



**KONRAD-ADENAUER-STIFTUNG INTERNATIONAL SYMPOSIUM ON
CHALLENGES AND AREAS OF
ENGAGEMENT FOR AFRICAN OPPOSITION PARTIES**

**KEYNOTE ADDRESS BY
PRINCE MANGOSUTHU BUTHELEZI, MP
PRESIDENT OF THE INKATHA FREEDOM PARTY OF SOUTH AFRICA
ON**

"ELECTION AS A CHALLENGE FOR AFRICAN OPPOSITION PARTIES"

BERLIN, GERMANY : 29 JUNE, 2005

Länderbüro Südafrika

60 Hume Road
Dunkeld 2196/Johannesburg
Tel: (0027) 11 214 2900
Fax: (0027)11 214 2913/4
info@kas.org.za

It gives me great pleasure to address this important symposium on the themes of consolidation of multiparty democracy in the African continent. Many of those gathered here are aware of the longstanding dialogue which I have maintained with the Konrad-Adenauer-Stiftung for the past thirty years, as well as of my intense exchanges over the decades with the people and the Government of the Federal Republic of Germany. I feel at home in this venue and hope that my contribution may enhance the understanding of the challenges confronting democratic consolidation in Africa, in general, and South Africa in particular. I praise the organizers of this event for having called on African leaders themselves to talk about the problems confronting our countries, which problems often elude international debates and foreign analysts.

Not only am I comfortable with this venue, but also with the topic assigned to me. In fact, since 1980, when I launched the Buthelezi Commission in KwaZulu and thereafter the KwaZulu-Natal Indaba, I have been constantly engaged in intense debates on thorny issues of constitutional transformation. It is unusual for a politician to have to focus on constitution making for over a quarter of a century. Moreover, for ten years I was the South Africa's Minister of Home Affairs, and policy matters relating to the electoral system fell within the residual competence of my portfolio, even though the actual conduct of elections is the responsibility of an

independent body, the Independent Electoral Commission. Therefore, I spent a significant amount of my adult life dealing with constitutional issues in general, and electoral matters in particular, and welcome this opportunity to share my reflections on these two topics which are so closely intertwined.

My first consideration, which indeed captures also my conclusions, is that among the many elements framing the constitutional architecture of a country, the electoral system is perhaps the most important. In spite of a perfect constitution, an African democracy is often doomed when flaws in its electoral system permit the concentration of powers in a political party and its bosses. Yet, following the historical example of 18th century European constitutions, often the most salient features of an electoral system are not expressed and entrenched in a constitution, but are rather left for a subsequent electoral law to decide and regulate. I have reached the conclusion that in an African context this is a fatal error.

The main purpose of a constitution is that of abridging and organizing power, effectively bringing about a regulation of interests which is not likely to be voluntarily adopted and followed by those in power, once they are in power. Yet, the definition of an electoral system and its salient features are left to the discretion of a parliamentary majority, hoping that those in power may elect to make

themselves accountable and vulnerable to the electorate. Pondering on the matters, it was German constitutionalist Jellinek who remarked how difficult it is for a dog to wear a muzzle of its own accord. The South African experience is a case in point.

Our constitutional process was divided into an interim and a final stage. The interim one was shaped by an interim Constitution, which came into force right before our first democratic election of April 1994 and in certain respects lasted until June 1999, when the next elections were held, even though the final Constitution came into force in January 1997. Contrary to many other constitutions, our interim Constitution made extensive provision for the electoral system, and in this specific respect it was in force for the whole five years of the interim period. However, out of necessity, it adopted a system notorious for its capacity of increasing power concentration and reducing accountability. It was a matter of necessity for it to adopt a proportional system based on party lists, in what was effectively a unified single constituency, even though technically provision was made for a national and nine regional lists. At the time we did not have a voters' roll and had little space and resources to organize a complex election.

By virtue of necessity we went for the simplest possible system, which had the political appeal of maximizing proportionality, avoiding any of

the possible distortion of a constituency system. Coming as we did from a divided background of apartheid, any departure from pure proportionality, or the division of our country in constituencies with related boundaries, were seen with deep hostility. Moreover, the wide-spread illiteracy in our population barred any system requiring people to write on the ballot or even having to read it, which lead us to couple party symbols with leaders' photographs. After April 1994, we began proceeding to compile a voters' roll, which was used for the subsequent local government elections. It was particularly easy to develop a voters' roll as South Africa has the unique benefit of a population registry required to contain the names and fingerprints of all our citizens. This enabled us to rectify, within two years, the unusual feature of our first democratic elections, which allowed not only citizens but also residents to vote.

In the meantime, our final Constitution was adopted, and, in spite of its being one of the most advanced in the world, it was effectively silent in respect of the electoral system, save to say that it should yield an outcome generally based on proportional representation. For instance, the mixed PR/consistency electoral system in Germany achieves such result. The same mixed PR/consistency system was adopted in South Africa for local government elections. Therefore, once the voters' roll laid the foundation for a new process of policy

formulation, under my leadership, the Department of Home Affairs had hoped that, also in respect of the election of national and provincial legislatures, a new electoral law would move away from strict PR system of the interim Constitution.

I, as the then Minister of Home Affairs, appointed an Electoral Task Team in which I tried to gather independent political analysts and top experts, in the hope that in this fashion the interest of democracy could prevail over those of politicians and rulers. However, during one of the most difficult process of Cabinet discussions ever, other ministers ended up having the power to also appoint members on such an Electoral Task Team. The process of Cabinet approval of this Electoral Task Team took almost one year, which has no comparison to any other matter which served before Cabinet for the past ten years, with the exception of the Immigration Act, which I also had to pilot.

I must acknowledge the Konrad-Adenauer-Stiftung and sincerely thank it on behalf of the people of South Africa for the enormous support it lent to the work of the Electoral Task Team, including the sponsoring of a high-level international conference. In the end, the Electoral Task Team produced a split report in which the majority of its members suggested to change our system from the proportional representation, employed until then, to a mixed

constituency system resembling the German model. In itself this was a compromise proposal which acknowledged that our profound lack of political accountability would have required far more drastic changes in the electoral system. For compromise sake, many important ancillary issues, such as referenda and recalls, were also expressly overlooked. However, Cabinet rejected the majority report and chose to follow the minority report, which suggested leaving things the way they were in the interim Constitution.

I had authorized the release of the full report of the Electoral Task Team, with all its supporting documentation and papers, all of which were bound in a lengthy quality book printed by my Department. This book has a wealth of information, original analysis and comparative research, which is precious for anyone dealing with electoral issues in Africa, or elsewhere in the world. In an unprecedented move, Cabinet sought to suppress not only the majority report, but also all its supporting documentation and instructed me in writing to recall and seize all the copies already distributed, which were already in the hands of the media and the universities. I wrote back indicating that I would comply with the instruction only once someone could point out where the law or our Constitution gave me the authority to take such action, which obviously none of my colleagues could do.

Significantly enough, the Electoral Task Team's majority report highlights that the major flaw of our electoral system is its lack of accountability, even though it excels in simplicity, proportionality and fairness. The question which must be asked and answered during this symposium is whether, irrespective of whatever may happen on election day or the preceding two weeks, an African election can really be free and fair when it is conducted on the basis of an electoral system which, albeit simple, proportional and fair, does nonetheless not provide for real accountability. And when this lack of real accountability has already produced a concentration of power which, in thousands of ways, including the abuse of State resources and financial disparities, maintains an un-levelled playing field for years before the election day. I will elaborate on this question prior to trying answer it.

The Electoral Task Team's report pointed how under our system, and those of other African countries, party bosses are those who effectively compile and rank the candidates' lists, and therefore they, rather than the electorate, decide who is to be elected. The same party bosses hold those elected at ransom in a prison of authority, intimidation and subservience, in which loyalty and sycophant behaviour is rewarded, while initiative and criticism is punished. This leads to most elected representative becoming

passive and keeping a low public profile, allowing the concentration of power and publicity in the few at the very top. The power of party bosses is increased by their power to terminate the membership of any elected representative, which, in terms of our Constitution, causes the immediate termination of the office of a member of Parliament, or a member of a provincial legislature. This means that party bosses can both hire and fire anyone they wish, as they wish.

The system became even more corrupt when provision was made to allow members of Parliament and provincial legislatures to cross the floor from one party to another, carrying with them their seats and the vote of those who elected them, in spite of their having been elected on a straight party list, on the basis of their being nominated by their party's bosses. Because, effectively, our voters vote for a party leader and his party and not for candidates, those so elected move their votes from one party to another by crossing the floor, accountability is even further undermined. This behaviour cannot even be sanctioned at the next election, because the voters could not vote against their chosen party on account of some people having defected from it! I am aware that crossing of the floor is a standard feature in most western democracies, but in an African context it becomes a perversion and a source of great corruption. In fact, our politics are rarely based on real issues or ideological or policy debates and none of those who have

thus far crossed the floor, seem to have done so for any identifiable political reason. Often checkbook politics and the lure of offices, perks or political power is what causes people to cross the floor. Consequently, the tendency is that of crossing towards the ruling party, thereby increasing the concentration of the power in the hands of the majority party and its few bosses.

All this creates a very top-heavy system of political representation, in which members of Parliament are dis-empowered. Parliament often acts as a rubber stamp of the decisions taken by the Executive. All legislation and policies are formulated by the Executive, adopted by Cabinet and usually passed by Parliament with no significant modification. Parliament has no real capacity to draft legislation or promote its own policies, and its members rarely take any significant political initiative which is not sanctioned from above. The political dynamics are such that the position of members of Parliament is subservient to the Executive, reflecting how those in the Executive are often responsible for the selection and election of the MP's and may fire them. This feature combines with a lack of clear differentiation between the Party and the State. State resources are constantly used to promote the majority party and its leaders in the Executive, thereby weakening our democracy and undermining the very conditions under which any election can be really fair. In a context in which party bosses

control the Executive and through it the State, neither the State nor Parliament have the power to provide the necessary checks and balances.

The lack of political accountability and lack of necessary checks and balances are unfortunately compounded by the insufficient strength of the electorate. We do not have opinion voting or issue based politics. The pattern exists of the electorate voting for those in power, irrespective of whether they really like them or approve of how they conduct themselves. In an African context, traditionally, voting is almost like paying a tribute to those in power, reflecting the ancestral habit of the leader calling the people to a meeting. We have turnouts which are much higher than those of western countries, and rarely do electoral patterns reflect opinion voting. All voting is by allegiance and often communities vote for a party or a leader almost in their entirety. All this favours those in power and inhibits the regular dynamics of democratic transformation.

It is salient that in South Africa, not by accident but by intention, there has been insufficient voters' education by our Government. There is need for it, we would have the resources for it, but we don't do it. We had some voters' education in 1994, but almost none in 1999, in spite of my often pointing out the need for it. Even in 1994, voters' education focused on

teaching people "how" to vote, rather than "why" to vote. They were instructed on how to mark the ballot paper and recognise the party of their choice without spoiling the ballot paper with unnecessary signs. This type of voters' education assumes a major lack of skills and political sophistication in the electorate. Yet, no focus was placed by our Government on teaching the electorate why to vote, and that voters have the power to hire and fire anyone in Government. Voters were not told and that their vote is required to judge and express whether they are satisfied with those in power. Without this important element of civic education, it is difficult to counter the traditional culture that sees voting as an act of allegiance, if not of homage.

In South Africa we have extensive training programs, financed by a 1% levy placed on the entire national payroll, which is a huge amount of money available for such a purpose. However, no significant portion of this money is spent for civic or voters' education. We have revised our schools' curriculum, but even in schools, no emphasis is placed on teaching children that voting is a critical activity in which people are bound to criticize those in power, expressing their opinion on how well they are being governed. The power to vote has not yet been translated into the power to choose. In this context discussions about a level playing field are really almost immaterial, if not surreal.

Moreover, the majority of our people has little understanding of the important distinction between the ruling party and the State. Those in government are constantly emphasizing the political party over the State, indicating that it is the ruling party which "delivers" services and benefits to the people, rather than the State. Programs of the State are projected as having been delivered by the political party. The end result is that many people really believe their pensions, housing grants, or other benefits they receive from the State as a matter of legal entitlement, and are instead given to them as an element of delivery from the political party in power, if not from the party leader, the President. The mind set is that, because of its control of the State, the political party renders services to the people and therefore the people are expected to confirm those in power through their votes.

In certain African countries we have seen how this mind set affects also those in power as they plot the selective provisions of State services to the exclusion of constituencies which are opposed to the ruling party, which further convinces people that in order for them to continue to receive the benefits they enjoy, they must support those who provide them, who are those in power. Unfortunately, incipient signs of this practice are developing even in South Africa, where, because of its political affiliation, my own constituency often does not receive the same services or

opportunities from the State as members of the ruling party, especially in the field of State procurement. We have witnessed this phenomenon clearly occurring on a mass scale in Zimbabwe, where people felt that they had no choice but to vote for President Mugabe's political party.

Zimbabwe is an important case study which shows how talking about a free and fair election, merely considering the election day or the weeks preceding it, is meaningless. In that country, the action of the State/ruling party establishment was so overwhelming in convincing the electorate to support the existing government under threats of suffering one way or the other, that whatever happened on the election day is irrelevant as the process was already flawed by the intimidation which took place in the preceding years. We need to develop a new notion of fairness of elections which does not only look at the tail end of the electoral process, but rather takes into account the entire relationship between political parties, State apparatus and the electorate. If there is no underlying accountability and, in its mind and soul, the electorate is not really free to choose whoever they want, the election is not free. If the State is not independent and is not seen to be independent by the voters, or is identified with a political party within the framework of a one-party State, no election can be free and fair, irrespective of how well it is conducted.

As the former Minister of Home Affairs I sought an opportunity to break the process of concentration of power, which usually leads to a one-party State. I had hoped to promote legislation creating a strong constituency system, a much stronger one than the German one, so as to empower and free elected representatives and re-establish the centrality and primacy of the legislature branch over the executive. However, in spite of the recommendation of the Electoral Task Team, this suggestion was discarded outright. I remember that when I launched the work of the Electoral Task Team, I pointed out how the drafting of electoral law is somehow an anomaly, because it is a stage in which politicians write by themselves and for themselves, their contract with the electorate. Members of Parliament should almost be disqualified from writing and passing an electoral law, which should rather be formulated by organs of civil society.

This consideration confirms the need for the elements of an electoral law to be spelt out as much as possible within the constitutional framework. However, this was not done in South Africa, nor in most other African countries. As a consequence, South Africa is moving at a fast pace towards an ever-increasing concentration of power in the hands of a few leaders, operating at the top of the political system, with no possibility of their being challenged by their backbenchers or the electorate. Even though we have

differentiation within governance because we have nine Provinces which are presided over by Premiers and governed by provincial legislatures, effectively we have a unified political system with no checks and balances. In fact, even if our Constitution makes Premiers accountable to their electorate, as a matter of political materiality, they are accountable to the President. This is reinforced by the President having established a President's Council in which he convenes the Premiers, and by existence of an intricate system of inter-governmental relations in which Provinces are told what to do and receive their marching orders by each of the national Government's Department and Ministers. All this is backed by a unified sense of policy formulation which emanates out of the central organs of the ruling party which dictate uniform rules to all the political structures for them to control organs of State at the national and provincial levels alike.

In the past ten years South Africa has seen an increased concentration of power, which I fear is far from having reached its conclusion. The pernicious nature of this concentration of power is enhanced by the ruling party effectively controlling the two-thirds majority required to amend the Constitution. One must wonder what, in this process, is cause and what is effect, and whether, in fact, this concentration of power is not the product of the flaws within the electoral systems. When dealing with issues of democratic

consolidation in Africa, great emphasis has rightly and justly been placed on empowering the majority of the people. Yet, the greatest test of democracy is not merely in empowering a majority, but it really lies in a victorious majority peacefully relinquishing power to another majority, which has been able to be formed through the dynamics of issue and opinion-based politics.

While, through elections, most African countries have ever successfully empowered a victorious majority, they have not yet passed the test of producing a viable democratic alternative in which democratic change empowers a different and alternative majority. This has not yet happened in South Africa and the conditions are such that one may wonder whether it may ever happen in our lifetime. In the past years, I have dedicated my efforts to creating a democratic alternative, which would enable our electorate to have the option to choose between two or more political parties, which are equally viable and capable to form a majority in the future. The choice I made in promoting a political alternative to the ruling party is closely connected to the fact that I am no longer a member of Cabinet. I have no regrets about it. I felt that, irrespective of the personal cost, it was my obligation to pursue the cause of democracy to which I have dedicated so much of my efforts during my past fifty years of public life.

The struggle for democracy in South Africa continues and now more than ever requires a contribution of the many friends of democracy around the world. South Africa could count on the friends of democracy when it struggled for its freedom from the yoke of colonialism and apartheid. We must now count again on the friends of democracy to rally behind those who are trying to produce regular democratic dynamics. For this reason, I hope that the dialogue between the friends of democracy in South Africa, and the friends of democracy in the rest of the world, may continue to be as strong as my dialogue the Konrad Adenauer Foundation has been for the past thirty years.

I thank you.
