimal choice for South Africa's transition to democracy, the timing of electoral reform is now an important consideration. The paper argues that change should be effected now so that the general election of 2004 can be conducted in terms of a new and improved electoral system.

The overriding consideration is that South Africa should do what is in the best interests of democracy, and that the interests of all political parties should be subject to this.

SOUTH AFRICA'S PRESENT ELECTORAL SYSTEM

Constitutional arrangements provide for a parliament composed of a 90-member indirectly elected NCOP which replaces the former Senate elected in 1994 and a 400-member National Assembly. Each of the nine provinces has a delegation consisting of ten members which represents that province in the NCOP. In general, provincial delegations to the NCOP are in accordance with the relative strength of political parties represented in the respective provincial legislatures. Two hundred members of the National Assembly are elected using national party lists, while the remaining 200 members are elected on the basis of regional party lists; each region or province is entitled to a fraction of the 200 members in accordance with its relative population size. Nine provincial legislatures are elected, the size of each being about double the number of regional representatives a province has in the National Assembly. The size of each provincial legislature also reflects the relative population size of the province, with the proviso that provincial legislatures shall have a minimum of 30 and a maximum of 80 members.

Members of the National Assembly and the provincial legislatures (a total of 830 members) are elected in terms of a continental-like system of PR using closed ordered

Table 1: Seat allocation under the present electoral system

<i>National lists: 200</i>	<i>National assembly</i>	<i>Provincial legislatures</i>
Eastern Cape	27	63
Free State	14	30
Gauteng	46	73
KwaZulu-Natal	38	80
Mpumalanga	14	30
Northern Cape	4	30
Northern Province	20	49
North-West	17	33
Western Cape	20	42
Total	400	430

party lists. Though not as complex as some systems of PR, the ‘average voter’ does not really understand its technical functioning, especially the calculation and allocation procedure of seats in terms of the Droop quota. There are indications, however, that voters generally understand that percentages of the vote translate into percentages of seats for the contesting parties. In terms of the criteria that normally differentiate PR systems from each other, the current system displays the following features.¹

THE BALLOT

Each voter is accorded two ballots, one to be used for the election of members of the National Assembly, and one to be used for electing members of provincial legislatures. Whereas the ballot in some proportional electoral systems allows voters to choose between the various candidates (even across parties if there is more than one ballot), franchise provisions do not provide for this in South Africa. Voters are only accorded the opportunity to choose between competing party lists. The voter is bound to the order of candidates as decided by the parties. No candidate preference is provided for, and the only differentiation that voters can exercise is to vote for different parties that contest the National Assembly and the provincial legislatures respectively. In spite of high levels of illiteracy there is evidence to suggest that voters generally understand the purpose of the double ballot, and that ballot differentiation was used as a conscious voting strategy by many supporters of especially the smaller parties, who voted for these parties on the provincial level. In the 1994 election, for example, the DP registered a total of 338,426 votes on the national level as against 538,655 votes on the provincial level—a difference of 200,229, which is quite significant. Similarly, the FF in the same election attracted 424,555 votes on the national level with 639,643 votes on the provincial level—a difference of 215,088 votes. The converse tendency is reflected by the support for the larger parties.²

PARTY LISTS

The system uses both national and sub-national (regional, provincial) party lists. In a

sense, the election of 200 National Assembly members according to regional party lists makes the nine regions/provinces extremely large MMCs. The election of 200 National Assembly members according to national party lists, like the method used in the Netherlands and Israel, uses the whole country as one very large MMC.

ALLOCATION

The system allocates seats proportionally at both a regional and a national level in terms of the Droop quota. While the regional allocation is not the conventional allocation in terms of small MMCs (but in terms of larger regions/provinces), the national allocation has to take account of regional allocation. Smaller parties with regional support are not disadvantaged by this method, while smaller parties with a country-wide level of support (i.e. not regionally based support) can benefit from this method of national allocation.

THE THRESHOLD

The threshold (the minimum votes required to win a seat) is extremely low; in fact, some thresholds in the system are among the lowest in the world. The threshold (which is, of course, mathematical and not legal in nature) varies for the regional and national lists respectively, and those of the provincial legislatures are about half the size of those for the regional allocation for the National Assembly.

In the case of the Gauteng region/province, for example, the threshold for the National Assembly is approximately 2.12%, while the threshold for this region's provincial legislature is approximately 1.35%. In contrast, the threshold for the Northern Cape province in the National Assembly is approximately 20%, while that for the provincial legislature of that province is approximately 3.22%.

For both the National Assembly and the regional/provincial legislatures the respective thresholds of the various regions/provinces differ, unless they have the same number of seats in comparative cases. Approximately 1/400th of the votes cast for the national party lists of the National Assembly (i.e. about 0.25%) constitutes the threshold, but the number of seats already allocated regionally is subtracted from the seats won in this way, effectively making this threshold about 0.50%. The threshold for the National Assembly as a whole is 0.24938%.

THE ELECTORAL SYSTEMS DEBATE—1994–1999

The debate and thinking on electoral reform during these years cannot be fully recorded here.³ By offering the outcomes of a number of chapters in the debate, however, a representative picture of what options and issues constitute the debate can be formed. These chapters are:

- the views of political parties on electoral reform registered by way of a survey shortly after the 1994 election and their subsequent submissions on electoral change to the Constitutional Assembly;

- the main arguments for electoral reform tabled at the Theme Committee Two workshop of the Constitutional Assembly which was held in May 1995;
- the main arguments tabled at the EISA Roundtable on electoral reform held in August 1998; and
- views on electoral reform pronounced during the course of 1999.

IEWS OF POLITICAL PARTIES ON ELECTORAL REFORM SHORTLY AFTER THE 1994 ELECTION AND THEIR SUBMISSIONS TO THE CONSTITUTIONAL ASSEMBLY

Shortly after the 1994 election there was general unanimity among political parties that the introduction of an element of constituency representation was highly desirable, or at least deserved serious consideration.

It is significant to note that a survey carried out by the Parliamentary Information and Monitoring Service in 1994 found that there was overwhelming support among two-thirds of all the parties for a mixed electoral system that included an element of constituency representation. Only the ACDP and the NP registered less than 50% support for such a mixed system.⁴ With regard to the submissions of the various political parties to the Constitutional Assembly, the same sentiment is evident. The submissions of the ANC, the NP, the DP and the PAC hinted at the strengthening of accountability to the electorate while suggesting that proportionality should be retained as well. The ANC was, however, cautious about the introduction of an MMP system and suggested that it warranted further careful consideration.⁵ The DP's submission embodied a concrete proposal—an MMP system where 80% of the members of the National Assembly would be elected from MMC lists and 20% from national party lists. There should be two votes: one for constituency lists, and one for the national lists. The latter vote should determine the overall proportionality of parties, while an increase in the size of the National Assembly would accommodate any overhang of parties, if necessary. The NP's submission to the Constitutional Assembly proposed the retention of the present system and the assigning of MPs to magisterial districts after an election. The IFP and the PAC were in favour of an MMP system, but no detailed outline was submitted. The ACDP's submission indicated no clear preference for a particular electoral system, while the FF made no submission in this respect, and it is reported that among the public submissions there was an overwhelming support for some form of constituency representation.⁶

THEME COMMITTEE TWO WORKSHOP OF THE CONSTITUTIONAL ASSEMBLY HELD IN MAY 1995

This workshop represents an important milestone in the South African electoral and constitutional debate. Apart from the fact that it provided a rare opportunity for scholars and political representatives to exchange ideas about electoral options and choices (at times rather heated), it also accentuated the fact that the new PR electoral system—in spite of all the positive features that it embodied—was not without shortcomings and that improvements ought to be considered. A number of important considerations formed the background to this workshop.

The first is the fact that scholars at that stage, even prior to the 1994 election, had already thoroughly analysed the new electoral system and had pointed out its strong and weak features. Considerable consensus existed that the system was legitimate, all-inclusive, highly proportional (in allowing very small parties representation), that it was fair, that the system did not waste votes, that it eliminated the problems of gerrymandering associated with constituency delimitation, and that the double ballot provided some measure of vote differentiation with regard to national and provincial matters. Similarly, consensus also existed on the shortcomings of the system in that it was impersonal, that it strengthened the hands of party bosses and their party bureaucracies, and that the system did not provide for sufficient voter accountability. The latter shortcoming was seen as the most serious in that it suppressed communication between voters and representatives; the MPs were responsible to parties and not responsive to the needs of voters. The second factor was that at the time of the workshop, scholars and representatives already had some experience-in-use of the system. The third factor that fed into the workshop was the requirement that the final constitution of the country had to be negotiated within a fixed time limit which, at that stage, created a sense of urgency in deciding correctly with regard to electoral matters. The last factor which structured the deliberations of the workshop was the set of legal and political principles contained in the interim constitution which was intended to structure the nature and spirit of South Africa's final constitution.

The proceedings of the workshop are recorded in the book by De Ville & Steytler,⁷ as well as in two subsequent publications by Krennerich & De Ville.⁸ Papers presented at the workshop can be divided into two categories: papers that conceptualised South Africa's electoral arrangements; and papers that contained actual proposals for reform. All the scholars who made proposals for the improvement of the electoral system addressed the problem of voter accountability as their most serious concern. It is equally significant to note that the majority of scholars recommended a change of the country's electoral system to that of an MMP system—generally defined as a system in which a number of seats are filled through plurality/majority geographical constituencies, while the remainder are filled from PR lists which serve to rectify any disproportionality reflected in the allocation of district seats. One scholar⁹ argued for the retention of the status quo—i.e. party list PR, but with an arrangement that all parties represented in parliament formally accredit their MPs to magisterial districts. After an election, therefore, parties would decide in which magisterial districts they would prefer to accredit their MPs, in order to bring a type of constituency arrangement and, consequently, greater accountability into the electoral system. Formal accrediting was suggested to enable MPs to have some *locus standi* with governmental and administrative agencies. As a second preference, however, Venter also opted for an MMP system to address the problem of voter accountability.

Within this broad category of consensus, the basic difference between the proposals was whether parliamentary constituencies should be SMCs or MMCs in a revised electoral dispensation to make the system more personal, responsive and accountable. Smaller differences, such as the ratio between list and constituency seats, as well as the nature of the ballot, can also be distinguished.

AN MMP SYSTEM WITH SMCs

Faure¹⁰ and Venter's second preference¹¹ is fundamentally the same proposal. Faure argued for a reduction in the size of the legislature and suggested an MMP system with a 100:200 ratio between SMCs and list seats, as well as two ballots: one for lists and one for SMCs (based on plurality of votes). He also proposed that the closed ordered national lists be substituted with flexible lists which would allow for candidate preference in both the ballots taking effect. SMCs would be allocated first, after which the Droop quota could be used to allocate list seats in a compensatory manner in order to ensure proportionality for the assembly as a whole. Venter suggested a 200:200 ratio between list seats and SMCs. Both of these recommendations advised against the use of a legal threshold, using only the inherently low mathematical thresholds that the size of the legislature would suggest. Both of these proposals resemble in broad outline the electoral arrangements of Germany and New Zealand.

AN MMP SYSTEM WITH MMCS; AND PR IN MMCS.

De Ville¹² argued for a 300:100 ratio between small (2-5) MMCs and list seats. Voters would have two ballots: one for national party lists, and one for constituency party lists. MMCs would be allocated first, while the national allocation would ensure overall proportionality, using additional seats for parties in the event of an overhang of other parties. Kotzé¹³ also suggested the use of small MMCs with either three or five members. Voters would have only one vote: the first count of the vote would elect 300 members from constituencies, while the second count of the same vote would determine the overall relative strength of parties in the assembly. An additional 100 members would be allocated, not from party lists, but from the best 'losers' in the constituencies. This system also favoured preferential voting and the retention of excess seats in the case of an overhang.

Some scholars at that stage believed that if the political process would indeed move in the direction of an MMP system, the electoral debate could be narrowed down to the nature and extent of constituency representation that would best suit the country's needs. As explained earlier, the Constitutional Assembly rather unexpectedly decided shortly after the workshop to defer the decision about an electoral system until after the 1999 general election.

EISA ROUNDTABLE ON ELECTORAL SYSTEM REFORM HELD IN AUGUST 1998

EISA took the initiative to re-open the electoral systems debate by arranging a roundtable on the future of South Africa's national electoral system during August 1998. The roundtable devoted two days to deliberations, while an additional day was used to report the findings of the roundtable to representatives of various political parties and other organisations. The proposals for electoral reform were preceded by papers that explored the aims of electoral reform, the general and specific criteria that should be considered in the choice of an appropriate electoral system, the available options, as well as gender

considerations in electoral reform. With regard to the proposals for electoral reform after 1999, the roundtable quite remarkably came to the same basic conclusions as the Theme Committee Two workshop three years earlier. What should be borne in mind is that at the 1995 workshop local scholars submitted proposals for reform, while the keynote speakers who submitted proposals at the EISA roundtable were scholars from abroad. It signifies an interesting corroboration of the earlier thinking, and it represents an astonishing degree of consensus among scholars on electoral reform in South Africa. In brief, the roundtable concluded that the options available to South Africa were either the retention of the status quo, or a move to an MMP system. With regard to the latter option, two alternatives were suggested: either an MMP system with MMCs or an MMP system with SMCs.

RETENTION OF THE PRESENT SYSTEM

Lodge suggested that persuasive arguments could be made against any radical departure from the present electoral system and attempts to incorporate a constituency element into the system. In this, cost is an important consideration. He argued that the cost of electioneering, which was already excessively high in South Africa, would be considerably escalated by imposing a highly complex system that uses MMCs. The imposition of complex tasks on political organisations that MMCs would bring about is outweighed by keeping arrangements simple and cheap, which would probably facilitate the progress of party electoral organisation.¹⁴

Lodge also suggested that the use of a constituency element in the electoral system could easily and rapidly become organised on the basis of patron-client relations which could further political corruption without enhancing accountability. Majority/plurality systems, moreover, are not favourably disposed towards women in politics. Lodge further suggested that the discipline which the executive authority could impose on party lists in the present system was probably beneficial to the government's major socio-economic reform programmes. Finally, Lodge hinted at the possible benefits that preferential voting might bring to the present system as a measure to prevent 'redeployment' of representatives to diplomatic and other positions.¹⁵

AN MMP SYSTEM WITH MMCs

Elkliet considered four criteria to be of particular importance in deciding the country's future electoral system. These are:

- maintaining high proportionality and its concomitant benefits;
- providing a structure which would facilitate the development of cross-cutting linkages between parties with a resultant decrease in the intensity of politics and the development of a spirit of consociational cooperation between parties;
- promoting a strong and meaningful opposition in parliament; and
- the very important issue of accountability, both for individual politicians as well as for political parties.¹⁶

Elklit stressed the importance of accountability and suggested that an open party list ballot was one way in which voters could express their preferences. This, however, requires a high degree of literacy and education among voters as well as a willingness among parties to allow voters to express their sentiments and preferences in this manner.¹⁷ He expressed strong reservations about the desirability of South Africa changing to an MMP system with SMCs as a way of introducing voter accountability into the system. He argued that such a system would bring accountability to only half the MPs; that it normally requires two ballots with a high degree of literacy; that the size of constituencies would be excessively large (approximately 120,000 voters in South Africa's case if a total of 180 constituencies would be geographical seats in a 360-member parliament); and that such a system would run the risk of changing the work of MPs to "looking at ... their own chances of re-election".¹⁸

Elklit suggested that the problems associated with an MMP system using SMCs could be avoided by introducing a class of small MMCs at the lowest level and by using one of the available PR methods to determine their outcomes. The average size of these constituencies should be around four seats, but three, four or five could be used. With a degree of PR already attained at this level, 300 of the present 400 seats could be elected in this manner while the remaining 100 national list seats would serve as compensatory seats that would rectify any disproportionality in the former category. Experience demonstrates that approximately 25% list seats could serve this purpose.¹⁹ The MMCs should first be allocated to the various provinces on the same basis as the present system (i.e. relative population size) and for this purpose municipal entities could combine—or in the case of big cities, divide—to form MMCs with roughly 500,000 to 600,000 inhabitants in each. Voters would vote for party candidates (or independents) on a list basis and any of the various allocation methods (Hare + largest remainder, St Laguë or d'Hondt) could be used since the slight deviations in PR outcome that each method would respectively yield would be rectified when the national list outcomes are allocated in a compensatory manner to achieve overall proportionality for parliament as a whole.²⁰ Elklit does not favour two ballots for such a system; only one ballot should be used. With one ballot a measure of preference for both parties and candidates can be accomplished if voters are required to vote in their constituencies. In addition, it will also secure a measure of accountability since support is expressed at the very lowest level.²¹

Elklit includes candidate preference at both the national and the local level since he believes that voters will be quite aware of who the top candidates in the MMCs are. A vote for Party A carries the expectation that that party's top candidates will go to parliament, and the same holds true for a vote cast for Party B, and so on. In this way, both parties and their elected candidates can be held accountable at the constituency level, while the national level is not excluded since the country-wide sum of constituency votes determines the pattern of the national allocation. Compensatory seats could be taken from the national lists (which would provide parties with a way of securing their chosen candidates a safe seat high on the list), or from so-called 'best losers' in the constituencies which would ensure that non-elected members would be ranked nationally (or provincially) according to a quota to fill unfilled seats.²²

AN MMP SYSTEM WITH SMCs

Reilly's proposal for electoral reform in South Africa does not proceed from the desirability of particular electoral values such as proportionality and accountability. He suggests that democratic consolidation in the country was the single most important outcome that any electoral reform could serve, and that any possible changes to the electoral system should serve this end. This outcome, he argues, is especially significant in view of the poor record of so-called dominant mass party democracies, the weak democratic performance of poor countries in general and African countries in particular, and the excessive level of inequality in South Africa. To find meaningful patterns in electoral types that could serve such an outcome, Reilly uses comparative data rather than devising an intrinsic South Africa-specific needs analysis.²³

According to Reilly, of the 36 'established democracies' (i.e. states with populations larger than 250,000 with uninterrupted democratic rule for at least 20 years), 59% use some form of PR, but in terms of population totals more people live in states that use FPTP systems than in all the various systems combined. In these 'established democracies', more people live under MMP systems that use SMCs than under pure list PR systems. The only two 'established democracies' in Africa—Botswana and Mauritius—both use versions of FPTP systems. Because it is unrealistic to compare South Africa with the homogeneous industrialised states of Europe (Denmark, Sweden and the Netherlands), Reilly seeks instead to compare South Africa with states that share a large geographical and population size, diversity, and a significant rural and agrarian-based population. In terms of geographical size, and in descending order, these states are Canada, the US, Australia, India, Colombia, Venezuela, Botswana, France, Spain and Papua New Guinea. With the exception of Spain and Colombia all these states use SMCs for representation at the national level in FPTP, alternative vote or two-round mixed systems of voting. Spain and Colombia themselves have a closer degree of regional representation than South Africa, albeit in a different format than the other eight large states mentioned previously. In fact, at present no geographically large 'established democracy' uses South Africa's pure national PR list system.²⁴ Reilly also pointed out that while list PR was the most popular electoral system for new democracies, it was significant that in this category of new democracies geographically large countries such as Indonesia, Russia, Ukraine, Kazakhstan and Mongolia have all chosen electoral systems which contain elements of SMC representation. The very same pattern becomes manifest when geographical size is substituted for population size. While a majority of the 36 'established democracies' have populations under 10 million, eight of the 10 most populous 'established democracies' (India, the US, Japan, Germany, the UK, Italy, France and Canada) have district-based electoral systems and, in addition, Italy and Japan have recently deliberately created a majority of SMCs in their electoral systems.²⁵

This preponderance of SMCs in large and populous countries could be accounted for in a number of ways. According to Reilly, SMCs are simply better suited to cater for local issues and needs in a personalised and accountable manner—a style of politics which pure list PR by its very nature cannot achieve. In this respect, and especially with regard to societies with a significant agrarian element, Reilly used Barkan's²⁶ analysis to suggest that

list PR was not at all suited for the purpose of democratic consolidation in South Africa.²⁷ Reilly also used the landmark comparative study of Cain, Ferejohn and Firorina, which analysed the service of politicians to constituencies in Canada, Australia, the UK and the US to draw attention to the direct relation between quality of service rendered to constituencies and the re-election ratio of MPs. The study also conclusively underlined the real nature of accountability in the absence of such service rendered through the retrospective element of 'punishment' by way of no re-election in such cases.²⁸

Reilly also drew attention to the very different electoral requirements of transitional and consolidated democracies respectively. The former usually require inclusiveness, simplicity, fairness and proportionality, a minimisation of conflict such as demarcation of constituency boundaries, simplicity to administer, transparency and often the need for 'grand' or 'oversized' coalitions (compare South Africa's former Government of National Unity). In contrast, the latter usually require a higher degree of accountability, a need for the electorate to express a more sophisticated range of needs and choices, an ability to 'get rid of the rascals', a higher degree of responsiveness to the needs of the electorate, the promotion of a sense of 'ownership' by the electorate and a more frequent need for minimal winning coalitions or single-party governments. In this respect Reilly suggested that South Africa may indeed have made the optimal choice with its 1994 electoral system, but that the priority of consolidating the country's democracy clearly pointed to the need for a district-based element in the system of which SMCs seemed to be the most appropriate.²⁹ As corroboration of his views, Reilly used the findings of two important studies.³⁰ The first is Blais and Dion's survey of transitions to democracy of 19 states between 1900 and 1985. This study concluded that SMCs are to be preferred to proportional systems with respect to the consolidation of fragile democracies and that national list PR should be avoided at all costs.³¹ The second is Bohrer's finding that less proportional electoral laws are more successful at maintaining democracy than PR systems; proportionality in itself is not necessarily the culprit, but it is more often associated with democratic failure than less proportional systems.³²

Against the background of this set of comparative data, Reilly proposed that a German or New Zealand type of MMP system using SMCs on the basis of a 200:200 division of list and electoral seats would be a great improvement to South Africa's electoral requirements. If simplicity was an overriding requirement, a single ballot could be used for the election of both categories of seats. Proportionality would be ensured by using the 200 list seats in a compensatory manner, thus conforming to the constitutional requirements in all respects.³³

IEWS ON ELECTORAL REFORM PRONOUNCED DURING THE COURSE OF 1999

In the run-up to and aftermath of the June 1999 general election, the need to effect changes to the country's electoral arrangements was addressed on a number of occasions. At the beginning of the year the Centre for Policy Studies governance programme newsletter published the views of Mackay on electoral reform options.³⁴ Like the earlier participants in the debate, he echoed the sentiment that list PR had ensured minority

representation in the country's legislatures, but that it had loosened the crucially important ties between the constituents and parliamentarians. After briefly reviewing the features and desirability of the STV system in MMCs, the use of a straightforward MMC system, and the possibility of introducing preferential voting in the present system, he concluded that the introduction of an MMP system using SMCs would best suit the country's needs. According to Mackay, STV (in spite of some advantages) is simply too complex and too difficult to administer. An MMC system would not ensure the representation of small minority parties and it would tend to enlarge the size of legislatures, while preferential voting in a straight PR system such as the present one in use would do little to empower voters and constituencies. An MMP system with SMCs (along the lines of that used in the Federal Republic of Germany) would overcome most of the present system's shortcomings, and, in addition, would provide for a "crossing of the floor" by elected representatives from constituencies which would make for more fluidity and compromise in the political system".³⁵

During May 1999 the then deputy secretary-general of Cosatu, Zwelinzima Vavi, registered the trade union's strong support for an MMP system of representation. No preference for either an MMC or SMC configuration was expressed. The basic shortcoming of the present electoral system is the absence of accountability of representatives to constituencies and voters. Vavi hinted at the fact that Cosatu (and workers) represented a constituency.³⁶ This must be understood in terms of the tripartite alliance between the ANC, Cosatu and the SACP. In July the NNP also came out in support of an MMP system which would use MMCs. The party declared its intention to prepare a discussion document on the matter and to submit it to parliament's portfolio committee on constitutional matters. In the same period the ANC announced that it was also considering the issue of electoral reform, but that it had not yet taken any final decisions on the matter.³⁷

During October IDASA's Political Information and Monitoring Service revived the debate by hosting a discussion on electoral reform attended by representatives of political parties. The DP's leader Tony Leon expressed support for an MMP system with MMCs (three representatives per constituency) and an 80%:20% ratio between constituency and list seats. It was also suggested that parliament's size could be reduced to 300 members, which would effectively save more than R26 million annually. Martinus van Schalkwyk, leader of the NNP, suggested that the German MMP system could serve as a model for local electoral reform, especially in the use of a legal threshold which would contain the proliferation of parties represented in parliament (the number of parties rose from seven in 1994 to 13 in 1999). UDM leader Bantu Holomisa stated that the party had not yet finalised its position on electoral reform, but defended the merits of proportionality since it guaranteed diversity and the representation of small parties. He emphasised that any change in the electoral system should not reinforce the country's multifarious divisions. The ANC's Johnny de Lange came out in strong support of retaining the present system and argued that it guaranteed diversity better than any other system. He suggested that it is a myth that constituency MPs are more accountable to the electorate than in the present system and that such MPs could not acquire a mandate from their electorate for all that

has to be done in parliament. Suzanne Vos from the IFP concurred with De Lange and stated that a constituency system would reduce the representation of women in parliament.³⁸

With opposition parties planning to request parliament's Constitutional Review Committee to further investigate the issue of electoral reform, the debate about the country's electoral arrangements was set to continue in 2000.

ASSESSING THE DEBATE AND THE OPTIONS

The electoral reform debate in South Africa has come through a remarkable period of activity during the past decade. During the late 1980s and the early 1990s it opened up and a variety of reform options were put forward. Prior to the adoption of the interim constitution these options converged into a broad consensus about the desirability of PR for South Africa's transition to democracy. Similarly, the past five years witnessed the development of a broad consensus around the strong and weak points of the present electoral system, and the set of appropriate reform options available to the country. Those involved in the reform debate (scholars, commentators, political parties, etc.) have also experienced a remarkable degree of interaction between participants in the form of consultancy work for parties by academics, workshops, roundtables and the like. In many countries the debates between scholars, on the one hand, and politicians and political parties, on the other, are often conducted quite independently of each other without much communication between the two categories. In this respect, the recent experience in South Africa has been encouraging and quite unlike the period that preceded it.

It should be noted that the three electoral options identified by the Theme Committee Two workshop and the EISA roundtable are not all that different from each other in an analytical sense. All three of the categories are typical national PR systems that use compensatory seats to achieve an overall degree of proportionality. All three types allocate a portion of the seats to constituencies, albeit constituencies of a differing nature (provinces, large, small, SMCs or MMCs). In fact, it is exactly on the score of constituencies that the different categories distinguish themselves from each other. The option that proposes the retention of the present system uses provinces at the lowest level: the MMP system with SMCs will have geographically 'smaller' constituencies than provinces at the lowest level, while an MMP system with MMCs prefers geographically 'larger' constituencies than the system that uses SMCs—somewhere between the former two categories. The first category comes in at a higher level of proportionality for the geographical component of the system than the other two options, with the option using SMCs scoring the lowest on this scale. All three options, however, share the similarity of high overall proportionality due to the fact that they all make use of national party lists to determine the overall proportionality of the three systems in a compensatory manner.

In spite of these similarities, however, it should be stated that each of these options will have rather different political consequences empirically—notably with regard to the element of voter accountability, voter representative relations and service delivery in constituencies—while overall proportionality will not be affected to the same extent as the

former elements. What will influence these empirical differences is therefore the nature and degree of geographical representation and the degree of personal or party choices/preferences that voters will be able to exercise.

Quite apart from other considerations, an argument for (or a decision) to retain the present system will have to take thorough cognisance of the fact that the present practice of using party constituencies (the post hoc allocation of constituencies to party members after an election) does not function satisfactorily at all. It is mainly a problem of ignorance and legitimacy in that constituency members mostly do not know who such representatives are—having not voted for them specifically or got to know them in campaigns before the election. Apart from ignorance about these constituencies and their representatives, there is also the feeling that these representatives have not been mandated by the voters themselves. The success of this practice is rather limited, and it is worth noting that such experiments have also failed elsewhere in other countries that use pure list PR systems. The Netherlands, for example, has also experimented with such a practice, but for socio-political and geographical reasons quite different from those that obtain in South Africa, it also failed in its objectives. Another serious problem associated with the post hoc allocation of representatives to constituencies is that the number, size and boundaries of each party's constituencies differ from those of other parties. It is not inconceivable that with 13 parties represented in parliament, a voter anywhere in the country may find him/herself living within the virtual boundaries of half a dozen or more overlapping and cross-cutting constituencies (each with a different size) serviced by different party representatives. MPs assigned to such party constituencies are often not intimately acquainted with the voters of these constituencies and their needs, and this contributes to the failure of the practice.

AN MMP SYSTEM WITH MMCS OR SMCS

The arguments for an MMP system with either MMCs or SMCs, on the other hand, will have to incorporate a number of considerations not thus far sufficiently explored by its respective proponents. The first consideration pertains to the MMP-MMC option, and is basically a political consideration. Quite separate from its intrinsic merits, it should be realised that the unsuccessful attempt to institute such a system by the then NP—now NNP—controlled Western Cape provincial government will hamper this option's chances of being accepted by the ruling party, the ANC. Agreeing to and accepting the electoral model of an opposition party could possibly be perceived by some party members as 'politically unacceptable', unless the model's intrinsic merits are such that they surmount this kind of objection. As regards increased accountability towards the electorate, there is the conviction among some electoral specialists as well as voters that MMCs with, say, three to five MPs per district, will 'share the spoils' and that MPs from different parties in such constituencies could 'pass the buck' from one to another, 'disperse responsibility' and not take accountability seriously. Finally, the MMP-MMC model is also more complicated in its design than a straightforward MMP-SMC model.

Similarly, arguments for the MMP-SMC model should also account for a number of

additional considerations not hitherto addressed by their proponents. The first is the question whether any value should be attached to the fact that the present practice of post hoc allocation of representatives to party constituencies uses SMCs rather than MMCs. This is, of course, the case per individual party, but since most large parties do this, individual voters in fact find themselves in a confusing array of what could be called a hybrid form of MMCs. A second factor, and one that is difficult to assess, is what positive or negative associations or images may exist with regard to the country's previous electoral system that used the SMC-FPTP plurality model. Finally, the MMP-SMC model has the possibility of capitalising on the success of the German model (and to a lesser degree the experience of New Zealand) not because MMP-MMC models have not been successful elsewhere, but simply by virtue of the quite remarkable influence that the German constitutional model has had on South Africa's recent political and constitutional history. Of course, arguments for either the MMP-MMC or the MMP-SMC models will also have to account for the fact that change to either of these electoral systems will reduce control by party bosses and party bureaucracies over their members. The experience elsewhere is that constituency candidates generally tend to be somewhat more independent from party control than list candidates.

ARGUMENTS FOR CHANGES TO THE PRESENT ELECTORAL SYSTEM

Having considered the country's experience with the present PR list system over a period covering two general elections, the various options put forward in the debate (as well as their supporting arguments), and South Africa's daunting challenge to consolidate its young democracy, this paper argues that an MMP-SMC electoral system (50% list seats:50% constituency seats) should be introduced as soon as possible.

The electoral arrangements that are proposed comply fully with the 1996 constitutional requirement that, in general, electoral results shall be proportional. The present system was ideally suited to the needs of transitional politics that South Africa has come through during the past few years. With regard to electoral arrangements, these include aspects such as inclusiveness, simplicity, fairness and proportionality, a minimisation of conflict such as demarcation of constituency boundaries, simplicity to administer, transparency and the need for 'grand' or 'oversized' coalitions (compare South Africa's former Government of National Unity). With regard to electoral matters, however, democratic consolidation requires a higher degree of accountability by representatives, channels for the electorate to express a more sophisticated range of needs and choices, procedures for the voters to 'get rid of the non-performers', a higher degree of responsiveness to the needs of the electorate, the promotion of a symbolic sense of 'ownership' and 'empowerment' of the electorate and a more frequent need for minimal winning coalitions.³⁹

More-or-less similar electoral systems as the one that is proposed for South Africa are used in the Federal Republic of Germany, Hungary, New Zealand, and the Welsh and Scottish assemblies. However, more changes to the electoral system are proposed than simply the method of electing and allocating candidates to the National Assembly. The details of the proposal are as follows:

INTRODUCE THE PRINCIPLE OF PARTIAL GEOGRAPHIC REPRESENTATION

The electoral system that is proposed here is similar to the German model in a number of ways. The dual FPTP and PR list system (followed in Germany and a number of other countries) should be seen as a proportional system of representation with a geographic element. It is not a parallel electoral system since the one category of the system (the list component) compensates fully for any disproportionality yielded by the outcome of the geographical or constituency category. The outcome of the electoral arrangements that are proposed comply fully with section 46(1)(d) of the 1996 South African constitution which requires an electoral system which “in general, results in proportional representation”. A parallel system of PR list and FPTP in which the two systems are managed independently, would, in our judgement, be unconstitutional since such system would not, in general, result in proportional representation of the electorate.⁴⁰

It is proposed that:

- 200 of the 400 seats of the National Assembly be allocated to single-member (geographically delimited) constituencies;
- the remaining 200 seats be allocated according to national closed ordered party lists;
- two ballots be used—one for the national PR lists and one for constituency candidates;
- the Droop quota be used for allocating seats for the national PR lists; and
- seats in constituencies be allocated by way of a plurality (relative majority) of votes.

It stands to reason that these changes require, among other things, that the present system will have to do away with the principle that the provinces form nine large MMCs that collectively elect 200 members of the National Assembly.

THE EFFECTS OF A PARTIAL GEOGRAPHIC ALLOCATION OF NATIONAL ASSEMBLY SEATS

Each voter will have two ballots, one for a candidate in a constituency and one for the closed ordered national party lists. Both votes are cast on the same day on the same ballot. Voters are allowed to split their votes: they may vote for one party’s candidate in their constituency and another party for the PR lists. Candidates should be allowed to run in both parts of the election. Therefore, a candidate who loses in a constituency can still win a seat in the National Assembly via the PR list vote if his/her rank ordering is high enough and if his/her party draws sufficient votes. Constituency elections are based on a simple relative majority winner-takes-all basis (similar to the previous provisions for election to the House of Assembly). Proportionality of outcome is guaranteed by using only votes cast for the national party lists to determine the proportion of overall party support in the National Assembly. No legal threshold (like the 5% *Sperrklausel* in Germany) is required; all that is needed is the natural mathematical threshold implicit in the Droop quota as applied to the number of seats.

After an election, the constituency results are declared immediately and the parties know at the outset how many constituency seats have been captured. Thereafter, the results of the list PR vote are used to determine overall proportionality, and to function in a compensatory manner correcting the disproportionality in outcome of the 200 constituency results.

ILLUSTRATION

Assume that an election has been held and that the constituency results, based on FPTP principles, are as follows:

Party A	130 seats
Party B	25 seats
Party C	45 seats
Total seats:	200 seats

These results are declared immediately and allocated without any alteration.

Assume that 15 million votes have been cast for the national PR lists. These results are used to allocate the remaining 200 seats for the National Assembly. The following results are yielded:

Note: For the purposes of this example and in order to simplify matters, the allocation is not done in terms of the Droop quota, descending fractions, etc. We use strict mathematical extrapolation, but the use of the Droop quota (the allocation formula used in the present electoral system) will yield exactly (or almost exactly) the same results.

Party A	7.5 million votes (50%)
Party B	5.25 million votes (35%)
Party C	2.25 million votes (15%)
Total votes:	15 million votes (100%)

These results are now extrapolated mathematically to the total of 400 seats in the National Assembly, but are, in effect, only used to fill the 200 list PR seats in a compensatory manner. In order to ensure overall proportionality, however, it is necessary to first establish the seat allocation for the entire assembly in terms of national support.

The overall allocation is as follows:

Party A is allocated	200 seats (50%)
Party B is allocated	140 seats (35%)
Party C is allocated	60 seats (15%)
Total seats:	400 seats (100%)

To determine the final compensatory allocation of seats per party according to the list PR results, the geographic (constituency) seats are now deducted from the above extrapolation.

Thus final results are:

- Party A already has 130 constituency seats, but is proportionally entitled to a total of 200 seats and will therefore be allocated an additional 70 PR list seats.
- Party B already has 25 constituency seats, but is proportionally entitled to a total of 130 seats and will therefore be allocated an additional 115 PR list seats.
- Party C already has 45 constituency seats, but is proportionally entitled to a total of 60 seats and will therefore be allocated an additional 15 PR list seats.

	Constituency seats	List seats	Total seats
Party A	130	70	200
Party B	25	115	140
Party C	45	15	60
Total seats	200	200	400

ALLOW A FREE MANDATE

The principle of the free mandate for members of the National Assembly should be introduced for those MPs elected from constituencies. The legal requirement of bound, party mandate is not in line with the rights (freedom of belief, opinion, etc.) guaranteed by Chapter 2 of the constitution. The free mandate is more democratic and more compatible with the general tone of a free and open society. It is an important consequence of guaranteeing individual rights to citizens. If it is introduced, it will loosen the grip of party bosses on the conscience of representatives and it could lead to a more realistic articulation of issues and opinions in constituencies by candidates/representatives. Internationally France, Germany and the Netherlands are well-known examples of states which prohibit an imperative mandate.⁴¹

Preferably all members of the National Assembly should have a free mandate to vote according to their conscience, but a case can be made that members elected on the PR list category (the 'party ticket') should be prohibited from 'crossing the floor' in the National Assembly. As a minimum, it is therefore proposed that National Assembly members elected from constituencies should have a free mandate, i.e. that they can resign their party but still retain their seats in the National Assembly. Unlike members elected under the 'party ticket', who are subject to stricter party caucus control, these constituency MPs should also be allowed to vote on sensitive moral issues (e.g. euthanasia, abortion, etc.) according to their conscience. Humankind can and has erred collectively (parties, governments, etc.) on moral matters, and the introduction of a free mandate would be a sound corrective and input for moral reasoning within the complex of party political ideology.

INTRODUCE INTERNAL PARTY DEMOCRACY

Section 42(3) of the constitution states that: "The National Assembly is elected to represent the people to ensure government by the people through the Constitution." Present electoral arrangements, however, do not place any obligation on political parties to select candidates for their lists by way of democratic procedures. Practices for doing this differ from party to party, and in some instances party leaderships have more discretion in this regard than others. Parties should be required to conform to internal democratic practices. This will strengthen the bond between ordinary party members and candidates.

Democracy certainly entails that people should select their representatives and leaders competitively in order to restrain, control, empower and influence them. If power is to flow from the people, we suggest that section 19(1) of the Constitution be amended to foster internal party democracy by requiring in section 191(d) that the internal organisation and nomination procedure of candidates of political parties must conform to democratic principles.

Parties should also be required to publicly account for the sources and use of their funds and assets. If not stated in the constitution, at a minimum, this should be a requirement in the Electoral Act.

INTRODUCE THE PRINCIPLE OF THE RIGHT OF RECALL

To further strengthen accountability of constituency-based representatives the introduction of the right of recall of such representatives by the electorate in the constituency should be considered. To eliminate frivolous recall initiatives, the conditions for such a recall should be stringent. This is, however, not the place to make specific recommendations. Political parties can decide among themselves what the conditions of a recall initiative in a constituency should be. Conditions that could be considered are the number of signatures required to validate a recall initiative, the number of times in the term of MPs/parliament that such a recall can be undertaken, the grounds for a recall, appeals to the courts to check the validity of a recall, and so on.⁴²

If sound and reasonable procedures for recall can be introduced, the practice will have a wholesome effect on the quality of representatives that are put up as constituency candidates, the service delivery in constituencies, and accountability in general.

CONSEQUENCES AND CAVEATS OF THE PROPOSALS

Our recommendations for changing the electoral arrangements have important implications:

THE OVERALL SIZE OF PARLIAMENT

The constitution prescribes that the National Assembly shall have no fewer than 350 and no more than 400 members. The idea that the overall size of parliament should be reduced is strongly supported. Should a future decision in this regard be taken, our proposal for the composition of the National Assembly can simply be adapted accordingly to effect a 50:50 ratio between list PR seats and SMC seats.

NO THREAT TO THE EXISTING STRENGTH OF PARTIES

In general, the proposals for changes to the electoral system will give each party currently represented in parliament the same number of seats, including the small parties.

FIRST AND SECOND CLASS REPRESENTATIVES

The introduction of two categories of MPs will not necessarily lead to so-called first- and second-class representatives. It is not generally acknowledged that this has been the case in the German experience. Such a differentiation is the best possible trade-off between the requirements of proportionality and accountability that can be accomplished.

VOTERS' ROLL AND VOTING INSIDE AND OUTSIDE OF CONSTITUENCIES

A proper voters' roll for each constituency will have to be administered. A national voters' roll must be compiled on the basis of these rolls. As proposed previously, voters will have

two ballots. Voters outside of their constituencies will only be allowed to vote for the PR party lists, while voters who vote in their constituencies will be allowed to cast both their ballots.

THE AVERAGE SIZE OF CONSTITUENCIES

The number of voters per geographical constituency will be approximately 100,000, i.e. 20 million voters represented by 200 constituency seats, which is not out of the ordinary in democracies. In large democracies such as the US and India the representative:voter ratio is less favourable. Arguments which suggest that this is too 'impersonal' a ratio are unfounded since even a 1:10,000 ratio cannot be 'personal' in any realistic or meaningful way.

ADMINISTRATION, COST AND GERRYMANDERING

Geographic constituencies will have to be delimited or reapportioned from time to time. In the previous political order, the constitution of South Africa required the delimitation of constituencies every ten years. This is expensive and time-consuming. It could also lead to 'gerrymandering', or manipulation of borders in order to promote specific party interests or lobby groups. The advantages of introducing constituency representation far outweigh the problem of gerrymandering.

THE EFFECTS OF STRATEGIC VOTE SPLITTING

The strategic splitting of votes as provided for in the proposal is an extremely effective method of reconciling national and local issues. The present system also allows for a differentiation in the double ballot, but candidates on this system's provincial lists are often just as 'far removed' from local matters as those candidates on the national party lists. In the proposal, voters could vote for a candidate on the basis of his/her knowledge and undertakings for the constituency, while still participating in a nation-wide 'opinion poll' to determine how many overall seats each party should have in the National Assembly. No pure majoritarian or pure PR list electoral system can accomplish such a trade-off. The past two general elections have also amply demonstrated that voters understand the double ballot system of voting, and in this sense our voting procedure is not more complicated than that of the present system, yet it will yield much better results.

JUSTIFYING THE CONSTITUENCY ELEMENT OF AN MMP-SMC SYSTEM

In our judgement the single-member district could, but does not necessarily, create a bond/relationship between the electorate and the representative in the presence of the *de facto* party mandate of candidates. In practice, in both the pure PR list system and the constituency FPTP system, the ordinary MP is strongly bound to the party and its policies. It is somewhat less so in the case of FPTP systems, while independent candidacies in FPTP

systems are rare and of little consequence in terms of democratic accountability. The defence for the FPTP geographic system and its partial incorporation in our proposals should be understood in pragmatic terms. The following are some of the advantages of the FPTP system:

First, in the proposal the selection/re-election of constituency candidates/representatives by both the party and the voters in the constituency cannot be seen as unrelated processes. The party's choice of candidate, service delivery and the preferences of voters are all related to one another and party leaderships will have to put up 'best' candidates for each and every constituency that they contest. This could ameliorate the power of party bosses and prevent practices such as nominating candidates by virtue of their loyalty to the party, which is not necessarily equivalent to being a good representative in a constituency. Second, the MP faces the problems of all his/her electors in the five years of his/her term of office and this, generally, has a moderating influence on extremist party political views. Third, the MP is a conduit between the various interest group lobbies in civil society and the government. Business associations, professional associations, municipalities, in short the whole of the civil society lobby, could use the MP as their formal representative to gain access to governmental structures and decision makers. Fourth, the MP can act as ombudsman to his/her constituents and government structures—primarily to party supporters, but also to non-party constituents. Fifth, the MP will have a vested interest in canvassing support from subscribing, card-carrying members of his/her party in order to secure re-selection to the party candidacy for the next general election. Sixth, the constituency-based MP has the advantage of receiving the symbolic approval and mandate of his/her constituency at election times, even if all constituents did not give their support in the election.

LEGITIMISING MPS IN THEIR DEALINGS WITH GOVERNMENT AGENCIES

If the German experience is any guide, only large parties would capture constituency seats. Smaller parties would still be left with the problem of finding some form of bond between their PR list representatives and their supporters. As mentioned earlier, the informal designation of MPs to geographic areas since 1994 has not been a success. One insurmountable problem, according to MPs, is the lack of a formal *locus standi* in dealing with governmental agencies. Some sort of solution to this problem will therefore have to be found. The constitution/ordinary legislation could be adapted to read that MPs are the bond between the electorate and government agencies and that agencies are obliged to be helpful in facilitating this bond. Alternatively, it could be a provision in the Public Service Act—the aim being to facilitate closer cooperation between the legislative and executive branches of government.

WHAT ABOUT ELECTIONS FOR PROVINCIAL LEGISLATURES?

In our judgement provincial legislatures should also be elected on the same basis as the National Assembly: i.e. half the seats for each provincial legislature being elected on an

FPTP constituency basis and half from closed ordered PR lists (i.e. according to an MMP-SMC model). Since the constitutional status of provinces is in flux at present, no suggestions on electoral reform in provinces are made. If they continue to exist in their present constitutional form, careful consideration of their electoral reform will be required. An important aspect is that elections for parliament and elections for provinces, as well as local governments, will most likely have to be conducted at different times. The constituencies/wards of the three levels of government do not coincide, which implies that voters will have to vote at different polling stations if concurrent elections are held. This is not practical or desirable.

THE PROLIFERATION OF POLITICAL PARTIES

It is true that a pure PR list system without a legal threshold increases the probability of a proliferation of political parties represented in parliament. The number of parties represented in South Africa's parliament has increased from seven to 13 in the period 1994 to 1999 owing to, among other factors, a mathematical threshold of less than 0.25%. Yet, it is not necessarily true that the use of FPTP in constituency-based systems in ethnically divided societies will lead to a two-party system. A number of electoral specialists have argued that an electoral system cannot dramatically influence the characteristics of the party system. Contrary to the received opinion that FPTP leads to two-party systems, evidence from, for example Papua New Guinea, shows that in ethnically divided societies it could also have the consequence of a proliferation of parties and candidates winning with as little as 6.3% of the aggregate vote in constituencies.⁴³ The proposals will not significantly affect the landscape of political parties in South Africa—neither reducing nor increasing their number.

COMPLEXITY

An MMP-SMC electoral system is not necessarily more complex than the current list PR system. The allocation formula (the Droop quota) is the same as the one currently used, and there is only one category that needs to be allocated—not ten categories as represented by the nine provinces and the national category that presently make up the representation in the National Assembly. Moreover, the FPTP relative majority principle of the constituency component in the proposal is conceptually simple to comprehend, unlike the more complex methods suggested in the various MMP-MMC proposals.

ACCOUNTABILITY

The model proposed goes a long way to addressing voter accountability—the most serious shortcoming in the present system. Making 50% of representatives accountable to constituency approval along with party approval is infinitely preferable to having party bosses and party leaderships decide exclusively on the matter. Arguments that such arrangements only make half the representatives accountable are simply misplaced and do

not grasp the comparative advantages if compared to the status quo. In fact, an MMP-SMC dispensation will have a wholesome effect on accountability for all representatives, not only those elected from constituencies. Unlike the MMP-MMC model, the MMP-SMC model also focuses accountability on one representative—he/she is responsible for constituency matters, whether such a representative is from the governing or opposition party. With MMCs the geographical area of constituencies is much larger and the argument that constituency work can be shared is a weak one; a five-member MMC will have approximately five times as many voters as an SMC, all things being equal. Collective responsibility for the well-being of constituents by a ‘coalition’ of representatives which belong to different parties holds all the potential for ducking responsibilities.

The MMP-SMC model will best promote the core values espoused in section 1(d) of the constitution:

The Republic of South Africa ... is founded on the following values: universal adult suffrage, a national common voters' roll, regular elections and a multiparty system of democratic government to ensure accountability, responsiveness and openness.

FAIRNESS, INCLUSIVENESS AND REPRESENTATIVENESS

The electoral arrangements that are proposed comply with all these features. The proposal embodies electoral rules followed in established democracies; it will not exclude minorities and it will ensure an extremely high degree of proportionality on the one hand, while its very low threshold on the other, ensures accessibility of representation to minorities.

CONCLUSION

The changes that are recommended are not new: they have been mooted before, albeit in a somewhat different format by a number of scholars and electoral specialists. They are the most appropriate for South Africa's present political needs. After the Theme Committee Two workshop in 1995 it was expected that South Africa would effect constitutional changes to, among other things, its electoral system in the final constitution. The opportunity slipped away when the rather unexpected Arniston decision in 1996 retained the present system at least until the 1999 general election. The EISA roundtable once again raised expectations for electoral reform, and the debate was carried through during the course of 1999 with political parties recently coming out in support of a re-assessment of the matter.

Electoral reform, if it is to take place, should happen soon so that the necessary changes can be implemented for the 2004 general election. Stalling and postponing will once again let a window of opportunity slip by, since much work and preparation will go along with any significant change to our electoral system.

It is now the time to seriously consider electoral change. All scholars interested in this matter, along with commentators and politicians involved with constitutional and electoral matters, should attempt to give South Africa an even better electoral dispensation than the fine one it already has. It can be done.

NOTES

- * Murray Faure wishes to thank a number of colleagues who have commented on his work on electoral matters over a long period, though they do not necessarily agree with his views on electoral reform. They are Arend Lijphart, Bernard Owen, Michael Krennerich, Jørgen Elklit, Rudy Andeweg and Ben Reilly.
- ** Albert Venter wishes to thank Jørgen Elklit of Aarhus University, Roger Jensen of Odense University and Peter Hennessy of the University of London who shared their views and insights with him on various electoral systems and their limits. The research for his contribution to this article was also made possible by a RAU Faculty of Arts Research Committee grant. This bestowal is acknowledged gratefully.
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- 38 K Mackenzie, Voting distorted in UK, says MP, in *Provincial Whip*, 8 November 1999, p 8.
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- 41 Germany—see section 38 paragraph 1 sentence 2 of the Constitution. Netherlands—see section 8 of the Constitution. France—see article 27 of the Constitution. The Netherlands uses a PR list system while Germany uses an MMP-SMC system. France uses a run-off constituency-based electoral system.
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Panel contributions

PANELLISTS:

FRENE GINWALA

NICO STEYTLER

ELECTORAL SYSTEMS, FRENE GINWALA

THE FOLLOWING IS A PERSONAL VIEW INFORMED BY MY INVOLVEMENT IN THE EARLIEST drafting of the first democratic electoral law in South Africa.

Let me begin by saying that the *choice* of an electoral system is not a technical one. That comes later. Only when we are clear about what it is we are trying to address and achieve, can we begin investigating the best technical means to achieve that. The choice of an electoral system starts by identifying certain values, objectives and outcomes. For example, the constituency-based system in South Africa before 1994 produced the result that its originators required, and served to perpetuate apartheid. Similarly, any electoral system outcome will depend on the values it is based on. There is no one system that is best for all societies.

I will not delve into the history; suffice to say that the choice of electoral system in 1993 was based on our constitutional values as well as on the political reality of the historical divisions within the country. It was imperative at the time to gain the support of all parties for the new dispensation and institutions; and we should not forget how close we came to failure in this regard with some parties deciding to enter the elections at a very late stage.

Not only did we choose an inclusive electoral system, all our legislatures are also run on an inclusive basis. This is the guiding imperative. Not only did we have no thresholds in the electoral system, but parliament operates without a threshold in an attempt to ensure that everybody has a stake. This has led to various problems, especially since we now have 13 parties instead of six, but inclusivity is imperative if we are to create the society we are striving for. It is also important to realise that in 1994 we started with a blank slate. I believe this is one of the unique features of our society, since we were able to draft the electoral law in its entirety, based on the values and objectives we had identified.

TRANSFORMATION STAGE

Ten years down the line, we need to ask the questions: has the situation changed? What do we need now? Do we have an inclusive, all-encompassing society?

Dr Frene Ginwala is the Speaker of the South African National Assembly.

Prof. Nico Steytler is head of the Law Faculty at the University of the Western Cape.

I do not believe we do—we are still transforming. I do not believe we have reached the objective of a common future and a common understanding of that future. I am in a unique position in that I have had to listen to every debate in South Africa's parliament—and look interested. I am convinced that we use the same words that mean different things, and this is why I believe we have not reached the ultimate goal. We are, however, on the right path and I would therefore argue that we would need very strong reasons for changing the status quo. This is not to say that if we do not change now it is set in stone forever—we can develop our system as time progresses.

The main arguments I hear for changing the system is the lack of communication between members and constituents. I agree that this distance exists and believe that creative means should be employed to bridge this gap. But the second argument is an assumption that the system of constituencies and individual accountability that evolved in Europe is the only significant alternative system—and I want us to consider this assumption carefully.

Given the evolution of representative governance from the beginning of the 19th century to the 21st century, the accountability of individual MPs has changed. Across the board, representative governance today is about representation by parties—whether one follows a constituency or PR system. It is important to take this into account when considering accountability.

ACCOUNTABILITY OPTIONS

We need to attempt to find a system of accountability that is not individual only, but which also takes into consideration the accountability of parliament and of political parties. There are many ways to achieve this, and I will indicate one by way of illustration: we could adopt a system that requires political parties to set up offices which allow accountability by parties, regulated by parliament or the law. Legislatures could set up 'constituency' offices around the country to serve all constituencies. MPs from all parties would, as part of their parliamentary duty, be required to spend time in those offices serving constituencies, acting as ombudsmen, taking up issues that are raised, listening, putting forward legislation, even conducting meetings.

There are many other possibilities and I feel we need to explore these in order to ensure proper accountability.

So-called 'individual accountability' exists in many societies. I lived in a number of countries while in exile and, I can assure you, they are not as visionary and ideal as is often made out to be. Those individual accountabilities often resulted in 'pork barrel' politics—a system that will not automatically solve our problems.

We need to consider accountability in an open way that allows for a truly interactive relationship between voters and elected representatives.

COMMENTS ON EVALUATING THE ARGUMENTS PUT FORWARD BY PROFESSORS FAURE AND VENTER FOR A FUTURE ELECTORAL SYSTEM, NICO STEYLER

THE FIRST HALF OF THE FAURE AND VENTER PAPER SET OUT THE RECENT HISTORY OF THE electoral system debate in South Africa. The last time I encountered these two learned gentlemen was in 1995 in the Constitutional Assembly when the same issue was debated. On reading their proposal, I was struck by how little the debate has moved forward: the same arguments that were put forward then, are being put forward now. But today, more than seven years later, we can make a much more informed choice. We have had seven years' experience of how politics is played out through the electoral system. In 1995 we argued in the abstract, today we can argue from a position of experience.

CLOSED PARTY LIST PR SYSTEM

What have we learned from the functioning of our closed party list PR system?

- The party list system allows for and produces highly mobile politicians. Some 100 MPs left the first parliament—a phenomenon that could be explained by the need in the first five years to redeploy scarce human resources. But the same 'revolving door' phenomenon persists in the second term. Since the 1999 elections, the Western Cape has had two premiers. What level of connectedness does the provincial electorate feel towards their 'unelected' representatives? This question would make for an interesting public opinion survey.
- The level of connectedness between MPs and the electorate is low. This has been recognised by all. The provision that 200 MPs be elected from provincial lists has had no impact whatsoever. The absence of any direct link with constituencies has been justified by some on the grounds that MPs at national level, when exercising their legislative function, should not be constrained by local issues and interests. This argument does not hold for MPLs at provincial level who pass a maximum of five to 10 laws a year. The number of national laws they must consider is also low—10 in 2000, 11 in 2001. The question is: what do MPLs do and what should they do?
- It allowed for a high level of gender representation—30% in national parliament and in the provincial legislatures.
- Crossing of the floor has been accepted by the major parties. The fundamental tenet of the closed party list—i.e. total control by the party bosses—has thereby been softened.
- What effect has the electoral system had on the party system? Evidence suggests that party membership has decreased. Party organisers can tell us whether the PR system is good or bad for party structures and membership. Does the PR system encourage election campaigns being conducted through mass media, rather than through building up membership and through door to door campaigning?

MIXED-MEMBER PR SYSTEM

Following the December 2000 election (and even before), we have been able to learn

about the functioning of a mixed system at local government level. In metropolitan municipalities and in most local municipalities a 50:50 split between PR and ward councillors exists. What have we learnt?

- Voters understand the system of combined party lists and constituencies. This system was complex yet it worked; with two to three ballot papers per voter, the electorate managed well. Even the politicians eventually came to grips with the complex formula for election to district municipalities.
- The system is working. Although there are still teething problems regarding the role of PR councillors, a political culture regarding their place at grassroots level will, in due course, emerge.
- The system promoted gender equality. At local municipality level 34% of ward councillors and 42% of PR councillors are women. This high percentage is attributable to the unenforceable statutory directive that parties should ensure 50% women candidates.

Given this experience, let us now evaluate the model proposed by Faure and Venter.

PROPOSED MIXED-MEMBER PR SYSTEM

Their proposal follows a simple model: adapt the present closed party list PR system by including a 50% constituency representation. This 50:50 model would start off with 200 constituencies and 200 compensatory seats on a party list system to ensure a high degree of proportionality. This model is currently already used at local government level in metropolitan municipalities and in most local municipalities.

HOW DOES THIS SYSTEM MEASURE AGAINST CERTAIN CRITERIA?

- *Simplicity.* In light of our experience with local government electoral systems and practice, the model meets this criterion.
- *Inclusivity.* The system should perform no worse on gender representation or political affiliations than the present system. The local government electoral system provides evidence to this effect.
- *Accountability.* The authors claim that this system would produce greater accountability, and an argument can certainly be made for greater connection between members and constituents. They propose, however, that a few measures be added to enhance this value:
 - The authors call for the statutory regulation of internal party democracy. This concept, borrowed from the German political system, is based on the argument that if parties are central to who gets elected, then the parties themselves must be democratic in their functioning. This argument has much to commend itself—the aim is to form a bond between the ordinary party member and candidates.
 - They propose the right to recall an MP. This measure, which is used to strengthen accountability for constituency MPs, is less persuasive. However, I know of no instance where this works in practice. An example of a recall procedure in an

indirect election system is in the NCOP where permanent delegates to the NCOP can be recalled by their provincial legislatures. This brings me to the question of principle. Does accountability mean that an MP should simply be a delegate of the constituency, conveying its mandate to parliament; and if an MP fails to do so, should he/she be recalled?

– The authors make much of accountability, but what does accountability really mean? It could mean that an MP must answer for his or her actions, and that the electorate gets to decide every five years whether these answers were adequate. This poses some questions: answerable for what functions, for what actions? What, then, are the functions of the MP? The authors list the following:

- A communication function—the MP conveys local concerns to the national arena.
- Leadership in the community—being an educator on national issues and policies.
- Serving the people in the constituency—in general, as champions for the interests of the constituency, and on an individual basis, by being an ombudsman for grievances and complaints against the state administration.

The authors briefly mention the provincial electoral system. While they suggest that the national system should also apply to provincial elections, they argue that since the constitutional status of provinces is in flux, no suggestions on provincial electoral reform should be made.

I believe, however, that the provincial electoral system should be given attention because it may help shape the functioning of the provincial legislatures. As noted earlier, provincial legislatures play a limited legislative role. They must, however, scrutinise how more than half the national budget is spent. Linked to a scrutiny function would be a service function—ensuring that provincial governments deliver services in the vital areas of education, health and social welfare. To execute this function best, MPLs must be located in constituencies in order to serve community interests.

CONCLUSION

The opportunity to choose an electoral system arises very seldom. It may occur when there is a new political order, as in South Africa in 1994; or at times of major crisis, as in Lesotho in 1998. Other than that, opportunities to change are few and far between, since political parties that have been put in power under a certain system are seldom keen to alter the rules of the game to make it more difficult or more cumbersome for themselves. A prime example is Britain. The FPTP system has been under critique for decades but the two major political parties that benefit from it—Labour and Conservative—are content to continue forming governments with a less than majority voter support.

South Africa is currently being presented with a unique opportunity to choose an electoral system that is not clouded by a crisis. The proposal by Faure and Venter deserves our serious consideration as a viable and practical option.

Questions and answers about theoretical models

SELECTED AND EDITED

Question: When could this new system be implemented, bearing in mind that we need legislation, deliberations at a political level and voter education. IEC systems also need to be up and running, then there is campaigning, and finally an election. How long will all this take?

Comment: I want to refer to what I consider to be a contradiction in the professors' presentation. Prof. Faure correctly pointed out that we already have some form of constituency system insofar as the 200 members that originate from provincial lists in the National Assembly are concerned—and I am in agreement here. But Prof. Venter seemed not to agree with that when he made his final proposition. His comments seem to stem from a premise which denies the existence of this form of constituency representation.

The politics of the electoral system should not be subsumed into the technicalities of a system. If we move to these new propositions too quickly, we will leave a whole range of South Africans out of the equation. [...] I can only speak for [...] the Eastern Cape [...] but free elections are a misnomer in the South African situation because voters do not necessarily know what they are voting for, they do not necessarily conceptualise the issues that are being put before them. They listen to their parties, to their leaders, and they vote for the people they are asked to vote for. It is a moot point whether we call that free or not. [...] Lastly, when talking about accountability I do not think we are all referring to the same thing. Some refer to accountability in terms of service delivery, others talk about encounters with public representatives. If we mean the latter, then I think the absence of contact is being exaggerated.

Someone mentioned that there is very little political activity in South Africa between elections. I think this is a serious fallacy. In fact, I think there is too much political activity in this country at all times, not just in between elections. For me, the problem is the lack of integration of our communities. When I do constituency work, be it at local or provincial level, I find I am dealing with a racially organised community; the other communities (classes of society) do not attend, not because they were not invited, but because they simply prefer to stay away. I would argue very strongly for the retention of the current system until South Africans become informed voters instead of having their minds made up for them by other people.

Comment: I agree that nothing has really changed and that we need to integrate our

society, but I am not sure that the current system is necessarily leading us to that point. We address the problems of Africa as if we are not in Africa. The trend in the world today is of a growing civil society that is at war with political systems.

In our own situation, especially at local government level, we have a mushrooming civic organisation that is actually painting the ruling political party into a corner and leading to a situation of ungovernability. I agree that we need to stick with what we have until we can integrate society, but I am not sure that we are going to integrate society for the reasons being given.

We must ask what solutions Africa can provide, because Africans have an underlying social solidarity with their principles. If you want to develop an African community, you should not fragment that community first, but rather get people to work together. I therefore propose we adopt an approach that unifies people.

Comment: Much has been said about accountability and we have all been grappling with the concept for some time now. I have a different understanding of what accountability is. I do not see the issue of accountability revolving around the relationship between political representatives and the electorate in terms of reporting at meetings on the happenings in parliament. [...] Accountability is the machinery which makes democracy work in a parliamentary system. If we step back and look with a clear, or perhaps cruel, eye at what has happened in this country over the past eight years, we will see that a lot has gone right. We have witnessed an incredible miracle: some 900 pieces of legislation have been passed, signalling major reforms in each and every field. [...] Perhaps it is my lack of attention, but I cannot identify one issue expressed by one person here that differed from the political party view. Nor can I identify a sharp differentiation of views or policies between parliament and the executive. Perhaps the issue of accountability has more to do with promoting an electoral system that enables political representatives to adopt a more public profile [...] moving from politics of allegiance to politics of opinion. [...] The electoral system contributes to the founding ethos of a democracy and the constituency system does not necessarily get MPs closer to their voters [...].

Question: A constituency—dual—system would discriminate against small parties. Parties that have diffuse support throughout the country would be discriminated against because parties with concentrated support in particular regions would have a greater advantage in a FPTP system.

Another matter is cost. If we are talking about inclusivity, the cost of the electoral system is very important. Hard-fought elections on a constituency basis are likely to drive the cost up considerably. Owing to the pattern of land settlement in South Africa, a smaller constituency is likely to increase special interests and heighten differences in our society rather than to work in the opposite direction [...].

Response Murray Faure: From the questions raised yesterday I sense that some people still believe that a mixed-member proportional system—perhaps because it was referred to as a hybrid system—is not a purely proportional system: it is just as proportional as a pure

PR national list system. There is a simulation on the EISA website that was undertaken by Bark and other colleagues. In terms of the indices of proportionality, the three ‘cousins’ in the PR family—pure PR, mixed member MMC and the SMC combination—score exactly the same degree of proportionality.

Mr Derr, I do not think that an MMP system discriminates against smaller parties. What it does is differentiate and it does so deliberately. A constituency system is designed to test support in a smaller focused area, whereas the PR component, which remains, will not discriminate against the small parties, because it will test their support at a national level, and that is exactly what this MMP-SMC combination intends to do.

The majority party will probably take 80% or 90% of the seats in the constituency component, but since they are the governing party they should take the initiative in the constituencies and they should be held accountable for that by the voters.

Question: What is the role of citizen participation in our democracy and democratic processes? There seems to be more emphasis on accountability in terms of input and less emphasis on whether we have an active electorate.

Response Frene Ginwala: The process of a constituency system is: democracy once in five years when you go and vote. Democracy becomes an event. Civil society participation is what our constitution requires of us, and we need to address what is meant by participatory democracy.

Questions: I am talking from the perspective of an NGO involved in enhancing civil society participation and governance. Much reference is being made to geographical constituencies and I would like to refer back to the current scenario in terms of local government or municipalities. Apart from just a rationalisation of municipalities, the key focus of the demarcation process was the integration of societies. The communities we work with are still coming to terms with the new constituencies. At what level do the professors see the creation of these new constituencies *vis-à-vis* the current constituencies at district or municipality level?

Question: My first question is to Prof. Steytler. When he made reference to the accountability of provinces in terms of scrutiny, spending and servicing the constituencies, was he effectively suggesting that we should extend the local government system to provinces, but still maintain a differentiation between this and national government?

My second question is to Prof. Faure. I know the issue of what accountability means still needs to be addressed, but could he respond specifically to the points raised by Dr Ginwala to the effect that many of the accountability issues can be addressed by mechanisms other than a reformed electoral system?

Question: The findings of the public opinion survey downplayed the role of women. It did not indicate whether quota systems should be compulsory to all parties when the electoral system is reformed. Also, the survey failed to indicate the views of women towards the electoral system.

Prof. Steytler indicated that the system works well in terms of including women at local government level, but this is only because one party, the ANC, is using a quota system—the other parties have not followed suit.

It has been mentioned that a constituency-based system will allow politicians to account in terms of service delivery. We must not forget that there are major inequalities between rich and poor in this country, and therefore inequalities in service delivery. Under a constituency-based system, those who are poor will continue to be poor, and the income gap will widen.

Response Nico Steytler: The gender representation in local government is not solely attributable to the ANC: it was a statutory requirement that 50% of candidates should be women. That was not enforceable, but it was a strong guidance in legislation, which parties adopted and gave effect to.

Question: A concern has been raised regarding the kind of politics that constituency-based elections could bring about. Is the proposal put forward here one of relative majority or plurality, which is, of course, a winner-takes-all system that promotes adversarial politics? One way of dealing with this potential problem on a constituency basis is through preferential voting which allows for second and third preferences to enter into the political equation and which shapes the quality and substance of winners and losers. The evidence, if we read Ben Reilly's work on Fiji, Northern Ireland and New Guinea, is that preferential voting can moderate divisive politics at constituency level. I would like your comments on that point.

Response Murray Faure: I agree that adversarial politics is more accentuated in SMCs. But, as I have tried to argue extensively in the paper, accountability is similarly more focused in such a system. If we adopted second and third preference voting, we would probably end up with an MMC system where accountability is less pronounced, less focused. A choice is always a trade-off. Each system has its own advantages and disadvantages. Our preference is definitely for the SMC.

Response Jørgen Elklit: My response deals with the issue of preferential voting and whether or not it should be further examined. I find it interesting that this electoral system should be so attractive to a number of academics and I think a reason for this could be that it is so complicated that academics think they are the only ones who can understand it, and make full use of it.

In my opinion, preferential voting is not what South Africa needs right now as it would violate the value of simplicity that the ETT is so concerned about. I support the view that voters are more sophisticated than one would think, but I do not think this should be tested by introducing an STV system or some variant of that.

Reference was made to Ben Reilly. It should be remembered, however, that this system was introduced in Fiji, which experienced a coup soon after—and I believe there could be a connection between the two events. This is another reason for not taking the suggestion seriously.

Comment: My comments go to Dr Ginwala. I agree with your reflections on general accountability but I am not sure that it amounts to 'pork barrel' politics. Much of it is 'new

patrimonialism' that is corruption-driven or -ridden.

Political parties today are little more than a group of men and women tied together by a strong desire to gain power and not necessarily to transform society. How much faith should we put in such organisations?

Response Frene Ginwala: The issue was raised about my reference to 'pork barrel' politics and about what is happening in Africa. Corruption is not racial, it is a transaction between giver and taker. It is not only the receiver who is the corrupt person. Over the past few years, very senior politicians in Germany, the US, France and Japan have been involved in corruption of one kind or another—and I am speaking of actual court cases not just newspaper stories. I do not think one can say that Africa or African leaders are any more or less corrupt.

Question: The three spheres of government (national, provincial and local government) were created as a mechanism for ensuring accountability. If MPs were to have offices at local level, what will be the role of councillors?

Response Frene Ginwala: I merely gave an example that could be elaborated on. There are very specific issues that fall within the direct jurisdiction of local government, and where it would be unconstitutional for national government to interfere. MPs can facilitate, but if MPs are functioning properly they will go to councillors and say: this is what you have to do or take up with the council. I am not suggesting a change in the power relations, but I do believe we can have a system that will allow for local, provincial and national government accountability, within their respective areas of responsibility.

Comment: I address my comments to Prof. Steytler. Speaking as an election administrator, I do not think his bold assumptions regarding the way the previous local government elections functioned are correct. He said the elections were simple. In fact, they were extremely difficult. As election administrators we struggled in terms of voter education to explain the system to the people, and in my experience the majority of people still do not understand the combination system used during the local government election. My own assumption is that this contributed to the very low voter turnout during the local government elections. If the system was a step forward, something better than the PR system, people would have been more enthusiastic about it and would have voted in large numbers, however, the opposite was actually the case.

Response Nico Steytler: I agree that the local government electoral system is complex but at the end of the day, with voter education, voters in fact managed the system. The number of spoilt ballots was low and there was no sense that people could not manage. One should not underestimate the ability of voters to understand a complex system. I do not agree that this local government system led to a low voter turnout. Turnout for 2000 was in fact the same as in 1995/96.

Question: First, can we develop an electoral system that prevents 'transfer' votes, whereby voters register in a particular geographical constituency to ensure that a certain member wins that constituency?

Second, is any electoral system more prone to promoting or discouraging floor crossing? It seems as though certain electoral systems can promote alliances and floor crossing. Are we trying to develop a system that will close the floor, remove the floor or open the floor?

Third, Paul Graham emphasised that provinces need more power so that they can serve their constituency. Do we need a more federalist approach?

Response Nico Steytler: Is my argument for stronger provinces? Then I would argue: yes. If one says that provinces are not playing a major legislative role, but are concerned about service delivery, not as deliverers themselves but to ensure that it occurs, then clearly one could make an argument for constituencies within provinces, because that would locate MPLs within communities and give them a particular connectedness to those communities. It does not, however, mean an increase of power to provinces.

Comment: There is much discussion on the history of the electoral system and whether it is even appropriate to consider a change at this stage. I want to both support and disagree with Dr Ginwala. In 1993, there was a difference of opinion regarding which system to use but what was dominant was that there had to be a proportional system: this prevails today and is not an issue. The real question is: is the present single party list system the only system? Is it necessarily the perfect one or should it be adjusted or supplemented? The issue of proportionality is not a problem. It must be remembered that in 1993 there was no voters' roll; there was uncertainty as to who was a South African citizen and no constituencies were demarcated. It was decided that for the first election, anyone living in South Africa could vote.

By 1996 we had begun operating under the new constitution, and once again there was discussion concerning whether one could supplement the two systems. The 1999 election was the first election under the new constitution and the previous systems were continued. However, this was not written into the constitution in a formal sense, it was only contained in the transitional mechanism chapter, where it stated that the current electoral system had to operate until 1999; after that it could be changed.

Is there place for change? I believe that the party list system must continue to be an important part of a new electoral system. It is the easiest way of ensuring proportionality.

But, equally, I believe there is a very strong need to introduce an element of the constituency concept, which should not dominate but should co-exist with the current PR system. I raise this issue from a different perspective to what has already been discussed on the issue of accountability. At present, public representatives' prime accountability is to political parties. An important part of accountability under a constituency system is that it is direct to the public that elects the representative: this is how the scope of accountability is broadened. The party is a very relevant factor but so is the ordinary single voter living in a constituency.

It should be remembered that the constitution does not only talk about accountability. It also states that government must ensure accountability, responsiveness and openness. We therefore need to ask whether the present system is responsive to the attitudes and feelings of ordinary people.

Introducing a constituency component will have an important positive impact on the nature of South African politics. We have discussed the need for a link between public representatives and the voters. I believe that equally important is to have a link between the voters and public representatives: the concept of owning part of the system rather than being dictated to. Constituency politics improves the dynamics of citizen participation in the democratic process rather than leaving it to party hierarchies.

I wonder whether our attitude towards the handling of the AIDS problem would be the same if we had constituency representation whereby MPs had to be sensitive to the views of people in their constituencies.

Would the introduction of constituency components introduce an element of 'bottom-up' in a system which is very much 'top-down'? Would it democratise society and draw ordinary people into the political process? Would it also have an impact on democratising political parties in their present form?

Response Frene Ginwala: What has been illustrated was that in 1993 the various political parties had certain, and different, reasons for the choices they made? My point, however, is to question whether the need for what has been subsequently been called 'national integration', is over. I believe that national integration is not yet complete and that more time is needed.

Response Murray Faure: The system we propose remains as proportional as the present system: no proportionality is taken away. No smaller party or larger party will be advantaged or disadvantaged. What we are simply wanting is to bring the voters closer to the politicians.

In terms of service delivery—our proposal does not intend politicians to become civil servants and to administer service delivery. Politicians should, however, provide a closer link between civil servants and the parties they represent, as well as government, of course.

I am also in total agreement with Dr Ginwala—the idea of having parliamentary offices and provincial legislature offices in constituencies, or in the limited areas, is an excellent one.

Comment: I would like to refer to a point raised by Dr Van Zyl Slabbert yesterday, on the conflict between the western liberal democracies in Africa on the one hand, and African tradition, on the other. Dr Van Zyl Slabbert stated that he saw no answer to that conflict, and referred to it as "tragic".

We must remember that the choice of proportional representation in 1993 and 1994 was not a divine revelation that suddenly occurred to South Africans during the negotiation period. It represents a compromise between two historical blocs: African people who are the majority within society; and the white community, which held the minority, but controlled the power. Neither force had the ability to annihilate or destroy the other, so a compromise emerged. The rights of both the African community and the white community had to be enforced, and this was incorporated in the electoral system.

The same occurred in England, but there the conflict was between the aristocracy and the urban classes around them, with neither group being able to destroy the other. A compromise was reached there too with a new form of state which had two chambers: the House of Commons and the House of Lords.

In the conflict between the western liberal state and African traditions, there are also two historical forces: the African rural community, African traditional leadership and African civilisation on the one hand, and, on the other, the power of the western liberal states and of western concepts in the minds of African intellectuals who are the 'children' of the west, having been educated in the western paradigm.

In this case, however, the concept of African rural community, traditional leadership and civilisation have been annihilated and defeated by the western state and concepts. There is therefore no compromise.

The point I wish to make is this: the western liberal state that currently exists—and the development paradigm which flows from it—has not been able to move Africa forward and the result is the crisis we find today. The fundamental problem of Africa, namely the underdevelopment of rural areas, has not been dealt with, and the present system is incapable of doing so.

A practical discussion about theoretical models: A summary

PAUL GRAHAM

WHERE ARE WE NOW? THERE IS CLEARLY AN ACCEPTANCE OF SOME FUNDAMENTAL constitutional principles.

We have been talking about simplicity, inclusivity, fairness and accountability, and the debate is now obviously focusing on the meaning of accountability.

There is also a belief in the present electoral system. All the speakers have noted its value. The question is: have the conditions changed under which the present system was initiated? Many think not, so the issue is therefore to decide between continuity or amendment.

SUMMARIES

The assumption in Jørgen Elklit's paper was that PR systems were the best and therefore the only option. Any of the PR variations would pass the constitutional test, and would therefore be acceptable. He drew our attention to the seven components of PR and gave his views on the key components, in particular, constituency size, the question of threshold and whether surplus seats should be available to enable some form of compensation.

Elklit's conclusion is that mixed-member PR with a SMCs component does not meet the criterion of accountability because it invariably results in constituencies that are too large to produce a significant degree of direct accountability to voters.

He makes the point that: "It will be difficult to improve the South African system by importing elements ... You can tinker with the formula and provide some options for that, and you can talk about smaller, second-tier constituencies". (In other words, smaller than our present provincial 'constituencies').

Faure's and Venter's presentation has two assumptions. First, that the existing system is acceptable but could be improved. And second, that vigorous debate has already occurred, resulting in consensus on an MMP system. For them, the real options are either small MMCs or SMCs. The FPTP and constituency argument is strongly presented, with Faure and Venter stating that this component could be introduced through a compensatory model.

Paul Graham is executive director of IDASA.

The paper presents a thorough analysis of the problems of the present so-called constituency arrangements. It argues that there are weaknesses in MMCs, especially with regard to 'buck-passing'. The conclusion is that the best system would be a multi-member proportional system with SMCs and most of the comments from the floor revolved around that proposal.

There are, however, some questions that need to be asked. For example, can the electoral system encourage the necessary citizen empowerment and participation, or are these to be achieved in other ways? That debate is still raging.

South Africans are familiar with two systems, SMCs and PR. There has therefore not been much discussion regarding MMCs and I am not sure if this means that the issue remains unexplored simply because it is unfamiliar.

An interesting new comment was whether there should be any differentiation between national and provincial systems. There were also many questions regarding cost implications and whether it is possible to explain or introduce a new system in the time available before 2004.

SOME CONCLUDING QUESTIONS

We need to ask if the electoral system should bear the entire burden of accountability? Accountability has two components: by whom and to whom. There was some discussion about the 'to whom'. Representatives can be accountable to themselves—some independents in the system, that is—to the citizens at large, to stakeholder groups, to the immediate voters in their constituency (if there is one), to the party and to parliament. Each of these needs to be explored.

Are there areas of our electoral legislation, other than the system itself, which need attention? A number of these, such as questions of party regulation and party funding, have been discussed today.

If this is not the time to change the electoral system, as many here seem to think, and if it is so that electoral system reform tends to happen only within situations of crisis, should we not be building into our general policy a mechanism for electoral system review so that we do not miss this opportunity only to create some sort of crisis in the future? We have an opportunity now to engage this question in an institutional way, whether through the electoral commission or some other mechanism.

Electoral alternatives and their implications

DAY TWO
SECOND SESSION

Electoral alternatives and their implications for South Africa

NORMAN DU PLESSIS

INTRODUCTION

The purpose of this presentation is to take some of the information on electoral systems that has been dealt with here and to apply it practically, so that we can consider a number of alternative electoral systems for South Africa. While the topic of electoral systems may be interesting in itself, the attention of politicians, journalists or the general public will not be engaged unless it is clear how an electoral model will affect the fortunes of their own parties or particular interests. This presentation therefore applies the results of the 1999 national election to each alternative discussed. Note, however, that these are only hypothetical illustrations: there is no way we can know whether people would have voted as they did in 1999 if an alternative system had applied at the time, as little can we conclude that this is how people will vote in future. The examples are intended only to be illustrative.

Another caveat: we need to be wary about the issue of boundaries. I have used some illustrations which take into account cross-border district council boundaries and in others I have stuck to the current legal provincial boundaries. Illustrations based on municipal or district council boundaries use the current boundaries. We are all aware that many of these may change and I must make it clear that this does not matter and does not in itself complicate an alternative electoral system. An electoral system requires boundaries in general and not any specific boundary. In demarcating municipal boundaries, the Municipal Demarcation Board generally follows voting district boundaries and—provided it continues to do so—the voters' roll can be adjusted electronically without undue inconvenience to voters or political parties. Essentially, in our case, it is not the electoral system that determines boundaries, and most electoral systems can function quite happily alongside whatever processes are used for boundary determination. The exception is, of course, SMCs, and these shall be dealt with later on.

The constitution confines us to a system of proportional representation in general. The worldwide trend is towards such systems, since they are eminently fair and reflect the will of the voters most accurately. There are many varieties of proportional systems but I shall deal only with the three subcategories which feature most prominently in the debate in South Africa. These are:

Norman du Plessis is deputy chief electoral officer at the IEC, South Africa.

- *Single-tier systems*, which are based on either national representation or regional representation only and where a combination of the two is excluded. Our present provincial system falls into this category.
- *Two-tier MMC compensatory systems*, which are based on a combination of regional/provincial or constituency representation and compensatory national closed list representation. Here there are many alternatives, with the number of representatives elected from each tier or the number of constituencies varying. Our present national system falls into this category.
- *Two-tier systems with SMCs* and a national compensatory closed list. Our present electoral system at municipal level falls into this category.

Let us now move from the general to the specific.

SINGLE-TIER SYSTEMS

OPTION ONE

One tier, one ballot and a closed national list with 400 names.

Characteristics of the system

- Regional representation is eliminated and this option would be relevant only if that aspect of our present system were to be discarded. There are no other significant differences from the present system, except that each party would have to compile only one candidate list.
- Overall proportionality is attained.

Measurement against desired criteria

- The system is inclusive. Every party that gains the required number of votes (quota) is assured of representation. This system gives small parties or parties representing special interests the best chance of representation since all votes cast for them countrywide are taken into account.
- The system is simple—one ballot paper (similar to that used since 1994) is used for the national elections. Voters have up to now understood the system/ballot paper well and the percentage of spoilt ballots has been low.
- The system is generally regarded as legitimate and fair. The essential fact is that the relationship between support gained and seats allocated is generally understood.
- MPs are accountable in the first instance to the party rather than directly to the electorate. It is the party which must then in a subsequent election account to the electorate for its general performance and that of its MPs.

Comments

It may be slightly easier than is presently the case to compile candidate lists under this

system, but it has the arguable political disadvantage of offering no regional representation.

It may also provide less accountability since most candidates/MPs would be 'faceless' as far as the average voter is concerned.

OPTION TWO

One tier, one ballot and nine MMCs (400 representatives).

Characteristics of the system

- All representation comes from the nine regions and there is no national compensatory list to restore overall proportionality.
- Since overall proportionality is not restored, such a system may be open to attack on constitutional grounds, particularly since large and small parties are predictably advantaged and disadvantaged respectively in comparison with the present system.

Measurement against the desired criteria

- The system is less inclusive than others since some small parties which would gain representation under the present system will not do so under this system. This will occur because votes are aggregated at provincial and not at national level and provincial surpluses in excess of the applicable quotas are not carried over.
- Legitimacy and fairness will be affected correspondingly.
- The system is as simple as the present system for the voter and political parties since only one ballot paper is used and only nine regional lists are compiled by parties.
- MPs are accountable in the first instance to the party rather than directly to the electorate. It is the party which must then in a subsequent election account to the electorate for its general performance and that of its MPs. Greater regional representation may represent a marginal improvement in terms of putting a face to representation, although the large size of provincial lists may militate against this.

Comments

This system is less desirable than the alternatives since it measures up less well to the desired criteria.

TWO-TIER MULTI-MEMBER CONSTITUENCY COMPENSATORY SYSTEMS

OPTION THREE

Two tiers, one ballot, nine MMCs (200 representatives) and a compensatory closed national list (200 representatives).

This is the present system at national level.

Characteristics of the system

- Nine MMCs (provinces/regions) elect half the representatives for the National Assembly while the other half are allocated from a compensatory closed national list.
- No residential qualifications apply to regional lists at present.
- Overall proportionality is attained.

Measurement against the desired criteria

- The system is inclusive. Every party that gains the required number of votes (quota) is assured of representation. This system gives small parties or parties representing special interests the best chance of representation since all votes cast for them countrywide are taken into account.
- The system is simple—one ballot paper is used for national elections. Voters have understood the system/ballot paper well and the percentage of spoilt ballots has been low.
- The system is generally regarded as legitimate and fair. The essential fact is that the relationship between support gained and seats allocated is generally understood.
- MPs are accountable in the first instance to the party rather than directly to the electorate. It is the party which must then in a subsequent election account to the electorate for its general performance and that of its MPs.

Comments

The system has no serious flaws (other than a disadvantage perceived by some in respect of accountability) and has passed the test of practical implementation well. The compilation of candidate lists in their present form gives a party the opportunity to balance its representation in terms of gender, interest groups and skills. Given the prevailing electoral stability around the system, it is perhaps too early to consider replacing it with another system. The system supports strong centralised government. On the other hand, it presents few evolutionary possibilities, especially in terms of direct individual accountability, and because of this other options may be preferred. Neither technically nor in principle is the present system at provincial level the same as that at national level. In fact, it corresponds with that described in Option One with each province being a single constituency. A certain school of thought regards it as essential for representation in this sphere of government to be more regional than a single constituency system allows. This would be necessary in order to ensure appropriate rural–urban and formal–informal representation in each province, but that can only be attained if residential requirements —either applied voluntarily by parties or by statutory requirement—apply. Both the national and the municipal electoral systems have a second tier of more localised representation and the provincial system is thus out of step.

OPTION FOUR

Two tiers, one ballot, nine MMCs (300 representatives) and a closed national list (100 representatives).

Characteristics of the system

- This option is exactly the same as the previous option (Option Three) except that the number of regional representatives is increased from 200 to 300.
- Overall proportionality is attained.

Measurement against the desired criteria

- The system is inclusive. Every party that gains the required number of votes (quota) is assured of representation. This system gives small parties or parties representing special interests the best chance of representation since all votes cast for them countrywide are taken into account.
- The system is simple—one ballot paper is used for national elections. Voters have understood the system/ballot paper well and the percentage of spoilt ballots has been low.
- The system is generally regarded as legitimate and fair. The essential fact is that the relationship between support gained and seats allocated is generally understood.
- MPs are accountable in the first instance to the party rather than directly to the electorate. It is the party which must then in a subsequent election account to the electorate for its general performance and that of its MPs. Greater regional representation may represent a marginal improvement in terms of putting a face to representation, although the large size of provincial lists may militate against this.

Comments

The system emphasises regionalism but offers no other material advance on the present system.

OPTION FIVE

Two tiers, one ballot, 43 MMCs (264 seats) and a closed national list (136 seats).

Characteristics of the system

- This option corresponds exactly with the present system except that the present nine constituencies (provinces) are replaced by 43 constituencies. For a national election (as at present) the same ballot paper will be used in all constituencies. For a provincial election all constituencies within each province will use the same provincial ballot paper. For the voter there will thus be no difference as far as voting procedures or ballot papers are concerned.
- There are presently 47 district councils and six metropolitan municipalities which could form potential constituencies. In some cases, however, the population figures do not warrant more than one representative and such areas have therefore been combined with others. Further permutations are possible and this example is intended only as an illustration.

- The difference between the present system and this option lies in the composition of party lists, with each participating party having to compile 44 party lists (43 constituency lists plus a national list—the total number of names, however, remains at 400).
- A residential qualification could apply or partially apply or not apply at all. It is suggested that, as with the present system, a residential qualification should not be prescribed.
- Constituency boundaries will correspond with municipal/district council boundaries and constituency boundaries for national and provincial elections will be the same, with only the number of representatives elected being adjusted according to the size of each legislature.
- Overall proportionality is attained.

Measurement against the desired criteria

- The system is inclusive. Every party that gains the required number of votes (quota) is assured of representation. This system gives small parties or parties representing special interests the best chance of representation since all votes cast for them countrywide are taken into account.
- The system is simple—one ballot paper is used for national and one ballot paper for provincial elections. Voters have understood the system/ballot paper well and the percentage of spoilt ballots has been low.
- The system is generally regarded as legitimate and fair. The essential fact is that the relationship between support gained and seats allocated is generally understood.
- MPs are accountable in the first instance to the party rather than directly to the electorate. It is the party which must then in a subsequent election account to the electorate for its general performance and that of its MPs. However, the ‘faces’ which would be contending to represent a constituency (on lists far shorter than is presently the case) would be known in advance and the prevalence of ‘faceless politicians’ could thus be more limited than at present. While it is suggested that a residential qualification—as with the present system—should not apply at first, accountability could be improved either by a voluntary application by political parties or by legal prescript when this is regarded as appropriate.

Comments

- Constituency boundaries for both national and provincial elections would be the same and would also correspond with those used in municipal elections. This would encourage cooperative government between the three spheres, national, provincial and municipal. Since district council boundaries are in part aimed at the promotion of economic development areas, such cooperative government might promote economic strategies as well as language and cultural commonalities.
- The system further lends itself to evolution as electoral experience and general literacy

increase. It could over time evolve into a two-ballot system and a position where open lists replace closed lists, giving voters a choice between accepting or rejecting any individual nominated by a party without disadvantaging the party as such. (The second ballot would determine the overall composition of parliament.) That could set a strong standard of accountability for individual candidates as well as for parties and be regarded as a substantial consolidation of participatory democracy. Independent candidates could then be permitted to participate in national elections if that were seen as desirable.

- While political parties (in the absence of residential qualifications) may compile their candidate lists in exactly the same way as at present before subdividing provincial lists into constituency lists, it may be more difficult or more demanding for them to do so. The system may arguably also be less supportive of strong centralised government.

OPTION SIX

Two tiers, one ballot, 39 MMCs (300 representatives) and a compensatory closed national list (100 representatives).

Characteristics of the system/comments

- In the previous option (Option Five), two-thirds of the parliamentary seats were allocated to constituencies, while in this case the allocation amounts to three-quarters. This is probably the optimum allocation of seats to constituencies which will always allow overall proportionality to be restored.
- In the previous option (Option Five), cross-border district councils were regarded as constituencies and it would then have to be decided for which province their votes in a provincial election would count. In this option, that problem is avoided by honouring legal provincial boundaries and allocating the parts of such areas on either side of the provincial boundary to adjoining district councils. This reduces the number of constituencies from 43 to 39. Other permutations are possible and this example is intended only as an illustration.
- In all other respects the same characteristics and comments apply as to the previous option (Option Five).

OPTION SEVEN

Two tiers, one ballot, 52 MMCs (300 representatives) and a compensatory closed national list (100 representatives).

Characteristics of the system/comments

- This option is identical to the previous option (Option Six) except in that metropolitan areas have been subdivided into smaller constituencies. This would be desirable if

MMCs of about 20 members were regarded as too large, with those representatives being 'faceless' as far as the electorate is concerned.

- For purposes of illustration the subdivision has been made along the lines of former metropolitan substructures or combinations thereof. If the principle were to be accepted, a demarcation authority would have to consider the matter afresh. The subdivision of metropolitan areas increases the number of constituencies from 39 in Option Six to 52 in this option.
- All other characteristics and comments applying to Option Five apply to this option too.

TWO-TIER SYSTEM WITH SINGLE-MEMBER CONSTITUENCIES

OPTION EIGHT

Two tiers, two ballots, 200 SMCs and a compensatory closed national list (200 representatives).

Characteristics of the system

- Under this system, for the election of the National Assembly the country is divided into 200 SMCs with a closed national list of 200 representatives used to restore complete proportionality. In the illustration constituency boundaries do not cross provincial boundaries.
- The demarcation in the example was done randomly by computer (on the basis of numbers of registered voters) and an infinite number of permutations is possible.
- The practical arrangement is that there are two ballot papers for the National Assembly election and two ballot papers for the provincial legislature election, with the list ballot being of overriding importance (or overall proportionality being determined by adding constituency and list votes). Constituency ballot papers for the National Assembly come in 200 versions and for the provincial legislature in 215. Logistically and in terms of the percentage of spoilt ballot papers this situation should present no major problem, since much larger permutations are dealt with in municipal elections.
- It will not be possible for National Assembly constituency boundaries always to follow municipal/district council boundaries, since their numbers do not correspond. Further, it is an accepted requirement that all votes, within a specified variance, should weigh equally. (The number of voters should be the same in each constituency with, say, a permitted 15% variance.) Constituency boundaries will thus have to transcend municipal boundaries.
- In five provinces, constituency boundaries for the provincial legislature can correspond with the constituency boundaries applying to the National Assembly constituencies.
- Because of the constitutional determination that a provincial legislature must have a minimum of 30 and a maximum of 80 members, however, in the remaining four provinces it will not be possible for national and provincial constituency boundaries to correspond and some voters will thus have to vote at one station for the national and another for the provincial election.

Measurement against the desired criteria

- The system is inclusive. Every party gaining the required number of votes (quota) in respect of list ballots is assured of representation regardless of whether it gains constituency seats or not. If constituency and list votes are, however, added together to determine overall proportionality (as is the case with municipal elections), smaller parties may lose out since they may not be able to field candidates in all constituencies or may have to field the same candidate or only a few candidates in all constituencies.
- The system is less simple—two ballot papers are used for national and two ballot papers for provincial elections.
- The system is generally regarded as legitimate and fair. Although the relationship between support gained and seats allocated is generally understood, in this instance it may be more difficult for voters to understand exactly how party support is determined. Even politicians have difficulty in understanding variances between ward and list representation at municipal level.
- Directly elected MPs are (in theory) accountable in the first instance to the electorate, making this arguably the most accountable form of representation.

Comments

This option offers several advantages: it increases accountability, it allows independent candidates to participate in elections right away and it provides a sounder basis for floor-crossing arrangements if these are permitted. It has the further advantage or disadvantage (the distinction resting in the eye of the beholder) of regular (but costly) by-elections at national and provincial levels. A disadvantage is that it distinguishes more markedly between different types of representatives—at municipal level this is already becoming a problem in some cases as far as ward councillors (elected as individuals) and list councillors (elected on a party ticket) are concerned. A greater drawback is that it will not permit national and provincial elections to take place on the same day, unless the requirements for the size of provincial legislatures are done away with in order to synchronise national and provincial constituency boundaries. The complications presented by this option are such that there is probably not enough time to introduce it successfully before the 2004 elections.

SUMMARY

The debate between the various options will probably concentrate on:

- Option Three: The present system, which has proved itself in practice and has brought electoral stability and strong central government.
- Option Five (as amended by Options Six and Seven): The present system, but with the number of constituencies expanded and the provincial electoral system synchronised with that at national level, offering opportunities to strengthen cooperative government and participatory democracy in future.
- Option Eight: SMCs which arguably increase accountability but present many technical difficulties and scores less well against the other desired criteria.

Panel contributions

PANELLISTS:

JOHNNY DE LANGE, KEN ANDREW
PETER SMITH, PATRICIA DE LILLE
BANTU HOLOMISA, NKUTSOEU MOTSAU
AND FRANCOIS BEUKMAN

FREDERIK VAN ZYL SLABBERT

AS A GROUP I WOULD LIKE US TO ACHIEVE CLARITY ON THE CONCEPT OF ACCOUNTABILITY. Various statements have been made here regarding accountability. Johnny de Lange, for example, said it is a subjective-objective dilemma and because people tend to become subjective, this precludes proper debate. Others have said that the concept is as wide as one's imagination.

Let me try and narrow down the concept of accountability by offering a generic definition. Accountability is not a phenomenon that is confined to the world of politics. When you sign a marriage contract you enter into a relationship where you are accountable in terms of promises that you have made, and you can be sued, judged or prosecuted if you do not conform to those vows. That is accountable behaviour; there is a mandate, a set of responsibilities and sanctions can be exercised either positively or negatively in terms of one's performance against that mandate.

There is also corporate accountability. The King Report was an attempt to introduce corporate accountability into business, defining the responsibilities of a chairperson, an executive director, non-executive director, etc. When one becomes a director, one accepts those responsibilities and is willing to be judged against them.

This concept can be transferred to the realm of politics. When Albert Venter spoke earlier of promoting the single-member constituency idea, he said it must come with a 'basket' or 'package'. Speaker of Parliament, Frene Ginwala, then spent some time 'unpacking' the 'package', mentioning how parliament could play a more active role in ensuring MPs fulfill their duties. For example, attending parliament would be an elementary duty, and she even discussed the possible introduction of punitive measures against MPs who disregard their constituencies.

An element of political accountability does already exist. The executive is accountable

Johnny de Lange is an ANC MP.

Ken Andrew is a DA MP.

Peter Smith is an IFP MP.

Patricia de Lille is a PAC MP.

Bantu Holomisa is a UDM MP.

Nkutsoeu Motsau is an AZAPO MP.

Francois Beukman is an NNP MP.

to parliament and Cabinet. The critical question facing the ETT is: can an electoral system play a role in accountability? I suggest, as do many of my commissioners, that it cannot guarantee accountability, but it could contribute to it in some way. What does the panel have to say on this score?

RESPONSE BY POLITICAL PARTIES

Johnny de Lange (ANC): The definition you have given of accountability is very important, that is, that accountability in an electoral system has a mandate component and a sanctions component attached to it. All the discussions I have heard here stress that an electoral system cannot create accountability *per se*.

Nowhere in the world does a constituency-based system exist where MPs obtain a mandate from their electorate on every issue and bill under consideration. I do not even know of a mechanism whereby MPs can obtain the electorate's views, thereby receiving a 'mandate' to vote in a particular way. In the strictest sense of the word, this is the only way such a system will be truly accountable. No constituency-based system is accountable to that extent.

This debate has conflated issues like service delivery and advise office functions—those types of functions performed by a constituency office or by an MP—and somehow equated them to accountability. Surely this is incorrect. I am in no way degrading the functions that MPs must fulfill; they must, of course, address complaints, help with service delivery and so on, but these duties do not amount to accountability in the way that is meant here. An MP's function concerns providing a service and the electoral system does not need to be amended to achieve this. Rather, we can improve on the constituency-based system we have now. For example, constituency offices get R6000 [a month?] and must cover an enormous area. If you employ someone to run that office for R2500 a month, the type of skills you will attract are generally low or staff turnover is high. As another example, in my party in any case, six or eight MPs will share a secretary in parliament. In that kind of constituency-based scenario, it is impossible to be accountable to your electorate. Although improvements and further resources are required, this does not mean one has to change the electoral system.

I am strongly opposed to changing the electoral system if it means that principles such as inclusivity and diversity are traded-off against accountability. The alternative proposals discussed here make the underlying assumption that we need constituency-based systems whereby people are directly elected. However, for reasons already mentioned by Frene Ginwala and Pallo Jordan, it is essential that inclusivity and diversity are encouraged at this point in South Africa's transformation. It is common knowledge that minority or marginalised groups do not feature in electoral systems with a constituency basis. A mixed-member SMC system will therefore strongly undermine diversity.

Multi-member systems with closed (but ultimately with open) lists will also undermine some important principles. Firstly, by changing the number of geographically appointed members from 200 to 300, one is clearly minimising diversity within the system. Secondly, the more fragmented and the smaller constituencies are, the more entrenched

the differences of the past will be, particularly the lines of division that oppose diversity.

I believe that both the proposals, in trying to address accountability, seriously undermine the diversity principle.

Patricia de Lille (PAC): I want to start by looking at the process we are currently involved with, because that process is as important as the outcome of our debate here.

Why are we consulting? It is because we want to incorporate the views of others or merely because we want to listen to people?

When the various options that Norman du Plessis presented were designed, did he take into consideration the research done on popular attitudes towards South Africa? There are some important issues raised there, but I did not hear them mentioned in the various electoral system options.

So the question really is: has the outcome already been decided? And if that is the case, we must not fool the people. We must not use the popular World Trade Centre phrase: 'after consultation', which really means that we have consulted but we do not necessarily need to take those views into consideration. In the consultation process the views of other political parties and interested stakeholders must be considered.

The electoral system that is finally decided on must enhance or improve accountability. It should feature a mechanism whereby accountability can be monitored and regulated, because leaving these important functions to political parties will be ineffective and will not produce the desired results.

When designing an electoral system it is important to ask: why is it in Africa—and I am not discriminating, I know it happens in other areas in the world too—that political parties come into power after deliberation and remain there 'forever', and this usually in the face of non-delivery and corruption? Is it because the electoral systems are not designed to make people aware of the value of their vote? What is voting all about? Why do we have elections every five years?

Turning to the issue of accountability: to me, there are various stages of accountability. There is accountability between a political party leader and his/her members as well as between leaders and their constituencies.

Section 92(2) of the constitution states that the executive will be individually and collectively accountable to parliament. How does one, in practice, bring about that accountability? The executive has been elected to implement decisions, to execute, so how will parliament perform that accountability role? How accountable is government to people in rural areas? What structures exist? How accountable are government and elected officials?

Are we MPs really just there to make laws? We have made hundreds of laws over the past eight years and it is now time to stand back and ask whether these changes have brought about a better life for our people. What impact did we make?

The current electoral system is good, but it does have weaknesses, the main one being that party political bosses are too powerful, so one ends up with elected representatives who are praise singers. They praise the leader all the time because they know that the only thing that they must really do is appease him or her. Elected officials are therefore

accountable to political parties rather than to the voters. I also believe that each MP must be accountable to him/herself, that is, one must have a free mandate. One must be able to participate effectively in the structures of parliament on the basis of how one personally perceives oneself to be accountable to the people. The party list system quashes a free mandate because it means that one has to 'toe the line' or one is out of a job.

We must also look at the role of the media in terms of accountability. I am concerned about the direction our media is taking; there seems to be some co-option at present.

Finally, we need to adopt an electoral system that features proper voter education. By this, I do not mean a system that teaches voters about the rules of voting, which line to stand in and where to make your cross, but one that teaches voters about the real value of their vote. People need to be taught why they are voting, what they are voting for and what the role of government is.

If we can improve on these current weaknesses we will have a much better electoral system.

Ken Andrew (DA): Can one make a good system better? In terms of accountability and alternative systems, we are not saying we have a rotten system that needs changing, but rather, how can it be improved? It should also be remembered that there is inevitably some built-in self-interest in this debate since any MP or legislature that has been elected under a particular system is inclined to think that that system produces quality MPs.

One needs to examine accountability, or any of the other criteria for that matter, in a broad context. One needs to bear in mind the objective, and I see one of the key objectives being the consolidation and strengthening of democracy.

I would certainly not suggest that an electoral system is the be-all and end-all of accountability, but I do believe that it can make a substantial contribution to encouraging accountability of public representatives.

We must also distinguish between accountability and accessibility. One can be accessible without being accountable, or vice versa. The essential difference, in my view, is that if one is accountable, the people to whom one is accountable can impact on one's future or one's party's future, depending on how one's performance is assessed.

The accountability issue in terms of public representatives has a duality in that one is accountable both to one's political party and to one's voters. MPs are called to account in different ways on different occasions. In a sense, voters have given MPs political powers of attorney for a limited duration. I therefore do not agree with Johnny de Lange that on every occasion one needs to consult them to get their view on every subject. In essence they give you a mandate or a power of attorney, and in due course you go back to them and they either renew that mandate or they take it away from you.

There have been many suggestions that accountability can be brought into being other than through the electoral system and I think that, certainly, other elements can improve accountability. But it is unduly optimistic to believe that this will be initiated by political parties or parliament.

To rely on parliament to bring about accountability through its internal mechanisms is wishful thinking. Parliament, for example, has been unable to enforce rules regarding

parliamentary absence. As a result, parliament can do nothing about MPs who never attend parliament. Although parliament has the power to make the rules, it generally does not operate speedily, something we have witnessed in respect of the Ethics Committee, for example.

It is important to increase the direct link—and I am not suggesting that every voter knows who his/her public representative is. I do not believe that the municipal electoral system has in any way weakened the other elements of fairness, inclusiveness or simplicity. One can maintain those criteria as well as an element of a constituency system. But improving the link between members and voters also helps to keep people attuned to the political system and not to feel alienated. My impression is that more and more people feel that what goes on in the legislatures has less and less impact on the quality of their lives. I accept that the research submitted here seems to contradict this, but that has not been my personal experience in a variety of communities.

I was rather amazed at the premier of the Eastern Cape's contradictory line of argument that the current system is not working, but that we should stick with it anyway. From what I understood, he was saying that voters do not know what is going on and that they do not know who their representatives are, but that the system should not be changed.

To conclude: an electoral system can play an important role in improving accountability and, in South Africa's case, it can help to make a good electoral system even better.

Bantu Holomisa (UDM): If we want to produce a proper report, it will require a thorough inspection of how the current system is serving South Africa, and how it is vulnerable to manipulation for political ends. I hope that this consultation process does not end here, but reaches into the townships, suburbs and rural areas in order for the ETT to get firsthand experience of what South Africans need.

To avoid accusations from those who did not have the opportunity to present their views, it is important that this electoral reform process culminates in as widely inclusive a manner as possible. We would do well to follow perhaps the examples of many countries—from New Zealand to Ireland—which confirmed electoral reform proposals by holding referendums. In this way every voter is consulted directly and all these pending questions and definitions regarding accountability can be resolved. At least you would have heard the people's view.

We have been discussing constituency-based and proportional systems. It is essential to consider whether a constituency-based system poses the danger of permitting a winner-takes-all situation. This must be weighed against the dangers of permitting an authoritarian executive that tends to impose its party's will on parliament.

No matter what electoral system is agreed upon, it is vital that we examine the structures that implement it. The IEC has on numerous occasions called for further funding to upgrade its systems and infrastructure. Lack of such systems and infrastructure could very well play into the hands of those who may want to manipulate the voting process. It is in the same spirit that I strongly support a completely independent IEC, which could be achieved by divorcing it from any government department, and providing it with a separate budget to be appropriated by parliament. The composition of IEC

commissioners must also be revised. In 1993 only three political parties chose the current commissioners. Today, however, there are more than three political parties in parliament. If we are talking about fairness, transparency and so on, let those other political parties be given an opportunity to nominate commissioners, then we can say that we are part of this process.

Nkutsoeu Motsau (AZAPO): Accountability is implicit in a system of representation. We have a parliament that closes from time to time and MPs are then expected to do constituency work for the people who supposedly elected them.

There is, however, a problem with the constituency offices. They have not been situated in a way that is geographically central or representative. In some areas, constituency offices are concentrated, and in others they are even deliberately pooled together in order to share resources, which results in people being deprived of access to the MPs.

We have heard here that a constituency-based system with proportional representation does not negatively affect disadvantaged parties, and that such a mix is operating successfully at local government level. I believe therefore that a mixed system with, say 200 members elected through PR and 200 through constituency-based elections would be a great improvement. In this way we establish a link with the constituencies that elect people, allowing parties to interact more directly. Parliament's main function is to make laws that affect all citizens. Constituency offices should be used, not as party political offices, but to assist parliament in carrying out its work and mandate from the people.

Francois Beukman (NNP): The whole concept of accountability is very entrenched in the concept of the Greek nation, or city state model, where a conversation exists between the representative and the voters as such. This model is problematic because it is impossible for an electoral system to achieve.

From our perspective, the only two vehicles for accountability are the political parties in parliament, and the current electoral system. In one sense this ensures that there is shared ownership of the constitutional order and that is why the NNP believes that the current electoral system should remain, albeit with some improvement.

In terms of the role of parliament, we believe that mechanisms already exist to improve the link between the voter and the representative, which do not necessarily necessitate a mixed-member system.

What is lacking is any comparative literature on the constituency system as it exists. There has been no real evaluation by the academics regarding the period 1994 to 1999, nor on the last three years.

It is difficult to adopt a new system without looking at the past. I believe that the various political parties' constituency offices have done excellent work, which has not been properly evaluated. A possible route, therefore, is to make further resources available to MPs and MPLs to enable them to develop a link with the electorate. The annual quarterly feedback meetings within constituencies could be broadened. A code of conduct for MPs regarding compulsory constituency duties may also be a method of ensuring that MPs do not go on holiday during constituency weeks. Another mechanism is perhaps to introduce

votes in parliament specifically on constituency-related issues. The point being made is that improvements can be made on various fronts without having to change the electoral system. The present list system to a large extent ensures inclusivity and the representation of minorities and women. As Frene Ginwala said, South Africa is still a country in transition—it is important to include fringe parties and to ensure that their voices are heard in parliament. I therefore believe that at this stage, the status quo should be maintained.

Peter Smith (IFP): A number of statements have been made which have a bearing on the responses of the parties to the question being asked. One is that: 'if it is not broken, don't fix it'. Another has been to ask if conditions have changed sufficiently to justify the need to alter the electoral system, and the third general statement is that we have a great system, but that there is room for improvement.

I have aligned myself with the last of these three statements because even if something is not broken, you can still fix it, and even if conditions have not changed, changes can still be made that are independent of the needs that may or may not have arisen.

But can an electoral system contribute towards accountability? In fact, the real topic of this conference is the electoral system and accountability, since this issue has come to dominate the agenda.

We know that accountability can be defined in many ways: first is the issue of faith. Who is your representative? Do you have a representative or does the party simply have a representative? If you have a representative, surely his/her face or name should be familiar in a sense that connectedness to the electorate is perhaps a starting point for some form of accountability.

The next level of accountability would be the issue of responsiveness. This would include interacting with the constituency in terms of reporting back on activities, getting mandates, taking up constituency problems in helping to resolve issues with the executive, with other organs of the state, and so on.

Then there is a third form of accountability that is perhaps more rarified, namely, the notion that one is an agent of one's constituency. So, we have a hierarchy in the scale of accountability.

In answering the chairperson's question, I believe that the electoral system can contribute towards accountability. For example, whether one has a free or imperative mandate is clearly a function of the electoral system and that is integrally linked to accountability.

There are effectively two proposals on the table: there is the status quo and there is the MMP/MMC combination. As a party, we always supported mixed-member proportionality. No doubt we saw the current system as a transitional measure, even if it was not phrased as such in the constitution. We are being given the opportunity to perform a fundamental review, if it is required, and I would say: let us do it.

So, can the two proposals address the issue? Yes, we have good accountability at one level in the status quo, but undoubtedly the combination of multi-member, mixed-member proportionality in a MMC can only enhance it without doing any harm, and it

does not conflict with the other values of simplicity, inclusiveness, etc. So there can only be a positive development if we move in that direction.

Statements have been made to the effect that the historically fractured nature of our society is such that this would be problematic. I disagree. As I understand it, the model proposes local government boundaries, which themselves have been demarcated precisely to integrate the fractured society. If we are building on something that the Demarcation Board has already designed to preclude the continuation of fractures, surely there should be no problem.

Questions and answers on electoral alternatives and their implications

SELECTED AND EDITED

Question: How is it possible that my elected representatives are incapable of doing anything to stop the continuation of HIV/AIDS policies that I think are immensely damaging to the people of our country?

Question: Peter Smith seems to suggest that we must introduce a system that will allow MPs to express views that are contrary to those of their political parties. It is clear that if a person is elected to represent a political party in a system such as this one, that person will not be free to express views that are contrary to the party that has put him or her in place.

Response Peter Smith: My point is that we have a system which is effectively a party system. It is a party-driven system. The question before us is: are we content with the status quo or are we considering moderating it in some way to incorporate elements of a more direct constituency system where the actual face of your individual candidate is of relevance. I thought the discussion and the proposal being put forward by the IEC in particular was a marriage of the two systems, as opposed to simply accepting that the individual will always be secondary to party ideology. I thought we were trying to move a little bit beyond that.

Comment: I think the debate about accountability and its different definitions is important. But I am not yet sure exactly what the voters understand by accountability. For example, does accountability mean giving voters more control over political issues? In the US, a member of Congress may have a problem in his constituency that requires him to vote accordingly, against his party. This is a form of accountability that South Africa has never had. As a party, the Freedom Front tried unsuccessfully to obtain a free vote on the death penalty, abortion or even on the choice of capital city. The party caucuses wanted control over the vote, which makes one question this type of accountability.

My personal experience is that voters need a 'face' to handle their problems; that is what they mean by accountability. I have been an MP under both a constituency and a PR electoral system, and I am not convinced that there is a direct link between the electoral system and accountability. If that is true, then other factors such as inclusivity, honesty and fairness become more important in creating a balance.

Comment: With regard to tools and mechanisms to increase accountability, by-elections are a way of not just holding elections every five years but being responsive to the electorate at any given time. Another point, is that we have a situation now where 'elected representatives' are not necessarily those who were on the original party list. Party lists can be supplemented by 25% each year. So, technically speaking, over a five-year period one could have an entirely new set of people in office who were not on the list when the election took place.

Accountability requires action and it is very difficult to hold anyone accountable. Accountability under the constitution is both to the individual and to the collective, so one needs criteria to base individual and collective action on. The collective action, based on the past, is clear: the individual action is less clear.

Comment: In terms of accountability, a number of people have mentioned how voters want to see people, 'faces'. My understanding of elections is that they represent groupings of people based on similar ideology and that it is ideology and beliefs that people are voting for, not just a 'face'.

Question: What are the panellists attempting to say when they refer to accountability? My understanding is that within a party system, the party derives the mandate from the people, and that party is accountable to the people for the execution of that mandate. If we now say that individuals within a party should create their own mandate then that, I believe, amounts to a conflict of interest between the individual and the party. Individual or independent candidates, however, derive their mandate directly from the people. As individuals they are accountable to the people who voted for them and receive sanction from those same people. The panellists do not seem to reconcile these two positions when they talk about accountability.

[...] My impression is that when political parties involve themselves at grassroot level, they are attempting to mobilise support or to build up their parties, not to address grassroots concerns. So, in the end, accountability becomes an academic question. The real issue is not just about accountability: it is about finding solutions to the real problems facing ordinary citizens. And representatives can only be held accountable once they have heard and understood those problems, have tried to address them, and then returned to the citizens to account for what was or will be done.

Question: Outcomes are different depending on the process used. In reference to Norman du Plessis's paper, I believe it is incorrect to take the results of the last election, simply apply them to a different system and end up with the same results. If, for example, a small party knew it could not win a seat because of the prohibitive costs of fighting those seats, and as a result excluded itself, concentrating instead only on being on the list, it would find that it was so excluded from the national debate that it would be completely lost and would not feature at all in the final results. What I am saying is that the processes applied to each election are vital to the facts of that election. Therefore, although I think the choices we are being given are excellent, the results of those choices are fatally flawed.

Comment: I would like to emphasise that there are different points of views within the ETT and that the ETT has not reached a decision on what will be recommended.

The whole purpose of an electoral system is to exact accountability and it does that by the regular holding of elections. Except for the founding elections, all subsequent elections are about accountability. If any of the other core values that have to be built into a system are weakened, it will weaken that system's ability to call to account at an election. Those values that have been set out are inclusiveness, fairness and simplicity, not only for the voter but for all the other users of the electoral system.

Question: Is the ETT satisfied [...] with the achievements of the present electoral system over the past eight years? I, for example, do not believe our systems are very simple, especially those that were introduced for municipal elections; but that is my personal opinion and I am not speaking on behalf of the IEC.

Is the ETT convinced that accountability is the only issue that needs to be addressed? [...] I am not convinced that changing the electoral system will result in the attainment of accountability.

Response Dr Van Zyl Slabbert: I will certainly respond to these questions in my summing up and closure.

General response Dr Mangosutho Buthelezi: I would like to add some comments that relate directly to the debate. First, as the responsible minister I could have written the electoral law myself without setting up the ETT. But as a democrat I felt that we needed this process whereby some of our best brains could advise the minister and Cabinet. Cabinet accepted this because even if we did not change the old system there is, in fact, no electoral law. In terms of the constitution we need to write an electoral law.

I am therefore merely carrying out my brief as Minister of Home Affairs. This process is not a question of any preference by the ETT or even by myself [...]; it was necessary, even if the system does not change as a result..

Second, as the responsible minister I feel as strongly as Prof. James does about the HIV/AIDS issue. It is a matter that has required urgent attention for a long time. My colleagues at the table will remember that on 12 February I spoke strongly about this matter in parliament, and in April we as a government actually did spell out a policy on the matter. [...]

General response Johnny de Lange: A difference of opinion has developed at this conference concerning the issue of accountability, which is rather unfortunate because it is monopolising the debate. Some of us view accountability as a very important value and insofar as there are weaknesses we should correct them. But some view the other three values—particularly inclusivity—as being more important at this point in our history.

Through our inputs and the way in which this debate has moved, those issues have unfortunately not been examined. We must be careful not to be caught in a debate that has no answer and will result in us talking past each other. There are as many views on accountability as there are people expressing them, and that is a non-debate. I therefore

want the ETT to carefully consider the values that have not been sufficiently discussed here.

That leads me to Mr Derr's question. I think it is disingenuous to suggest that just because the end result is always 400 elected representatives, the process leading up to it does not really matter. That is completely wrong and cannot be so. Even some of the suggestions that have been made regarding the different models have been put very simplistically with regard to the result they would arrive at.

As Dr Ginwala said, every electoral system comprises certain values, objectives and outcomes. [...] Different people have different values and different understandings of, for example, accountability. So our values in terms of accountability would obviously create a different objective and a different outcome. It is therefore incorrect to say that if we take our present system and introduce a mixed system into it, or we adopt the other proposal of a multi-member closed system, which will become an open system, that somehow we will achieve the same results. [...] At this stage, any attempt at introducing ward systems will negatively affect inclusivity, particularly as far as parties are concerned because small parties have no place in that system at all. We therefore need to be aware that the kind of accountability measures introduced, such as geographically based constituencies, will affect the results we have at this present time in our constituencies.

Turning briefly to Dr James' question: the usual issues apply here like in any other country. If, for example, Americans want to get rid of George Bush because he wants to wipe out any regime he does not like, how does the electorate do it? They engage with the party and with MPs and try to change policies. Ultimately, if you do not like a particular policy or the direction a party has adopted, then you do not vote for them in the next election. That is the reality, whether one is referring to South Africa and its AIDS policy or another country and another issue.

Response: It is a bit simplistic to suggest that the issue is simply one of engaging a given party structure and then if the electorate does not like it they vote you out five years later. The issue raised is a prime example of the imperative mandate at work and the effect that can have in terms of good governance and policies.

It is problematic to use, for example, a free vote. As far as I know this has been allowed on three occasions in the National Assembly—on the questions of abortion, censorship and the death penalty—but that is not frequent practice. The more contentious something is the less available a free vote should be to members.

The issue raised is very real; the ultimate sanction for disastrous policies is in fact reverting to the electorate five years later.

I was asked a direct question on free mandate. I was not proposing that there should or should not be an imperative mandate. All I am saying is that if one is going to consider a free mandate it makes more sense to do so in the context of a directly elected constituency representative than a PR representative. In a mixed-member system we should perhaps consider a restrictive imperative mandate for one section and a free mandate for the other.

Response: If we are to retain the current PR system we need to look at the funding of

constituency office and the issue of staffing those offices with competent people to serve the public while MPs are in parliament. Current funding levels are insufficient.

Response: Like Dr Mulder I have been an MP under both a constituency system and a PR system, and it is like chalk and cheese. When I represented a constituency I had more than 50 queries from constituents in my geographic area on a monthly basis and nowadays it is completely different. I get a fair number of queries but from all over the country on diverse topics. It is certainly not the same and voters do not feel that they have the right to get an answer or a service out of me because I am not their specific MP.

The current system of allocating constituencies is an absolute farce. I am made a constituency MP for a particular area. Those people did not vote for me, they did not give me a mandate and I cannot claim to speak on their behalf; all I can do is to try and help them as best I can.

On the issue of inclusivity, the process is clearly important but I believe that in a national election all the political parties involved, depending on their sizes, are going to get similar votes under a new system as they got in the past. The number of constituencies is not going to affect that. This was seen in the municipal elections as the parties, rather than individual wards, attracted attention.

Finally, I think the point made by Johnny de Lange in respect of George Bush is actually the opposite to what he believes. When Americans go to the polls they can vote George Bush out of office, but if they like a Republican senator or a Republican governor they can vote that person in. So they can actually use discrimination in respect of individuals whose performance they like and do not like. This, in fact, proves that we should not continue with a closed list PR system.

Electoral alternatives and their implications: A summary

BARNEY PITYANA

NORMAN DU PLESSIS'S INTERESTING PRESENTATION OFFERED A RANGE OF POSSIBILITIES, BUILDING on what we had heard here regarding international and African experiences. The important thing for me is that we have reached this point as a country, as a nation and as a people with a very fundamental commitment to human dignity, the attainment of equality and social justice. And we have reached this point in full recognition of our history and the continuing fractures and divisions what are inherent in our system. But eight years of a democratic system have not really made a dent. We continue to be a non-racial and non-sexist nation with a history of geographical and other divisions, including demographics, which we seek to address.

However, there are other divisions that are not so obvious yet that have a bearing on these proceedings. I refer in particular to the social and economic divisions among the rich and poor in South Africa. This affects educational standards, which in turn impacts on the extent to which our system can be representative of the greatest possible majority of people. This speaks to the issue of simplicity mentioned by Wilmot James. And we must always bear in mind that we want a representative system that includes more women, more young people and more rural people.

I agree with Dr Van Zyl Slabbert that, as a nation, we are inclined to want two contesting values at the same time. We want a full-time, hardworking parliament that is situated far from most people, but at the same time we want these people to be based in constituencies and to be accountable—and very different meanings of accountability have been put forward here.

I do not think enough has been made of the interlinking circles of accountability that exist in our societies today. Dr Van Zyl Slabbert rightly mentioned that we live in an era where accountability has become an important issue in public life and I believe he made reference in this regard to the King Report. Accountability and reporting are very important and some of those elements are built into our constitution.

But accountability must also be matched with sustainability. A system must be able to sustain and renew itself in order to determine its continuing effectiveness as well as to determine whether it serves the ends and values for which it was intended. And it is important that we raise this issue continually.

Prof. Barney Pityana is the principal at the University of South Africa.

Some dilemmas have struck me as I was sitting there. One example is the competing demands we place on our members and MPs. For instance, one MP, who seems to be very good at castigating Mrs Mandela, is the same MP who some would say hardly sets foot in parliament, but she always attends to her constituency duties. She is with the people wherever they are and at whatever time of the day or night. She is loved by the people and they respond very positively to her.

AN EVOLVING SYSTEM

At the end of the day, whichever system we choose will have to be an evolving system; a system that is capable of sufficient flexibility to be able to respond to changing circumstances. Where shortcomings of the system are experienced from one election to the next, it should be possible—without fundamentally changing that system—to make adjustments on a continuous basis. The issue, therefore, is not so much whether there can be changes or not but whether we can make changes within a system that is understood and that people can work with in order to make improvements that address some of the inherent weaknesses that have been proven from experience.

As we seek a new system, we would do well to ensure that whatever system we choose is not a radical departure from the present. Rather, we need to effectively identify weaknesses and see what adjustments can be made to address them.

I believe there is general acceptance that the system as a whole has served us well. Some believe it needs adjustments to make it even more effective. I think the principle of an evolving system is one that is flexible and responsive to changing environments and circumstances and enables people to move forward, and that will enhance democracy.

Conference summary and closure

DR FREDERIK VAN ZYL SLABBERT

IN MY OPENING REMARKS I STRESSED THAT THIS IS NOT A CRISIS COMMITTEE; WE ARE NOT HERE because people are demonstrating in the streets against the current electoral system, nor have we received numerous protests and papers. We are here because we were asked by the Cabinet to consider:

- the advantages and disadvantages of the current system—and by current I mean the electoral system that became defunct after the 1999 elections; and
- if the current system is acceptable, to recommend that it remains intact or to consider possible amendments/adjustments to it.

The ETT looked at the brief and had to ask how we judge the current system: what are the criteria? The first values we identified and which stood out as far as the current system was concerned were fairness, inclusivity and simplicity. We then began the process of public engagement, and by ‘public’ I mean political parties, NGOs, the media, etc. Interestingly, they did not even mention those other values as much as they mentioned accountability. We therefore had to come to grips with the problem of accountability, but we were not obsessed by it. It is clear from the internal documents—which will become public in the fullness of time—that we are not prepared to sacrifice those three principles for the complicated system of accountable politics.

But that does not mean we can absolve ourselves from the issue of accountability: we have to find a solution. The ETT members argue the merits and issues continuously, and it is to our credit that we have not come to blows. We take our task very seriously. We are going to come up with a recommendation, and if the recommendation does not find favour with the powers that be then it is the prerogative of those powers to do with it as they see fit. What I am not prepared to accept, however, is that it is all a waste of time, that our recommendations are pointless because ‘we’, whoever ‘we’ is, have made up ‘our’ minds. I will continue chairing the ETT to its conclusion and shall present Minister Buthelezi with our findings and recommendations. Thereafter it will follow the due process of parliament, where MPs can argue and fight among each other. If this is done in the civilised way we experienced here, I have great hope for the future of democracy in South Africa.

SOME PHILOSOPHICAL OBSERVATIONS

Permit me to indulge myself by ending with a few philosophical observations that

continuously strike me when I look at our young democracy, which in terms of the final constitution is actually only four years old, not eight. The current structures of government and opposition came into being in the 1999 elections. Before that we had a government of national unity under an interim constitution. So, as an emerging democracy, we are four years old.

In October 1989 I had the pleasant experience of being a visiting research fellow at Oxford. I remember watching the television one night, sitting transfixed as I saw young people with ice picks trying to break down the Berlin Wall. What an extraordinary sight; such excitement.

At that time there were three scholars who became good friends of mine—Donald Guillermo, Philip Schmitt and Bill Whitehead. They had just written a four-volume work on transitions from authoritarian rule to uncertain democratic outcomes, which focused on Latin America. Their work explored liberal democracy as the appropriate democratic vehicle for those countries. And to my surprise, with the collapse of the Berlin Wall two things happened: liberal democracy became the greatest academic export commodity of the US university; and the market economy became the most important means of producing or creating wealth. One may disagree, but as a matter of simple fact those two processes have had an enormous impetus.

The two fundamental principles of a liberal democracy are defined as contingent consent and contingent uncertainty. The latter refers to the fact that the party that wins the election does not abuse its victory by denying those that lost, the opportunity of winning next time. Similarly, it is contingent on the parties that lose to accept the right of the party that wins to govern until the next election.

South Africa has passed the first test. Nobody contests the legitimacy of the party in power to govern until the next election. But we have not yet faced the situation where the party in power is threatened with defeat. That is a critical test for most emerging democracies and many of them have failed.

As a consequence of the fall of the Berlin Wall numerous regimes in Central and Eastern Europe and Latin America, Africa, and South East Asia experienced fundamental changes of regime, moving tentatively from communist, authoritarian governments towards liberal democracy.

I listened the other day to a Cambridge professor talk about 'emerging economies'. He said one cannot talk about emerging economies as if they are a permanent feature of the environment; one must emerge towards something. He argued for the use of Taiwan, South Korea, Malaysia, etc. as benchmarks for an emerging economy such as South Africa's because they have fantastic growth rates, the right policies, and so on.

And then people talk about South Africa as an emerging democracy. But what is the benchmark? There is an underlying assumption that if one wants to call oneself a successful democracy, the benchmark is liberal democracy à la the so-called mature democracies: the US, New Zealand, Australia, Europe and Scandinavia.

The problem, however, is that most of those successfully emerging economies were never at the same time emerging democracies—in fact, most had authoritarian regimes. But South Africa has decided we want both: we want a growth economy while at the same

time sustaining democratic transformation. However, many countries that have tried to do this have failed. Instead, they suspended democracy in favour of growth because the beneficiaries of growth were usually some oligarchy or kleptocratic little group that strips their countries bare for their own purposes.

Yet, in the past four years of trying to do both, South Africa has what I call 'democratic political stability'. Take as a benchmark all those regimes from 1989 until now and compare how many of them have this. South Africa has experienced a peaceful succession of leaderships, and again I invite you to go and see where else that has happened.

We have had terrible economic performance. I have heard Trevor Manuel say that 37% of his income comes from personal income tax. Now, if we were to ask people in Africa and Eastern Europe who pays tax, most would laugh in our faces because the assumption is that a government can only expect one to pay tax in exchange for delivery of services. Yet we have a functioning state.

More importantly, the government of the day has, I recall, been challenged twice by the Constitutional Court, has been found wanting and has accepted the ruling. It is a unique phenomenon to have those kinds of checks and balances.

Show me where else in the world civil society has taken government to court on an issue. An example in South Africa is the AIDS Treatment Action Campaign, which had the Constitutional Court rule in its favour against government. That is a rare phenomenon.

So, we have an emerging democracy that has performed remarkably well in terms of the conventional checks and balances that go with a liberal democracy. There are, however, problems. One of the biggest problems is economic globalisation, which entails the increasing transferability and movement of capital, information technology and skills. If South Africa cannot compete we are dead in the water: it does not matter how hard we try with our liberal democracy.

But the biggest worry for me is the political globalisation that took place after the 11 September 2001 terror attacks, when the US decided to draw a line in the sand. And that line was not between those who are for democracy and human rights and those against, but between those who are with the US and those who are against them. I have been told that this will cause enormous problems, introducing wild cards, and then there is the unimaginable fall-out of a possible US attack on Iraq.

CONCLUSION

It is in this broad, philosophical and abstract context that I approach the issue of an electoral system as being one of the components that contributes to democratic consolidation. If the ETT concludes that no recommendation can improve on the present electoral system, we will say so. Similarly, we will also say if we believe the system can be improved upon, but this will not be done in a provocative or defiant manner. It will be done in such a way as to make it understood that we take our democracy very seriously.

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What most voters want out of electoral system

Survey shows public sees it as fair overall, but backs multimember constituencies

Bob Maitte and Roger Southall

THE Electoral Task Team, chaired by Frederik Van Zyl Slabbert, was established in May this year to look at possible changes to the electoral system used in the general and provincial elections in 1994 and 1999.

This system is based on proportional representation, and at national level, entails the election of 400 members of Parliament, 200 from national lists of candidates put up by the political parties, and 200 from nine regional lists intended to provide for an element of guaranteed provincial representation.

Elections for the provinces are conducted on the basis of single lists of candidates offered to the voters by the competing parties.

The task team is charged with either endorsing the present system or recommending changes that, as the constitution lays down, result "in general, in proportional representation". So, in essence, this limits the choices of changes the team might make to either, first, abolishing the regional lists and opting for entirely national lists for national elections; or second, retaining a national list alongside the introduction of multimember constituencies, or rather *distr* multimember, as in practice the regional lists for the provinces constitute very large multimember constituencies; or third, rubber-stamping the status quo. In other words, no return to a pre-1994 "first past the post" single-member constituency system would be admissible, because it would not provide for proportional representation.

To guide their thinking, the team commissioned a national poll to find out what the voting public wanted out of an electoral system. The poll was undertaken by two prominent survey companies (MCN Nielsen, MarkFacts, Markauer and Research Survey) and analysed by the Human Sciences Research Council. Pivotal significant findings of the poll were as follows:

First, there is overall satisfaction (nearly three-quarters of all those polled) that the present system is fair, and widespread support for the view that all voters (68%) and all



parties (63%) were treated equally. One response might therefore be: it ain't broke, so don't fix it. However, as about a third of respondents were either dissatisfied or nonconvinced in their judgment, support for the current system cannot be said to be totally consensus, and there would seem to be a case for arguing there is some need for amendment.

Second, nearly four-fifths of respondents felt the system was representative of different opinions and that it gave voters the opportunity to influence Parliament, and nearly 70% felt the system holds the political parties to account for their actions. However, only 60% felt the system provides for individual representation to be accountable, and fully 25% assured it does not.

The results suggest many voters agree with those who argue the major problem with proportional representation is that it does not allow the electorate to hold individual parliamentarians accountable.

Third, when posed with a series of paired statements which let them express preferences on prominent dimensions of electoral choice, respondents expressed considerable support for the idea of independent candidates. 42% said they would like to see independent candidates in Parliament, and 28% said they would prefer to vote for independent candidates rather than parties. The significance of this is proportional representation does not allow for election of independents, only parties.

There was also widespread support (71%) for the idea that candidates should come from the areas they live in, largely as respondents felt they would be more responsive to their needs. Similarly, 53% be-

lieved candidates should be chosen by party members rather than party leaderships. This would seem to indicate that, overall, voters favour localised and agnostic centralised control of the parties.

However, respondents were more ambiguous on the issue of party discipline once representatives have been elected to Parliament. Although 51% said representatives should have freedom to criticise their own parties, 44% assured they owe their loyalty to their party.

What does this mean – especially combined with other findings which, for instance, record that South Africans attach a high significance to voting and that it is more important that the South African Parliament be representative of diversity than that it be efficient?

Our interpretation is that the survey's findings suggest that the majority of voters would react favourably to a shift towards a mixed electoral system. That is, one that would provide for a stronger link between voters and elected officials, while simultaneously preserving the valued benefits of overall proportionality and broad representation. Such a system could be obtained, for instance, by the election of 200 national list MPs and the election of the other 200 MPs – and perhaps the provincial assemblies – by the introduction of multimember constituencies.

A mixed member proportional system would operate to maintain overall proportionality. Secondly, especially if backed up by legislation requiring parties to field a given proportion of women on their constituency lists, it would facilitate demographic representation and ought not in any way to lead to a fall in the relatively high proportion (30%) of women in Parliament.

Finally, and in line with the apparent wishes of the voters, it would restore something of a direct, constitutional link between voters and their elected representatives.

■ Bob Maitte is Associate Professor, University of Cape Town. Roger Southall is Executive Director, Democracy and Governance, Human Sciences Research Council. The article is their personal interpretation of findings of the survey conducted for the Electoral Task Team.

Voters don't know their MPs

Marianne Merten

South Africans have a high opinion of the voting system, but are less enthusiastic about their elected representatives in Parliament and provincial legislatures, according to research before the Electoral Task Team, currently reviewing the electoral law.

Of the 2 760 people interviewed, 74% were satisfied with the way that the government is elected, 81% believed the system ensured the wide-ranging representation of different political parties and 78% believed that an election could change the party in power.

But a significantly smaller 68% believe their vote holds political parties accountable for their actions.

Only 60% said individual elected public representatives were accountable, while a quarter of respondents believed they were not.

In addition, 64% of respondents across races wanted their MPs to live nearby. The proportions ranged from 66% for black respondents to 60% for whites, 59% for coloureds and 60% for Indians.

South Africans in 1994 and 1999 elected public representatives according to their political party – based on closed party lists compiled ahead of the election by the parties.

However, Parliament instituted a constituency system – which required political parties to allocate their MPs to certain areas. Although Parliament allocated regular time for such MP constituency work, there

has been frequent criticism that parliamentarians are not contactable during this time.

Only one in 10 South African voters could name who their MP was. Whether this was correct could not be confirmed because of lack of information from political parties as to who their local MP was, according to further research to be included in the final report of the task team.

This response stands in stark contrast to the situation in Southern African countries with constituency-based election systems: 73% of Botswanans could correctly name their MP as could 45% of Zimbabweans, 33% of Zambians and 84% of Malawians.

The question of MPs' and MPLs' accountability – measured against

the other three core values of inclusiveness, fairness and simplicity identified by the task team – proved to be a sticking point between the ruling African National Congress and opposition parties during discussions hosted by the task team this week.

But from the sometimes heated discussions emerged several perspectives of accountability: whether it meant the personal accountability of a politician, a case of citizens wanting "an interlocutor in matters of officialdom" or, as the ANC argued, finding other means such as raising issues through party structures.

Electoral Task Team chairperson Frederick van Zyl Slabbert said a list of political concerns that emerged from the review, but fell outside its

scope would be submitted for further consideration by relevant parties.

Slabbert added that the team was not prepared to sacrifice the core values of inclusiveness, fairness and simplicity for "a complicated system of accountable politics".

But he also warned it would be wrong to dismiss the review as a waste of time, that "it doesn't mean a damn thing what you say or what you come up with, we, whoever we is, have made up our minds".

The two-day meeting was part of the review process by the task team. Recommendations on whether to suggest changes or retain the previous system will be submitted together with a draft Bill to the Minister of Home Affairs, Mangosuthu Buthelezi, on November 11.

Public wants to elect President

**CITIZEN REPORTERS
and SAPA**

SOUTH AFRICAN voters want to elect the President themselves – directly – and not leave the choice to Parliament, according to a new survey by the electoral task team charged with drafting the country's new election laws.

Survey respondents also wanted a more mixed electoral system, with more accountability from directly elected MPs and MPLs, rather than the current party list proportional representation system.

sentation system.

The electoral task team, headed by Dr Frederik van Zyl Slabbert, was appointed by the government to help draft a new electoral law for the 2004 elections, as required by the Constitution.

But the African National Congress appears not to favour a radical rethink of the system.

The commission's draft findings were made public in Cape Town yesterday during a two-day conference

■ Turn to Page 2

■ From Page 1

reviewing South Africa's electoral system.

The researchers – Roger Southall, of the Human Sciences Research Council, and Robert Mattes, of the University of Cape Town, said 63% of the respondents across all racial groups wanted the President to be directly elected by the voters, and not by

Parliament.

In addition an overwhelming number of voters would seem to prefer directly elected MPs and MPLs rather than the system of proportional representation.

About 76% said they wanted to vote for a candidate from the area in which they lived, according to the findings. The most widely cited reason was the likelihood that local candi-

dates would "be familiar with our needs", would "help look after us" or "we know or trust them".

This was reflected by the fact that 64% agreed with the statement that MPs should "live close to the people they represent", so that they can "express their opinions and promote their interests".

But ANC MP Pallo Jordan said although the current system

might be faulted on accountability, he did not believe research had shown sufficient cause for a radical rethink of the proportional representation system.

In a paper delivered at the conference, Dr Wilmot James, of the Human Sciences Research Council, said there was a widely held view that party managers held too much power under the current closed list system.

The Citizen 10 September 2002

INSIGHT

✓ 80 9/103

Party list system needs to change

WHILE the nation has been spared a constitutional crisis and the recent constitutional crisis in KwaZulu-Natal, major election issues are still unresolved. The most startling fact is that at present there is no operational electoral law. The constitution made provision for the direct proportional representation on a party list system to be used in 1999, but after that a new electoral law had to be drafted and placed on the statute book.

In pursuit of that objective Home Affairs Minister Mangosuthu Buthelezi established a task team under Frederick Van Zyl Slabbert's leadership in May last year. The task team held international round table conferences and canvassed a wide range of opinion, including all the country's political parties. It was clear through the process that the weight of opinion was to move away from direct proportional representation on party lists to a combination of constituency and proportional representation systems.

It is worth remembering that the work of the task team comes against the backdrop of falling respect for



WYNDHAM HARTLEY

elected public representatives from their communities.

One of the critical issues facing the team was to design a system that would put elected public representatives back in touch with the people who voted for their party.

The party list system makes them largely responsible to the party hierarchy and not "the masses of the people".

Parties will argue that the compilation of the lists through party structures from branches up to national structures provides for the voice of ordinary people, but that surely is not enough.

There is no question that the party list proportional representation system has served SA well in its first two democratic elections. With the African National Congress getting more than 60% of the popular vote in both these polls, it can easily be argued that with a pure Westminster style "first past the post" system it would have won almost all, if not all, the seats. There would have been no opposition voice at all.

While this would have spared us the floor-crossing debacles of the past year or so, it simply would have been bad for an emerging democracy to have no alternative voice at all.

been bad for an emerging democracy to have no alternative voice at all.

The National Assembly, for instance, has 13 political parties represented — from the lowly African Freedom Party and the Minority Front with solitary MPs, to the ANC with its 200.

So, while it is undoubtedly a concern to those who cast opposition votes to see some opposition MPs in the house, there also should be a mechanism that provides for accountability on the ground. Hence the combined system.

The task team was clearly split. Buthelezi's announcement that there was a majority report means that there was also a minority report. What is clear is that most of the 12-strong task team favour a multi-constituency system combined with proportional representation, while a handful opted for retaining the party list proportional representation system used in 1994 and 1999.

From the participation of ANC representatives in the round table organised by the Slabbert team it was clear that it did not favour changing the system. Ironically the members of the team putting the status quo line — the ANC line, if you like — were from the Independent Electoral Commission (IEC).

Apparently they did not argue

the merits or demerits of a system that brought MPs closer to the people, but argued it simply would not be possible to get a new combined system up and running in time for the next poll which must be held in the first half of 2004.

Quite why this should be so difficult is not clear.

It is not clear what the split proposed by the task team would be and how many of the 200 MPs would be elected proportionally and how many in multi-member constituencies. If it is simply half and half, this would mean many MPs who would comfortably have gone onto the electoral list in a party list system will now have to go back to their communities and win nomination and election in order to return to Parliament.

Sounds all right to me and, after all, it would be in keeping with the ANC's declared intention of taking government closer to the people.

Some tough choices lie ahead for the ANC government. If, as is relatively understood, the task team has recommended that the combined system is introduced in 2004, then the practical arguments of the IEC fall away. There will have to be some really good reasons not to make the electoral system more accountable.

■ Hartley is Parliamentary Editor

Business Day 9 January 2003

Electoral system

If the ANC national conference accepts this week's policy recommendation on the electoral system, South Africa will retain "proportional representation" as a central principle of our electoral law.

A draft resolution prepared for the ANC's December conference says proportional representation must be retained "because of its inclusivity and nation-building features".

"However, we are also strongly recommending that the ANC actively reviews the constituency work of our public representatives to enhance accountability to communities," the resolution adds.

Sowetan 1 October 2002

The Citizen

THURSDAY 9 JANUARY 2003

Voters must be given power

REPORTED differences between members of the electoral task team could be healthy if South Africa ends up with a system where politicians are more accountable to voters.

Yet the decision on the way forward rests with those who stand to lose most – party bosses.

Right now they hold the aces. They control the names on the candidate lists and they determine who becomes an MP, an MPL, premier or a mere dogsbody. They will not easily hand over their power of patronage.

Within Frederik van Zyl Slabbert's team one group is said to favour constituencies at all three levels of government, making politicians more answerable and accessible to voters.

They propose an additional shorter candidates' list, to help make legislatures proportionally representative.

The other camp wants the present straight proportional system, which means political chiefs will continue to control the lists.

Recently there have been signals that the ANC wants to keep the existing set-up, raising questions about why the task team was appointed in the first place.

We hope the arguments for greater constituency representation have been put persuasively and unarguably.

Ordinary folk simply must have the power to vote out of office those who are incompetent, corrupt or otherwise unsuitable.

Party bosses cannot be trusted to do this. Bumbler such as Manto Tshabalala-Msimang, the Pahudu, and Nkosazana Dlamini-Zuma have been kept on too long.

Now it's time for people power. That means constituencies.

The Citizen 9 January 2003

The Citizen

FRIDAY 1 JUNE 2001

Electoral system needs overhaul

SOUTH Africa's electoral system is due for an overhaul. Rules which seemed appropriate when our democracy was being born now threaten to entrench rigidity, not allowing the type of political realignments that might otherwise occur in a changing society.

The most obvious stumbling block is the so-called anti-defection clause which decrees that Members of Parliament lose their seats if they change party allegiance for any reason.

The formation of the Democratic Alliance by agreement between the Democratic Party, the New National Party and the Federal Alliance fell foul of this rule. So, too, would many other attempts to regroup.

In addition, inordinate power is placed in the hands of party bosses who draw up lists and decide who may be an MP. This has allowed politicians to become distant from the voters whom they are supposed to represent. They tend to listen to the party rather than to the electorate.

These two negative aspects – political rigidity and alienation of MPs from voters – result from the form of proportional representation this country has adopted.

Healthy debate has been going on within the ANC about retaining the anti-defection clause. Now, wisely, President Mbeki has raised the profile of the issue by appointing a task team to determine how to proceed.

We hope they come up with the goods long before the 2004 election. Any new system should allow principled politicians greater freedom in Parliament, and bring them closer to the people.

The Citizen 1 June 2001

No decision yet on changes to electoral law

Wyndham Hartley

Parliamentary Editor

CAPE TOWN The ruling African National Congress (ANC) has not yet decided whether to stick with the current closed list proportional representation electoral model or switch to a combined system which includes the election of constituency MPs.

After ANC MPs had, over the last two days of debate in the electoral task team, expressed doubts about a combined system, there were growing fears any recommendations the task team came up with would be rejected unless it retained the status quo.

Team chairman Frederik van Zyl Slabbert told the meeting his impression was that the situation in the ANC was still open.

He said he would never accept that the work of the task team was a waste of time because it was felt by some a decision had already been made.

"We take our task seriously and if our recommendations are not accepted by the powers that be, then so be it."

Earlier in the discussion ANC MP and chairman of Parliament's justice committee Johnny de Lange said no one really knew what accountability was in relation to MPs and whether or not they belonged in electoral law.



Electoral Task Team chairman Frederik Van Zyl Slabbert, left, talks to Home Affairs Minister Manto Buthelezi at the end of a media briefing yesterday.

He said it was being confused with service delivery.

De Lange said he would oppose any proposals for a new electoral system which harmed the present values of inclusivity, diversity, fairness and simplicity.

Paul Heynen, former legal adviser to former president Nelson Mandela, said at a press conference it seemed that when people

said they would like to elect their own constituency MPs, what they really wanted was someone who could intercede on their behalf when they experienced difficulties. Heynen also stressed that he felt the situation in the ANC was fluid, as was the case in all other political parties.

Van Zyl Slabbert said at the press briefing that many things

had arisen in a countrywide survey and in debates which were outside the mandate of a review of the electoral system. The task team was going to compile a list of these issues and submit them with its final recommendations.

Further discussions would be held with political parties next month and then the team would make its final decisions.

Business Day
11 September 2002

No change, *laser 1-6*, says ANC

THE African National Congress wants to retain the current electoral system of proportional representation, Deputy President Jacob Zuma said yesterday at the close of the ANC's four-day national policy conference in Kempton Park.

"This policy conference is proposing to our 51st conference that the ANC advocates the retention of the present proportional representation system because of its inclusivity and nation-building features."

However, it was strongly recommended that the ANC should review the constituency work of its public representatives to enhance accountability to communities, Zuma said. - Sapa.

The Citizen
1 October 2002

Voters prefer to elect the president directly – survey

✓ 9/9/02

The majority of South African voters would react favourably to a shift towards a mixed electoral system and would also prefer to elect the president directly according to the findings of a survey commissioned by Dr Frederik van Zyl Slabbert's electoral task team.

The team has been tasked by the government with helping to draft a new electoral law for the 2004 elections, as required by the constitution.

The research was conducted by Roger Southall of the Human Sciences Research Council and Robert Matthes of the University of Cape Town.

Their draft findings were made public in Cape Town yesterday during a two-day conference reviewing South Africa's electoral system.

The researchers said 63% of the respondents across all racial groups wanted the president to be directly elected by the voters and not by parliament.

The survey also found that there was substantial minority

support for the idea of independent candidates, with 42% saying they would like to see independent candidates elected to parliament in 2004.

In general, however, less than one-third (38%) prefer to vote for an individual rather than a political party.

About 76% of respondents said they wanted to vote for a candidate from the area in which they lived, according to the findings.

The researchers said South Africans recognised the enormous virtues which the adoption of proportional representation had in terms of producing legislatures that represented the population.

The researchers highlighted what they said was a paradox in their findings, that while the electorate was broadly positive about the current voting systems, "they also have quite negative views about the performances of the representatives and representative institutions produced by that very system".

— Sapa

The Star 10 September 2002

Electorate would like US-style poll

Sowetan 10/11/02

THE majority of South African voters would like to have a mixed electoral system that would allow them to elect the president directly, as it is done in the United States.

This is according to the findings of a task team asked by the Government to help draft a new electoral law for the 2004 elections, as required by the Constitution.

Their draft findings were made public in Cape Town yesterday during a conference reviewing the electoral system.

The researchers said that 63 percent of the respondents across all race groups wanted the president to be directly elected by the voters and not by Parliament.

There was substantial support for the idea of independent candidates, with 42 percent saying they would like to see independent candidates elected to Parliament, and 35 percent saying they would consider voting for one.

"In general, however, less than one third (28 percent) prefer to vote for an individual rather than a political party."

About 76 percent of respondents said they wanted to vote for a candidate from the area in which they lived. The most widely cited reason was the likelihood that local candidates would "be familiar with our needs", would "help look after us" or "we know or trust them".

A majority of 53 percent agreed that all party candidates should "be chosen by members of that party" before the final election rather than by party leaders. But while respondents showed strong preference for having a say in their choice of party candidates, they were ambivalent about how much autonomy MPs should have once in Parliament.

Fifty-four percent felt that elected officials should serve out their terms, compared to 38 percent who said party leaders should have the right to redeploy MPs.

Fifty-one percent agreed that elected representatives should have freedom of expression to criticise their parties, but 44 percent chose the counter option that MPs owed their loyalty to their political party, the researchers said.

Forty-seven percent said that MPs should be able to vote according to their own beliefs, and 44 percent think MPs should always vote according to the party whip's instructions.

The researchers highlighted what they said was a paradox in their findings, that while the electorate was positive about the current voting system, "they also have negative views about the performances of the representatives and representative institutions produced by that system". - *Sapa*

Sowetan 10 November 2002

UDM wants referendum on election

✓ Citizen 4/10/02

CAPE TOWN - United Democratic Movement leader Bantu Holomisa yesterday called for a referendum to settle South Africa's electoral system issue.

The government has commissioned the Electoral Task Team (ETT) chaired by Dr Frederik van Zyl Slabbert to evaluate South Africa's electoral system and make recommendations on how it might be improved.

Holomisa said the UDM had made a submission on the issue to the ETT, but in view of the African National Congress having indicated it did not want to change the current proportional representation system, a referendum should be held to let the people decide.

Other countries around the world had successfully followed this route, and the matter was too important to "play politics" with.

The ANC did not want an electoral system that included constituency based elections, as some of their most prominent non-African members would not be able to secure enough support to be elected in this way, Holomisa said.

On Wednesday, the Democratic Alliance said the ANC seemed to have been wasting the task team's time and taxpayers' and donors' money, as it has already decided not to change the electoral system.

Acting DA leader James Selfe said the team was appointed by government to evaluate the electoral system and make recommendations on how it might be improved.

"However, before any opposition party has even submitted its proposals to the commission, (ANC spokesman) Smuts Ngonyama has announced that the ANC will not change the electoral system." *Sapa*.

The Citizen 4 October 2002



Martin Williams

WHO cares what the people think? When you're an ANC boss, you make the rules and the plebs can lump it.

That's how I see the ANC's decision to stick with the current electoral system, despite the work of a high-powered group appointed by the Cabinet to propose a new framework.

Dr Frederik van Zyl Slabbert's team have spent considerable time and effort travelling around, gathering the views of ordinary people and experts.

An HSRC survey they commissioned found an overwhelming preference for directly elected MPs and MPLs.

About 76% of respondents want candidates from the area in which they live, because local candidates are more likely to "be familiar with our needs".

That makes sense. We all know that under the present set-up our

politicians are remote figures whom we cannot reach.

And about 64% agree MPs should "live close to the people they represent".

You'd think this was self-evident - bringing politicians closer to the people benefits democracy.

Yet, when the survey was released early last month, there were mutterings from Pallo Jordan that the ANC might not be happy. Two weeks later Smuts Ngonyama came out more strongly, saying the status quo best suited SA's interests.

But the hammer blow to any hopes of a more democratic voting system came this week after the ANC policy conference. It's not merely a suggestion to Slabbert, it's what the ANC will adopt at the all-important December conference, and MPs will rubber-stamp as soon as they can.

Deputy President Jacob Zuma said unequivocally the ANC wants the present system retained "because of the inclusivity and nation-building features".

Poppycock. ANC bosses love the system because it allows them control through party lists. They, not the voters, decide who will be an MP or an MPL.

Several questions need answering, apart from how much this exercise is costing taxpayers.

Why did Cabinet appoint the electoral task team in the first place?

Why did the ANC come out so forcefully more than a month before Slabbert is due to present his findings?

Is the ANC so frightened by the prospect of a new left-wing party that it is battening down the hatches?

And will this nation continue to allow a small group within the ANC to stifle the unarticulated will of the people?

Mbeki open to election change

By BRIAN STUART

CAPE TOWN - President Mbeki has left the door open to a new electoral system for the next general election, to be held in 2004, including the removal of the clause prohibiting MPs from changing parties.

Dr Frederik van Zyl Slabbert, one-time leader of the opposition in Parliament, is heading a task team to determine how negotiations will take place on the issue.

The Constitution provided for direct proportional representation in 1994 and again in 1999, but Clause 46 allows for new legislation, to be approved by the National Assembly, to determine how the election is held in 2004.

Answering questions from Freedom Front member Dr Corne Mulder, Mbeki said the "history, aspirations and chosen destiny of the nation", arising from a past of division and exclusion, had resulted in the present system of proportional representation.

Dr Slabbert had been appointed by Cabinet to lead a task team to examine a new electoral system. Deputy President Jacob Zuma and Home Affairs Minister Mangosuthu Buthelezi would liaise on all allied matters, including how all political parties would be involved.

"How do we set up this process, and make sure that it is actually, truly inclusive, and does take into account the view of society as a whole - I am sure that wise people will be able to sort out that issue," said Mbeki.

Senior DP spokesman James Selfe said existing parties reflected the divisions of the past, and this was maintained by the anti-defection clause. He asked whether it was intended to allow parties to split or merge, so as to reflect changes in South African politics.

"It is important that that matter is indeed discussed, because clearly we are not dealing with a static situation," Mbeki replied.

"I think that ensuring the political system and the constitutional-legal framework allows for a further advance towards a non-racial South Africa, that's an important objective.

"We need to look at this particular matter ... which among other things, would address this issue of parties merging, parties splitting."

The Citizen 31 May 2001

ANC retains old poll way

By HOPEWELL RADEBE

THE ANC's decision to retain the electoral system with proportional representation is not aimed at undermining the electoral review process led by Dr Van Zyl Slabbert, party spokesman Smuts Ngonyama said.

He said the party was expected to come with a recommendation to the December conference on what was best for the country. It will come with "the best possible solution" which will be tabled to Dr Slabbert.

"We are not in any way pre-empting the outcome of what the process would determine or recommend. We as the party are stating our choice, that's all," Ngonyama said.

Asked why the ANC sanctioned the panel to review electoral laws and systems when it had made up its mind, he

emphasised that the ANC had not made up its mind until the weekend's policy conference.

"We assessed the country's needs and found that the suggested constituency based electoral system could be detrimental to multiparty democracy," he said.

He argued that the country was still largely settled along racial lines and any constituency campaigning could adversely influence people to vote along racial lines.

This could end up increasing the ANC majority tremendously, he said; adding sometimes ANC voter support of up to 70% or 80% was projected.

"We do not need such overwhelming power because that could seriously affect our fledgling democracy," Ngonyama said.

The Citizen 2 October 2002

Conference programme

DAY ONE: 9 SEPTEMBER 2002

First session: **Electoral options and core values**

Chairperson: *Dr Brigalia Bam*

09h00–09h15 Opening remarks
Dr Frederik Van Zyl Slabbert

09h15–09h25 The Konrad Adenauer Foundation
Michael Plesch

09h25–09h45 Welcoming address
The Honourable Minister, Dr Mangosuthu Buthelezi

10h15–10h45 Shared aspirations: The imperative of accountability in
South Africa's electoral system
Dr Wilmot James & Dr Adrian Hadland

10h45–12h30 Panel: *Adv Pansy Tlakula, Dr Athaliah Molokomme and
Dr Pallo Jordan*
Discussion/Questions
Discussant: *Prof. Tom Lodge*

Second session: **An African perspective on electoral system options**
Chairperson: *Judge Ismail Hussain*

14h00–14h30 Review of electoral systems and democratisation in Southern Africa
Dr Khabele Matlosa

14h30–16h00 Panel: *Adv. Patekile Holomisa (South Africa),
Dr Kwadwo Afari-Gyan (Ghana), Prof. Adekunle Amuwo (Nigeria)*
Discussion/Questions
Discussant: *Dr Chris Landsberg*

16h30–17h00	Popular attitudes towards the South African electoral system (draft report to the Electoral Task Team) <i>Prof. Roger Southall & Dr Bob Mattes</i>
17h00–18h00	Panel: <i>Prof. Paulus Zulu & Prof. Amanda Gouws</i> Discussion/Questions Discussant: <i>Prof. Fink Haysom</i>
18h00–19h00	Conclusion of day one, <i>Dr Frederik Van Zyl Slabbert</i>
DAY TWO:	10 SEPTEMBER 2002
First session:	A practical discussion about theoretical models Chairperson: <i>Prof. Herbert Vilakazi</i>
09h00–09h30	What electoral systems are available? An international perspective on the current debate in South Africa <i>Prof. Jørgen Elklit</i>
	Electoral systems and accountability: A proposal for electoral reform in South Africa <i>Prof. Murray Faure & Prof. Albert Venter</i>
09h30–11h00	Panel: <i>Dr Frene Ginwala & Prof. Nico Steytler</i> Discussion/Questions Discussant: <i>Paul Graham</i>
Second session:	Electoral alternatives and their implications Chairperson: <i>Dr Frederik Van Zyl Slabbert</i>
11h3–12h00	Electoral alternatives and their implications for South Africa <i>Norman Du Plessis</i>
13h30–15h00	Panel: <i>Johnny de Lange, Ken Andrew, Peter Smith, Patricia de Lille, Bantu Holomisa, Nkutsoeu Motsau and Francois Beukman</i> Discussion/Questions Discussant: <i>Prof. Barney Pityana</i>
15h00–16h00	Summing up and closure <i>Dr Frederik Van Zyl Slabbert</i>

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