

**MAKING MEANINGFUL ELECTORAL
CHOICES:
Reviewing current debates on
reforming South Africa's electoral
system**

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

(Nelson Rolihlahla Mandela)¹

1. INTRODUCTION

This paper was commissioned by the Friedrich-Ebert Stiftung (FES) with the aim of contributing to, or resuscitating, the debate about electoral systems reform in South Africa. To this end, the Centre for Policy Studies (CPS) made a commitment to produce a paper/report that aimed to achieve the following objectives:

- Reconsidering and enhancing the quality of public debate on an appropriate electoral model for South Africa.
- Providing better clarity on the nature of available electoral models and their relative advantages and disadvantages.
- Conducting a review and synthesis of the different electoral models as they have been proposed.
- Providing a comparative dimension from places in which a mixed system is in use.
- Producing a report summarising the different proposed options with an in-built comparative dimension.
- Incorporating relevant inputs to the workshop, infusing them into a workshop report.
- Publicising and disseminating the final report to key stakeholders and other interest groups in South Africa.

In pursuit of these ambitious and perhaps even lofty goals, the paper first adopts a conceptual approach in its examination of the objectives and rationale for electoral systems reform in general, and as they pertain to South Africa in particular. It interrogates possible

options for electoral system reform by surveying some of the relevant literature and by summarising the 2003 report of the Electoral Task Team (ETT). It examines, albeit briefly, international trends and the German model. Finally, the paper recommends a mixed electoral system as the most appropriate compromise between the current proportional representation (PR) electoral system and different variants of constituency-based systems.

2. OBJECTIVES AND RATIONALE FOR ELECTORAL SYSTEMS REFORM IN SOUTH AFRICA: A CONCEPTUAL APPROACH

The enhancement of the democratic experience in democratic countries is an ever-present imperative. In all jurisdictions where the need for electoral systems reform has arisen, there is probably no disagreement with regard to the goal of deepening this experience for electors and other citizens. However, differences occur when it comes to particularising conceptions of the democratic experience. Debates over electoral systems reform are, therefore, not only about particularising this experience, but are also about foregrounding preferred alternatives and options that, from a subjective perspective, should contribute to the creation of what approximates an ideal democratic experience. In other words, the expression of a preference for a particular electoral system coincides with conceptions of the extent to which such a system has the potential to deepen the subjective experience of democracy. It is here that convergence between different sections of the citizenry and the electorate with regard to transversal (cross-cutting) motives mutates into divergence over which electoral system will best represent the most appropriate disaggregation of such motives - a disaggregation that will lead to the adoption of the preferred electoral system.

This understanding of the rationale for electoral systems reform refers only to the formal or institutional realm of politics. What must be borne in mind - as will be argued later - is the possibility that sections of the electorate may withdraw from the electoral process if the relationship between an electoral system and electoral outcomes seldom or never produces results in line with subjective electoral desires. In such a case, we cannot preclude the possibility that such sections of the electorate may withdraw from the formal or institutional realm of politics and become active participants in the non-formal realms. The non-formal realm, or the 'non-political'² sphere, which includes social movements, may

¹ Former president of the Republic of South Africa, Nelson Mandela, said this at the last sitting of the first democratically elected parliament on 26 March 1999. See

<http://www.anc.org.za/show.php?doc=ancdocs/history/mandela/1999/nm0326.html>

² For a full discussion of the difference between the political and non-political domains/ realms, see

come into conflict with the formal, or even attempt to supplant it as the legitimate locus of political engagement. It is in this context that the rules and institutions of the formal realm of politics may come under attack in ways that are not always reformist in content.

What, therefore, are some of the drivers of institutional change or re-design pertaining to the reform of electoral systems? According to Norris "institutions have the capacity to experience a radical breakdown following shocks to their external environment. In Krasner's model of 'punctuated' equilibrium, institutions are characterised by long periods of stasis, which are interrupted by intermittent crises, which may bring about abrupt change, after which inertia again reasserts its grip."³ Also, "Where radical reforms are implemented these may produce unexpected results. For example the widespread adoption of primaries in the United States in the late sixties produced unintended consequences, or failed to achieve their initial objectives."⁴ The question is: is South Africa is going through an institutional crisis in which negative outcomes would necessitate a review of the current electoral system?

But Norris further argues that electoral systems reform results also from the "awareness that electoral rules are not neutral: the way votes translate into seats means that some groups, parties, and representatives are ruled into the policymaking process, and some are ruled out. The core debate concerns whether countries should adopt majoritarian systems which prioritise government effectiveness and accountability, or proportional systems, which promote greater fairness to minority parties and more diversity in social representation."⁵ How does the "awareness that electoral rules are not neutral"⁶ translate into forms of electoral behaviour, and how do groups that are, or who perceive that they are, being 'ruled out' of the policy process respond? This is a very pertinent question for the debate about electoral systems reform in South Africa. Because the country has held only three general elections since the advent of democracy in 1994, no data is available that would constitute a scientific answer to this question. To the extent that an answer is available, it relates to unhappiness among citizens with regard to 'floor crossing', a subject that is discussed later in the paper. For the moment, therefore, the answer lies not in the domain of the empirical but of the theoretical. We can hypothesise in two directions: first, citizens who believe that electoral outcomes are never representative of their preferences are likely

S. Hall, Deviance, politics, and the media in *The Lesbian and Gay Studies Reader*, H. Ablove, M.A. Barale, D. M. Halperin (eds), Routledge, London, 1993, pp 62–91.

³ P. Norris, Choosing electoral systems, proportional, majoritarian and mixed systems, *Contrasting Political Institutions, Special Issue of International Political Science Review*, Vol 18(3), July 1997, p 298.

⁴ *ibid.*

⁵ *ibid.*

to call for electoral system reform. Second, they might withdraw from electoral processes in protest.

In South Africa, the 1994, 1999 and 2004 general elections have been consistent with regard to a coincidence between race, on the one hand, and voting patterns and electoral outcomes on the other. Since 1994, the official opposition party, (New National Party in 1994, Democratic Party in 1999 and Democratic Alliance in 2004) has been a political party supported by the majority of the white electorate, while the ruling party - the African National Congress (ANC) - has received the support of the majority of black voters. Furthermore, the share of opposition parties as a block in the vote for National Assembly seats has been dwindling in direct proportion to the increase in the ANC majority.⁷ In this context, the South African political landscape can be described in terms of single-party dominance. It can, therefore, be assumed that supporters of opposition parties, especially the small opposition parties, feel 'ruled out' of the policy process. Because of South Africa's history of colonialism and apartheid, the inclusion-exclusion dynamic is experienced or perceived mainly, but not exclusively, in racial terms. Since this dynamic disadvantages minorities, the possibility is that they will either:

- be supportive of electoral system reform that leads to the adoption of a system in which electors vote for candidates, as opposed to partisan voting for political parties, or
- pragmatically opt for a mixed system in which they vote for political parties and candidates in constituencies/districts/regions.

The worst-case scenario is one in which minorities disengage from electoral processes. Such disengagement, however, might not result from unhappiness with the electoral system, since it is possible for voters to be unhappy about the predictability of electoral outcomes, which to them are negative, while not making a direct connection between these outcomes and the electoral system. What this means is that there may objectively be a direct relationship between a particular electoral system and electoral outcomes which, at a subjective level, citizens may not be aware of. This goes to whether the electoral conduct of, and the choices made by, citizens are linked to knowledge about electoral systems. This question will be dealt with in later sections of this paper.

⁶ Op cit P. Norris, p 298.

⁷ In the 1994 general election, the opposition parties collectively won 37 per cent of the vote, 34 per cent in 1999, and 30 per cent in 2004. See the results subdirectory at: <http://www.elections.org.za/>

In South Africa, the question is whether differences about electoral system reform are driven by knowledge of the current and other electoral systems, or whether they are influenced by perceptions, or the reality of, the internal contradictions of the current system.

Therefore, another way of looking at the rationale for electoral systems reform is in terms of the perceived or real weaknesses of an extant system. In the case of South Africa, Chiroro⁸ argues that the weaknesses are as follows:

- MPs are not accountable to individual voters and voters are alienated from their MPs.
- The above problem is exacerbated by the floor-crossing legislation introduced to a closed list PR system, which gives MPs carte blanche to change their political allegiance without voter endorsement.
- Too much power is placed in the hands of the party leadership when it comes to compiling the party lists.
- This lack of accountability can potentially undermine stability in the country, especially considering the challenges of deepening poverty and poor service delivery at the local level.

The last point relates to the possibility of electors withdrawing from electoral processes not because they are unhappy with the electoral system or the outcome of elections. It is possible for electors to withdraw despite the fact that electoral outcomes reflect their partisan political party preferences. If these partisan political party preferences do not produce a relationship between electoral outcomes and policy preferences which results in the betterment of socio-economic conditions, it is possible that even supporters of a dominant political party may withdraw from electoral processes.

Chiroro, therefore, is pointing to two weaknesses:

- South Africa's electoral system undermines the need for those who govern to be accountable to those who are governed.

- In a procedural sense, democracy has been consolidated in South Africa but socio-economic conditions for many citizens represent the gap between substantive and procedural dimensions of democracy.

This raises two further questions:

- 1) Which electoral system(s) has/have the potential to enhance or guarantee accountability?
- 2) Can an electoral system ameliorate the socio-economic conditions of a country?

The report of the ETT points out that, "although it is common cause within the ETT that an electoral system may encourage, but cannot ensure, accountability, with very few exceptions a lack or perceived lack of accountability was identified as a problem in the current system."⁹ The ETT is here reflecting some of the submissions made by stakeholders in their interaction with them. This position is not inconsistent with Chiroro's analysis. But the view of the ETT, which is that an electoral system may 'encourage', but cannot guarantee, accountability suggests we have to look elsewhere in a democratic order, and only partially from an electoral system, for sources of accountability. The electoral system is, therefore, but one factor among several that have the potential to enhance the democratic experience; the amelioration of socio-economic conditions of citizens is another.

In a country such as South Africa, no amount of tinkering with the electoral system will suffice if there is a disjuncture between the material conditions of citizens and the promotion of democratic and human rights. In South Africa, the extent to which the promise of 'a better life for all' translates into reality will determine the extent to which confidence is maintained in what democracy can deliver. According to Boron, the consequence of a deficit between democratic rights and the socio-economic conditions of the majority "is a weakened democratic regime, where democratic arrangements are increasingly perceived as

⁸ See B. Chiroro, Electoral system and accountability: options for electoral reform in South Africa. Policy Paper No 3, Konrad-Adenauer-Stiftung, January 2008, p 12.

⁹ Report of the Electoral Task Team, Cape Town, 2003, p 7.

political rituals deprived of any relevance to the everyday life of the citizenry.”¹⁰ Furthermore, Boron argues that “the popular devaluation of democracy goes hand in hand with an analogous downgrading of politics, seen as a selfish game played by professional and corrupt politicians and wealthy and powerful notables with total disregard for the common citizen.”¹¹

It is for this reason that the possible link between current debates over electoral systems reform and political infighting in the ruling ANC should be examined.

Since June 2005 the ANC has been wracked by internal divisions and tensions. In the words of a 2007 ANC discussion document: “Across the organisation and the broad democratic movement, there is a growing tendency to carry out dirty character assassination and dissemination of lies about other comrades has reached uncontrollable proportions,”¹² and “The battle for access to power and resources is becoming the primary driving force behind most of our conferences and list processes. The factional and sectarian mobilisation that precedes some of the conferences of the ANC and other democratic movement formations undermines the very democratic culture and revolutionary traditions of the Congress movement.”¹³ These internal ANC battles have extended to the state because some of those deployed by the ruling party to the state have found themselves on opposing sides of these internal party political battles. Because these battles were driven primarily by the contest for the presidency of the ANC in 2007, and because the single-party dominance of the ANC produces a head of state who can only come from the ranks of the ANC, the impact of the leadership battle on governance has raised issues on whether the country should entertain the idea of having direct presidential elections in which the votes of electors would have more weight than the preferences of a dominant ruling party or ruling party elite. This question has gained even more currency with the resignation of President Thabo Mbeki and the split of some members of the ANC in response to the decision of the National Executive Committee of the party to recall Mbeki and the subsequent installation of Kgalema Motlanthe as head of state. It is possible that Barney Pitso Moseneke was responding to this ANC imbroglio when he said:

¹⁰ A. A. Boron, State decay and democratic decadence in Latin America, in *Global Capitalism versus Democracy*, *Socialist Register* 1999, L. Panitch and C. Leys (eds). Monthly Review, New York, 1999, p 217.

¹¹ *ibid* p 217.

¹² Towards the centenary of the ANC, a strategic agenda for organisational renewal, discussion document on the organisational review, ANC, March 2007, Johannesburg, p 21.

¹³ *ibid* p 21.

From what I can observe it is not far fetched to believe that South Africa could elect via the ANC a despotic and authoritarian leader masquerading as populist. Citizens have much to fear from our democracy today. There is a danger that unless we remain vigilant, we take responsibility for our future and we direct the course of our history as subjects and not mere objects of history, we will derive the democracy we deserve. Part of the maturing of our democracy must surely mean that we need to revisit our electoral system. We need a system that elevates the elector more than the party, a democracy that trusts its people to express their own free will directly not via a party list. With the gathering clouds of Polokwane 2007, South Africans must surely be taking a fresh look at their democratic options. We must demand a new electoral system so that we can become masters of our own fates.”¹⁴

It may or may not be the case that the dominance of the ANC is seen as a function of the PR system. But it may be the case that direct presidential elections are seen as one of the ways to mediate the inordinate power of the ANC in determining the choice of head of state. In response to calls for direct presidential elections and the adoption of a constituency-based system, the ANC says it “chose this proportional representation system so that all our people benefit. Without it we could have wiped out minorities from our country.”¹⁵ Furthermore, argues the ANC,

From our observation world wide on the application of constituency based electoral systems, it seems the constituency based electoral systems are applied in largely homogeneous societies - such as those of Britain, New Zealand, Canada, and USA. Have we evolved through the NDR to the point that we can claim to have nearly reach[ed] homogeneity? The ANC believes in proportional representation precisely because it seeks to take into account the various national groups and demographics of our country.¹⁶

However, other reasons for electoral systems reform - reasons which may lie beyond the South African experience while reflecting aspects thereof - have been advanced. These are related to the functions and/or objectives of electoral systems. Chapman posits the objectives of electoral systems as follows:

The electoral system is the means by which the electors exert control over the government. Thus the main objectives are to achieve both equity and efficiency in government, in other words, (1) to produce a government which is equitably responsive to all sections of the electorate, and (2) to enable this government also to be stable and effective. Thus the electoral system should provide incentives to the parties such that the government they form

¹⁴ B. Pityana, “The state of our democracy in South Africa: of mice and men: on being a citizen in a democratic South Africa,” a speech delivered at the 10th anniversary celebrations of the Independent Electoral Commission, 3 August 2007, Gallagher Estate, Midrand, p 12.

¹⁵ See <http://www.anc.org.za/ancdocs/anctoday/2008/at42.htm#art1>, ANC Today: Online Voice of the African National Congress, Volume 8, No. 42, 24–30 October.

¹⁶ Ibid.

is responsive not merely to a majority of electors, but to all electors. There should be no disregarded minority, whose needs the government ignores. Each section of the electorate should have equal influence with the government, and get equal treatment from it. At the same time, these incentives to equal treatment should be provided in such a way as still to enable the government to be stable and effective.¹⁷

Chapman comes to the conclusion that:

If the first objective is to be achieved, that of government responsiveness to all, then the electoral system should be a consensual one, that is, it should be such as to give each potential government party the incentive to seek the votes of, and respond in its policy equally to, each section of the electorate. In other words, these potential government parties should converge on a consensus policy, responsive to and acceptable by all sections. This is obviously the case if the electoral system is one which tends to produce single-party government. For then any party which might get elected as the sole government party should be, not a sectional party attached to the interests of one segment of the electorate, even a majority segment, but instead a party which is responsive to all sections, drawing its votes from all sections, and as far as possible acceptable to all.¹⁸

This postulation of the objectives of an electoral system is pertinent to heterogeneous societies such as South Africa. It offers the possibility of an effective mediation of cultural, ethnic, racial, class, gender and other areas of divergence in such societies. However, Chapman's idea of an ideal electoral system raises critical questions with regard to the considerations that should govern the adoption of a particular electoral system - questions such as:

- Can any electoral system satisfy the needs of all electors and citizens?
- Is there not a need to distinguish between the imperative of satisfying the needs of all citizens and that of satisfying the needs of all sections of society? This in effect would be in recognition of the fact that different sections in society or sectoral interests are sub-sets of the over-arching interests of all citizens. The ideal electoral system must, therefore, be responsive to both transversal and sectoral interests. The question is whether such an electoral system is within the bounds of possibility.
- For the specific conditions of South Africa, what would constitute a consensual electoral system?

¹⁷ D. Chapman, A review of consensual electoral systems, 8 February 1998. Pre-publication version to be found at: <http://www.democdesignforum.demon.co.uk/ConsensualESS.html>, accessed 2008-08-16; p 2 of 19.

¹⁸ *ibid*, p 3 of 19.

On the other hand, Bogaards adopts a 'party-system functions' approach to dealing with the role, functions and objectives of electoral systems. He argues that three party-system functions flow from the fact that political parties "link society and government", namely the aggregation of social cleavages, the translation of social cleavages into political cleavages, and blocking the politicisation of social cleavages."¹⁹

We argued earlier that under the current South African electoral system, the results of the past three general elections have produced a consistent coincidence between race and electoral outcomes. During the struggle against apartheid, race was a primary, and today still remains a significant, social cleavage. In fact, race is still a dominant part of debates on the 'national question'. The coincidence between race and electoral outcomes reflects a minority-majority dynamic in which whites constitute a significant minority and blacks a significant majority. However, in terms of electoral behaviour the so-called Indians and coloureds have become significant minorities too. Racialised conceptions of minority interests, therefore, include the interests of whites, Indians and coloureds. However, debates about electoral system reform in South Africa must take into account both inter-racial and intra-racial dynamics. In other words, they must take into account the fact that there is both a convergence and divergence of interests within and across minority groups. Besides, there are times when such a convergence and divergence of interests occurs within minority groups or majority groups, and also between minority and majority groups. This means that other social cleavages, such as class and gender, should also assume the appropriate level of significance in debates about electoral system reform in South Africa.

Clearly, a party system and electoral system which maximise the possibilities of preventing 'social cleavages' from becoming 'political cleavages' would be the most appropriate for South Africa. In a discussion about options and models for electoral systems reform in later sections of this paper, an argument that links the relationship between particular party system functions and the choice of electoral system will be advanced.

On the other hand, Chiroro lists three of her own reasons behind electoral systems reform in southern Africa. For her, "post-conflict political settlements, political crises and political grievances"²⁰ are the main reasons behind electoral systems reform movements.

¹⁹ M. Bogaards, Electoral systems, party systems and ethnicity in Africa, in *Votes, Money and Violence; Political Parties and Elections in Sub-Saharan Africa*, M. Basedau, G. Erdmann and A. Mehler (eds). UKZN press, Scottsville, 2007, p 169.

²⁰ Chiroro, Op cit p 7.

In South Africa, as preceding sections of this paper have argued in different ways, the main reasons seem to be those linked to 'floor crossing', perceptions of a democratic and social deficit, and internal instability within the ruling ANC.

Another way of dealing with the rationale for electoral systems reform is by addressing the question whether an electoral system promotes 'sincere' voting or 'strategic' voting. The issue is: does the institutional context, or more specifically, the electoral system, determine the choices made by voters? Is the electoral system a predictor of voter behaviour? According to Klingemann and Wessels, voters "must be able to relate their preferences to the political supply-side, that is, to what parties and candidates have to offer."²¹ They further argue that sincere voting must be defined as "the possibility to maximize individual utility without compromise."²² But they contend that, according to the results of electoral research, "individual motivation and thus individual utilities are often quite complex."²³ This means that there are times when voters do not or cannot vote sincerely. At such times, they make electoral choices that are inconsistent with the objective of maximising individual utility. This may occur, for instance, when a South African voter who supports a small opposition party votes for a bigger party in the belief that a vote for the smaller party would be a wasted vote, given the small opposition party's slim prospects. In such a case, the voter would be casting a strategic vote. This boils down to whether there is a relationship between electoral systems, on the one hand, and sincere or strategic voting on the other.

At the end of the day, the question is: does any electoral system possess qualities and characteristics which inherently promote or undermine the deepening of democracy? Since such a deepening of democracy is at times articulated in terms of the imperative of ensuring that public representatives become more accountable to electors, a narrower variant of this question relates to whether any electoral system inherently promotes or undermines this goal.

²¹ H-D. Klingemann and B. Wessels, Voter rationalities in different electoral systems, Paper prepared for the International Political Science Association Meeting (IPSA), Panel SS 04.4: Selected Issues of Voting, The Comparative Study of Electoral Systems (CSES), Quebec, 1–5 September, 2000, p 1.

²² Ibid.

²³ Ibid.

In addition, questions must be asked about whether values and principles exist which correspond more to certain electoral systems than others in ways that render such electoral systems more desirable as options. Alternatively, is the desirability of an electoral system contingent on a hierarchy of values and principles, and the position occupied by the most preferred of such values and principles in that hierarchy? This question will be dealt with in the section on the South Africa-specific debate on electoral systems.

Whatever the answers are, these questions point towards another rationale for electoral systems reform, that is, the accommodation of different interests in society through effective representation. It may, in fact, be that all the rationales discussed above are reducible to that of effective representation. But there is a need to sufficiently appreciate the limitations of representation as a value. Beyond representation must lie another value - responsiveness. According to Chapman, "the fact that each segment of electors is represented in the legislature by its own party, even if the party gets seats in exact proportion to its votes, does not ensure these electors equal treatment. Like patriotism, mere representation is not enough. What matters to these electors is that the government parties should be responsive to them, and being represented by an opposition party clearly does not ensure this."²⁴ What flows from this is the possibility that the existence of responsiveness as a democratic indicator represents an electoral environment that best delivers conditions for effective representation. This raises two broad issues worthy of further consideration:

- All or the main sections of society may be represented through proportional representation, but it may not necessarily be the case that their interests and needs are sufficiently accommodated.
- The interests and needs of those who vote for opposition parties may not be accommodated, notwithstanding the fact that such opposition parties have won seats.

As indicated earlier, the principle of accountability has featured prominently in the South African debate. In a discussion of the link between the accountability of public representatives and the representativeness of electoral systems, the ETT report says it (the ETT) "had repeatedly to stress the distinction between an electoral system that produces representatives, on the one hand, and the subsequent behaviour of such representatives as

²⁴ Chapman, Op cit, p 3 of 19.

far as accountability is concerned, on the other. The point was emphasised that no electoral system can compel an elected representative to behave democratically, take care of a constituency or party responsibilities, or be a disciplined, dedicated member of parliament. In so far as these issues may relate to accountability, additional measures, policies, rules or regulations are needed to operate alongside or parallel with an electoral system.”²⁵ If the broad thrust of this proposition is rebuttable, it may be argued that an electoral system should be adopted that allows electors to remove representatives who are not accountable. This rebuttal is, however, not completely sustainable because the removal of such a representative illustrates an internal or inherent weakness in the ability of that particular electoral system, or even electoral systems in general, to compel representatives - in relation to the principle of accountability - to perform at a level of outcomes that are deemed to be the ideal democratic outcomes by a suitably representative portion of the electorate.

The challenge this poses for South Africa is that of adopting an electoral system model that is the least imperfect in this regard, and, therefore, one that is representative of, and responsive to, the needs of different sections of society.

3. THE ELECTORAL SYSTEM REFORM DEBATE IN SOUTH AFRICA

Some of the issues pertaining to this debate in South Africa have been covered in preceding sections of this paper. It was argued that:

- South Africa’s PR system alienates the voter/citizen from parliamentary representatives since it is through the political party list that they get seats in the legislature.
- Parliamentary representatives are accountable to political parties at the expense of accountability to the electorate.

As already stated, the principle of accountability features prominently in debates about electoral system reform in South Africa. According to Chiroro the following questions flow out of the debate:²⁶

²⁵ Report of the Electoral Task Team, Cape Town, 2003, p 9.

²⁶ Op cit, Chiroro, p 13.

- Is it possible to introduce direct accountability into an electoral system?
- What kind of accountability does a particular electoral system provide and how does it do so?
- Would a change in electoral system alone enhance accountability without other broader measures to enhance public involvement?
- How has the mixed (FTPT and PR) system used at local government level fared in ensuring accountability and efficient service delivery?
- Has the present PR system fulfilled the core values of inclusiveness and transformation?
- Does South Africa need a new electoral system; **what do the people say** (own emphasis)?

These questions are raised with the aim of stimulating further debate, as it is not assumed that the arguments at the end of the preceding section are sufficient.

3.1 The current electoral system

A more cogent argument is partly contingent on understanding South Africa's current electoral system. To this end, Ndletyana contrasts the South African closed-party list PR electoral system to the open-list variant and constituency-based systems as follows: "The country may be divided into multi-member constituencies, or just one big constituency (as in SA) and the number of seats a party gets depends on the percentage of electoral support. Parties draw up a list and this may either be open or closed. In a closed party list [as in South Africa], voters simply vote for the party, which has ordered the names of its party officials according to its own preferences. In an open list, [voters] vote [for] the candidates in the order of preference."²⁷

²⁷ M. Ndletyana, South Africa's electoral system: public good or power mongery? Paper delivered at the 'Multi-stakeholder conference: reflections on the state of electoral democracy in South Africa', The Forum, Bryanston, Johannesburg, 8–10 October 2007, p 11.

3.2 The Electoral Task Team

In January 2003 the ETT published its report. The ETT, which was tasked by the South African government with making proposals for electoral system reform, was chaired by Frederik Van Zyl Slabbert. A summary of the ETT's report follows.

The ETT report captured the critical issues emerging from the task team's interaction with the submissions of different stakeholders thus:

First of all, the advantages of the current electoral system - fairness, inclusiveness and simplicity ... should not lightly be interfered with. Secondly, the need to introduce greater accountability into democratic politics and the role electoral systems can play in this regard. Views on this ranged from there being no role for electoral systems in accountability, through electoral systems having some contribution to make, to electoral systems having an absolutely essential role. Proponents of the latter two views felt that some form of constituency system (over and above the current nine provinces²⁸ each being a constituency) needed to be combined with a proportional representation system. Opponents, on the other hand, emphasised the danger of becoming so obsessed with electoral accountability as to undermine the obvious advantages of the current system.²⁹

Chiroro amplifies the sentiments of those in favour of introducing some kind of constituency-based system to South Africa's electoral system as follows:

South Africa is moving beyond a mere electoral democracy towards a more substantive democracy where matters of service delivery and poverty reduction are at the core. It requires an electoral system that will facilitate voter accountability so that MPs can be taken to task by their constituencies if they fail to deliver.³⁰

To test these views and the electoral system preferences linked to them, the ETT commissioned research to elicit the views of citizens. The research findings were presented by Professor Roger Southall and Dr Robert Mattes to a conference organised by the ETT. In its

²⁸ No evidence has been found in the Constitution, legislation, or in how the current system is being operationalised, which supports the view that the nine provinces should be regarded as constituencies in the conventional sense in which this term is applied. This, however, may be a function of misinterpretation on my part.

²⁹ Op cit, electoral task team, p 7.

³⁰ Op cit, Chiroro, p 12.

report, the ETT avers that “Delegates were left in no doubt that there was a very high level of satisfaction with the current system.”³¹ These are the key research findings:³²

- 74% of the voters were satisfied with the way “we elect our government”.
- 72% felt that the current system was “fair to all parties”.
- 81% that it ensured “we include many voices in parliament”.
- 76% that it gave voters “a way to change the party in power”.
- 68% that it helped voters “hold the parties accountable for their actions”.
- 71% said they wanted to vote for a candidate from the area where they lived.
- 64% that MPs should “live close to the people they represent”.
- 53% that party candidates should be chosen by party members rather than party leaders”.
- 80% of the respondents declared a clear intention to vote in 2004.

What flows out of these findings?

- Values and principles such as accountability, fairness and inclusiveness are important to South African voters.
- The approval rating of the current system seems very high, but there seems also to be significant support for the introduction of some kind of constituency-based representation.
- It seems that the majority of voters do not intend to disengage from the electoral process yet.
- It is, however, not clear whether - maybe even doubtful that - the high approval rating for the current system is based on a knowledge of electoral systems. It is not clear whether the South African voter knows what may be alternative electoral systems.

What did the political parties say? The following came out of submissions made to the ETT by political parties:³³

- All parties were in favour of some system of proportional representation.
- The African National Congress, African Christian Democratic Party, Afrikaner Eenheidsbeweging, Freedom Front, New National Party and the United Christian Democratic Party were in favour of retaining the current system.

³¹ Op cit, electoral task team, p 8.

³² The figures given here are all cited in the ETT report.

³³ Op cit, Electoral Task Team report, p 10.

- The Democratic Party (precursor to the Democratic Alliance), Federal Alliance, Inkatha Freedom Party, Pan Africanist Congress and the United Democratic Movement were in favour of a multi-member constituency system.
- The Azanian People's Organisation preferred a 50:50 split of National Assembly seats between a constituency-based system and proportional representation.

If the sentiments of these political parties are anything to go by, it seems that a compromise position can be found in a variant of the mixed-member proportional (MMP) system such as the one used in countries like Germany, New Zealand and Mexico.³⁴

As might have been expected, the members of the ETT could not find consensus on a common position. As a result, the report consists of two sets of recommendations, namely, "Majority recommendations for a preferred electoral system for South Africa," and "Minority recommendations for a preferred electoral system for South Africa." The majority recommendations revolved around the view that the current electoral system should accommodate "a larger measure of constituency representation,"³⁵ while the minority recommendations proposed retaining the current system. What must be borne in mind is the fact that the 'majority recommendations' and the 'minority recommendations' do not necessarily represent the current distribution of electoral system reform preferences within South African society, since a different composition of the ETT could easily have produced a different configuration of the majority and minority positions. This caveat should not be construed as a suggestion that the composition of the ETT was loaded with the intention of producing a particular and predetermined majority-minority dynamic.

Notwithstanding the differences between the minority and majority recommendations, the two groups agreed on the following:³⁶

- The core values/principles should be reflected in the electoral system.
- A preoccupation with accountability should not jeopardise the values of fairness, inclusiveness and simplicity.

The current electoral system should not be replaced or radically altered.

Implicit in the argument about a 'preoccupation with accountability' is the caveat that there should not be a hierarchy which ranks the values that should inform the choice of an electoral system according to a preferred order of importance.

³⁴ The MMP system is a mixed system in which the choice expressed by the voters is used to elect representatives through two different systems – one list PR system and (usually) plurality/majority – where the list PR system compensates for the dis-proportionality in the results from the plurality/majoritarian system. Source: International IDEA – www.idea.int/esd/glossary.cfm

3.2.1 The majority recommendations

For the majority, their recommendations turn on the view that “the current electoral system is already a mixed proportional system where at least half the representatives are elected from nine regions (provinces) or constituencies, which are clearly defined geographic areas.”³⁷ Because of this, “the majority proposes multi-member constituencies together electing 300 members of the National Assembly and a compensatory closed national list providing 100 members. This they recommended in the belief that their “proposal corresponds generically with the current system except in that the present nine multi-member constituencies (regions/provinces) would be expanded to some 69. (In accordance with the relevant formula, there would be approximately 69 multi-member constituencies if the present distribution of population in municipalities were taken into account. The final demarcation might result in one or two constituencies more or fewer).”³⁸ The majority believe that, ultimately, the question that must be asked about any proposed electoral system is whether it constitutes a significant improvement on the current system. They argue that their proposal “complies with this injunction. It is also common cause that an electoral system cannot resolve the problem of political accountability. But can one electoral system make a greater contribution than another? The majority is persuaded that it can, and that its proposal makes significant progress towards this end.”³⁹

3.2.2 The minority recommendations

The minority understood the *raison d’être* of the current system in the following terms: “The present system was agreed upon in 1993 as the most appropriate one to take South Africa through the transition from an oppressive and divisive form of government into a true democracy. Representatives from the whole spectrum of South Africa’s politically, socially, racially, ethnically and religiously divided society agreed on this system. They saw it as

³⁵ For a full account of the majority position, read pp 12–31 of the ETT report, and pp 62–73 for the minority recommendations.

³⁶ *Op cit*, Electoral Task Team report, p 12.

³⁷ *Ibid*, p 21.

³⁸ *Ibid*.

³⁹ *Ibid*.

supporting reconciliation, nation-building, the pursuit of peace and stability, and the radical social and political reforms that had to be undertaken in the course of this process.”⁴⁰

Further, the minority argued that they had taken into account “the degree of public acceptance that the present system enjoys and the protection it provides small parties.” However, two things need to be noted: first, support by small parties - as seen earlier in this paper - for either the majority or minority position straddles the majority-minority divide. Second, public acceptance should not always be a guiding principle because were such a logic to hold sway, it would not have been possible to enshrine gay rights and the right to life in the South African Constitution since the majority of citizens seem - on cultural, religious and other grounds - to be opposed to these constitutional provisions. In short, the debate on electoral system reform should not be governed by a logic of narrow majoritarianism.

The following are some of the objections of the minority to the system proposed by the majority:⁴¹

- Constituencies for a national legislature cannot rationally or logically be demarcated on the basis of existing local government boundaries.
- The proposed system will negatively affect simplicity.
- The proposed system will thus make electoral administration and party participation in elections much more complicated without bringing the representational benefits of a properly demarcated and regulated constituency system where representatives are elected from the constituency for the constituency.
- The proposal does not enhance accountability between elections.
- The proposal will water down the ability of parties to have more representative lists because of the constituency element.

⁴⁰ *ibid*, p 66.

⁴¹ *ibid*, pp 68–70.

The minority report concludes that "The present electoral system was introduced primarily to ensure the promotion of political diversity within our legislatures, and broad political representation. These are not short-term goals which can be attained overnight."⁴²

While this argument is not without merit, the question must be asked whether there is not the danger that the social, political and other 'cleavages' imposed on South Africa by the apartheid system will be reinforced in post-apartheid South Africa if the PR system becomes a permanent feature of the political landscape.

4. INTERNATIONAL TRENDS

The choice of an electoral system must be informed to some extent by the experiences of other countries with regard to electoral systems reform. To this end, it is important to understand international trends and the global spread of different types of electoral systems. While this is important, it is the unique social and political challenges facing South Africa that should be the primary driver of the debate. Since a comprehensive study of international trends falls outside the scope of this paper, this issue is dealt with only in passing.

This is how Chiroro summarised international trends:

"While the plurality/majority systems still hold sway in a good number of countries throughout the world, mixed systems and PR systems are becoming increasingly popular for the entrenchment and consolidation of democracy."⁴³ He also states "... FPTP [First Past The Post] is still popular in the Americas and in Africa, while it is less popular in Europe and the Middle East. Some 35 per cent of countries in the world use PR, 24 per cent use FPTP, 16 per cent use parallel or mixed systems, and 8 per cent use the two-round system (TRS)."⁴⁴

⁴² Ibid, p 73.

⁴³ Op cit, Chiroro, p 9. Chiroro provides a full list.

⁴⁴ Ibid p 9. TRS refers to the plurality/ majority system in which a second election is held if no candidate or party achieves a given level of votes, most commonly an absolute majority (50% +1) In the first election round, a 2- round system may take a majority – plurality form – more than two candidates contest the second round and the one who wins the highest number of votes in the second round is elected regardless of whether they have won an absolute

The following conclusions can be drawn from this:

- The majority of countries use the PR system.
- The FPTP system is used by the second highest number of countries.
- The mixed system is the third most popular.

It seems in South Africa the choice should be between the PR, FPTP, and mixed systems. But it appears that some kind of mixed system should be the compromise position. If such a position were to prevail, the question is whether it is the vote for the party or the constituency/district/regional candidate which should be more important. In other words, should more seats be allocated to the proportional or constituency-based components of such a mixed system?

4.1 The German model: Is this the future of South Africa's electoral system?

Germany uses the mixed-member Proportional (MMP) electoral system which is regarded as the 'best of both worlds' since it 'combines single-member district representation with proportional outcomes'⁴⁵. The MMP system in Germany is "compensatory, and therefore guarantees a high degree of proportionality because seats in the legislature are ultimately determined by the distribution of the party vote nationwide."⁴⁶ In Germany voters have two votes, that is, a vote for the party and a vote for the single-member district. But, as explained above, the party vote is more important than the vote for the candidate. In other words, the majority of seats in the national legislature are allocated through PR party lists. The attraction of this system is that it combines "the advantages of single member district representation together with proportional representation (PR), and helps to offset some of the disadvantages associated with each type of system."⁴⁷ Should this, therefore, not be the future of South Africa's electoral system?

majority – or a majority run-off form – only the top two candidates in the first round contest the second round. (source: www.idea.int/esd/glossary.cfm)

⁴⁵ See J.A Karp, Political Knowledge About Electoral Rules: Comparing Mixed-Member Proportional Systems In Germany and New Zealand, *Electoral Studies*. Vol. 25, Issue 4. December 2006, p 714-730 available online at www.sciencedirect.com

⁴⁶ *ibid*, p 2.

⁴⁷ *ibid*.

5. TOWARDS THE MOST APPROPRIATE ELECTORAL SYSTEM MODEL FOR SOUTH AFRICA?

Which broad electoral system models are potentially the most appropriate for South Africa? To answer this question we must, in part and in addition to some of the considerations discussed in previous sections of this paper, look at the advantages and disadvantages of the two broad categories of electoral systems, namely; plurality/majoritarian systems and proportional representation. These are summarised in Table 1.

Table 1: Typology of electoral systems⁴⁸

Plurality rule	Proportional representation
<p>Pros</p> <ul style="list-style-type: none"> • Local accountability • Ability to punish parties • Clear choices 	<p>Pros</p> <ul style="list-style-type: none"> • Proportionality • No wasted votes • Range of choices • Consensual government • Manages conflict
<p>Cons</p> <ul style="list-style-type: none"> • Un-proportional • Discards votes • Promotes adversarial politics 	<p>Cons</p> <ul style="list-style-type: none"> • Unaccountable • Unstable government

⁴⁸ This table is from M. Ndletyana, South Africa's electoral system: public good or power mongery? Paper delivered at the Multi-Stakeholder Conference 'Reflections on the state of electoral democracy in South Africa', The Forum, Bryanston, Johannesburg, 8–10 October 2007, p 11.

What is clear is that all the arguments advanced so far compel the debate on electoral system reform in South Africa to gravitate towards the following choices:

- Retention of the current PR system.
- The adoption of a constituency-based model whose configuration will largely depend on whether the constituencies/districts/regions are single-member or multi-member entities.
- The adoption of a mixed system (PR + constituency-based element). The question is whether the preponderance of seats should be allocated with a bias towards the party list vote or the vote for constituency/district/regional representatives.

In a document written for the Party National Liaison Committee, N.W. du Plessis reduces electoral reform choices to the following broad options:

- Relative majority system (as in the UK).
- Absolute majority system (as in France).
- Proportional representation two-tier compensatory member electoral system (as in the different variants used in Germany and Denmark).
- Pure proportionality (as in Israel).

The proportional representation two-tier compensatory member electoral system is divided into:

- Single-member constituencies (Germany).
- Multi-member constituencies (Denmark).

Du Plessis explains the electoral systems in the shaded box below.⁴⁹

Relative majority system

This system is commonly known as “first-past-the-post” and functions in conjunction with single-member constituencies. A candidate is elected (or wins a seat) if he/she obtains a relative plurality of votes, in other words one vote more than any other candidate. The system thus permits of a candidate being elected to a constituency or ward with a minority of the recorded votes. The United Kingdom uses this system (which is therefore also known as the Westminster system). **One ballot paper would be used per constituency.**

Absolute majority system

In order to be elected, a candidate is required to obtain an absolute majority, that is, 50% plus one of the **total** number of votes recorded. Unless provision is made for a voter to indicate an alternative or preferential vote (where candidates are placed in order of preference [as in Australia]), a second ballot where all but the two most successful candidates are eliminated is often required. This system is used in France and results in representation which is more proportional than can be achieved by [the relative majority] System I. It is, however, expensive and logistically complex and there is no sense in applying it in South Africa if proportionality (to a greater degree) can be achieved by simpler means. **One ballot paper would be used per constituency for each of the two rounds of an election.**

Proportional representation two-tier compensatory member electoral systems

In these systems constituencies are used for the initial allocation of seats with a final allocation taking place on the basis *either* of all the votes cast in the constituency elections *or* a second proportional ballot, with a view to achieving overall proportionality or, in general, proportional representation. Three of the many variations which could be considered for South Africa are detailed here:

Single-member constituencies

Half of the MPs (both party and independent candidates, if such are permitted) are elected with the first ballot paper in single-member constituencies on the basis of members achieving a relative majority of votes cast (“first-past-the-post”). This obviously leads to disproportionality. The situation is then redressed by allocating representatives to parties from fixed lists of national candidates in such a way that each party has overall as many representatives as allowed by its percentage of the total vote **in respect of the second ballot paper**, which contains only the details of political parties and is thus a **separate** proportional element. If a substantial number of voters split their two votes between different parties, this could lead to a somewhat disproportional result. In normal circumstances, it would, however, lead to proportional representation in general, but not to overall complete proportionality as such, which can be attained only if no independents are

⁴⁹ See Alternative electoral systems for South Africa, pp 11–14, compiled at the request of the party

elected and votes are not split. There are therefore inherent qualities in the system which might lead to results not contemplated in the Constitution. This system is applied in Germany and in municipal elections in South Africa too, in which instances it does ensure proportionality in general.

Multi-member constituencies

This system permits more than one member to be elected for each constituency, and also allows the number of members to vary from one constituency to another according to population figures. The members for each constituency are elected proportionally and, although there may be some distortions, the degree of proportionality already attained at constituency level requires only approximately 33% of seats to be reserved for the restoration of proportionality. Votes are cast for individual candidates, most of whom, however, are associated with political parties, although independent candidates may be permitted. Only one ballot paper would be used: since most individual candidates are linked to political parties and special arrangements apply to independent candidates, the same ballot paper could be used to calculate both the constituency result and the proportional result. In this way proportionality in general can be achieved. This type of system is used in Denmark.

The system currently in use in South Africa

The system currently used in South Africa essentially corresponds with that discussed in the previous paragraph ... , except that the place of the approximately 43 to 53 constituencies under that system is taken by nine larger constituencies (= provinces). The number of representatives for each of the nine multi-member constituencies is determined proportionally according to population figures. Regional (= provincial) representatives, who fill 50% (or 200) of the seats in the National Assembly, are elected proportionally in each constituency (=province). The remaining 200 national (list) seats are used to restore overall proportionality. A second fundamental difference between the present South African system and the system discussed in [the previous] paragraph ... is that votes are cast for political parties and not for individual candidates, thus eliminating the participation of independent candidates. Since only one ballot paper is used at national level, in the absence of independent candidates complete overall proportionality can be attained.

Pure proportionality

In this system a country is taken as a single constituency, thus eliminating the effects of differing levels of voter turnout in various regions, and voters cast their votes for political parties as such rather than for individual (party) candidates. Representatives are allocated from party candidate lists. In practice, and in the absence of legal thresholds, this system

will result in as complete proportionality as is mathematically possible. This system is used in Israel and also presently applies in our provincial elections, where each province forms a single constituency. **Obviously, only one ballot paper would be used.**

Having considered the options above, du Plessis recommends as follows:

It is suggested that, at national level, either the present system be retained or, if it is judged inadequate, that it be replaced by multi-member constituencies (providing 264 representatives) with a further 136 representatives being allocated to parties from national lists in such a way as to restore overall proportionality). This latter option would be best if it is decided to create a somewhat closer link between parliamentary representatives and the electorate and if there is a perception that the possible allocation under the present system of a geographical area of responsibility to each MP subsequent to an election does not suffice.

The alternative of increasing the number of regional/provincial representatives under the present system to 300 or 350 would rather serve to emphasise the regional nature of our society/Parliament than have any practical effect in terms of creating closer links between representatives and the electorate. Single-member constituencies and a separate compensatory element, on the other hand, could have been seriously considered only if the number of representatives in the National Assembly had not been pegged at 400 by the Constitution; it would also require the election to be based on a single ballot. Administratively, a single-member constituency system would be far more difficult to implement, especially as far as demarcation is concerned. It is, however, not suggested that implementation would be impossible.

6. CONCLUSIONS AND RECOMMENDATIONS

The ultimate choice of electoral system should be based on the questions, considerations and critical issues that have been raised by different parties in this paper. In some cases, the exact words of these parties are used. The repetition aims to highlight some of the critical issues for debate and for the sake of emphasis. A list of these issues, questions and considerations follows:

- 1) Electoral systems choices should primarily be about the enhancement of the democratic experience for citizens.
- 2) Is South Africa going through an institutional crisis?

- 3) The core debate concerns whether countries should adopt majoritarian systems which prioritise government effectiveness and accountability, or proportional systems, which promote greater fairness to minority parties and more diversity in social representation.
- 4) The electoral conduct of, and the choices made by citizens are not necessarily linked to knowledge about electoral systems.
- 5) Which electoral system(s) has/have the potential to enhance or guarantee accountability?
- 6) Can an electoral system have an ameliorative impact on the socio-economic conditions of a country?
- 7) The view of the ETT that an electoral system may 'encourage', but cannot guarantee accountability suggests we have to look elsewhere in a democratic order, and only partially from an electoral system, for sources of accountability.
- 8) The electoral system is, therefore, but one factor among several that have the potential to enhance the democratic experience, and the amelioration of socio-economic conditions of citizens is another.
- 9) Given the challenges facing South Africa, what constitutes a consensual electoral system? Does the answer lie in a mixed system?
- 10) A party system and electoral system which maximise the possibilities of preventing 'social cleavages' from becoming 'political cleavages' would be the most appropriate for South Africa.
- 11) The main reasons behind the electoral system reform debate in South Africa seem to centre on unhappiness about 'floor crossing', perceptions of democratic, social and economic deficits, and internal instability within the ruling ANC.
- 12) Another way of dealing with the rationale for electoral systems reform is by addressing the question of whether an electoral system promotes 'sincere' voting or 'strategic' voting.
- 13) Mere representation is not enough, since the fact that opposition parties have won seats in parliament does not necessarily translate into sufficient responsiveness to, and accommodation of, the interests and needs of their constituencies.
- 14) How has the mixed system of the local government level fared in ensuring accountability and efficient service delivery? This question relates to whether the allocation of seats at a national level should be modelled on the mixed system of

local government where the allocation is based on a combination of the PR and constituency-based systems. It is, however, common cause that the so-called service delivery protests are partly in response to perceptions of a lack of responsiveness on the part of councilors, including those who, as representatives of wards, should be more accountable to voters than political party representatives.

15) Has the present PR system fulfilled the core values of inclusiveness and transformation?

16) Does South Africa need a new electoral system?

With all these questions and considerations in mind, it is, therefore, recommended that South Africa should consider the adoption of a mixed system - particularly the MMP electoral system. While the reasons for retaining the PR system are persuasive, the same applies to sentiments expressed in favour of constituency-based systems. The advantage of adopting a mixed system is that it accommodates the representative imperatives which are associated with the PR system and the 'local accountability' of constituency-based systems. The specific recommendation for the MMP electoral system is based on the view that it is not a major deviation from how South Africans vote in local government elections. Voters can, therefore, be given two ballots - one for the party and the other for the constituency candidate. This may be simplified even further by giving voters one ballot paper in which they make one tick next to the face of their preferred political party's candidate which, however, translates into two votes - one for the party of their choice and another for their preferred political candidate.

It has already been argued that the political or electoral reality of South Africa is that of single-party dominance. This means that, in the foreseeable future, the decision on electoral system reform will be shaped by the outcome of debates within the ruling ANC. At its 2007 conference, the ANC resolved that "the current electoral system should be maintained and be strengthened further to enhance the links between the people and their public representatives,"⁵⁰ and further resolved that "floor-crossing should be abolished."⁵¹ At this stage, the measures through which the ANC aims to strengthen the current system have not been articulated.

⁵⁰ ANC 52nd National conference of the African National Congress, 2007. Resolutions on transformation of the state and governance, Polokwane, 16–20 December 2007, African National Congress, Johannesburg

⁵¹ Ibid.

The Congress of South African Trade Unions (Cosatu) on the other hand has argued in favour of a mixed electoral system. At its 2003 congress Cosatu called for "a mixed electoral system at national, provincial and local level supported by oversight institutions such as parliament to ensure accountability of public representatives. To that end we propose 65% constituency-based and 35% proportional representation."⁵² In 2006 the labour federation reiterated its position on electoral systems reform and resolved "to seek to convince our Alliance partners on the need to test the attitude of the electorate toward a constituency-based electoral system through a referendum."⁵³

According to Ndletyana, "Most scholars contend that whether or not an electoral system expresses the afore-mentioned values [political equality, representation of different viewpoints and accountability] (or any values related there-to), depends on the interests of the political elite. Political elites adopt a particular electoral system only if it retains them in, or expands their [hold] on power. That an electoral system should be commensurate with democratic values is secondary. The primary consideration is remaining or ascending to political office."⁵⁴ This may be an indication of what the future holds for electoral system reform prospects in South Africa. However, Ndletyana concludes that South Africa's electoral system is "primarily motivated by the public good, but does also reflect the political culture, especially that of the ruling African National Congress (ANC)"⁵⁵. In this summation of the motives which shaped the choice of the current electoral system, a dual and contradictory impulse may be at play. In its support for the current PR system, the ANC may have become aware of the potential to kill two birds with one electoral systems stone. In all probability, the ANC would increase its majority in parliament without winning an absolute majority of votes if South Africa opted for the FPTP electoral system. The problem, however, is that of a possible loss of legitimacy, since the FPTP system would undermine the imperatives of nation-building and reconciliation by marginalising the interests of those voters represented by minority parties. The PR system enables the ruling ANC to keep the benefits of single-party dominance, while lending legitimacy to the South African electoral system edifice. On the other hand, the current position may be a function of respect for the constitution, according to which - as stated in section 46(1) (a) - (d) - "Subject to Schedule 6A, 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: (a) is prescribed by national legislation; (b) is based on the national common voters' roll; (c) provides for a minimum

⁵² See Resolutions of the COSATU 8th National Congress, www.cosatu.org.za.

⁵³ See Declaration and resolutions at the 9th COSATU Congress, 18 September 2006, www.cosatu.org.za

⁵⁴ Op cit, M. Ndletyana, p 8.

⁵⁵ Ibid, p 12.

voting age of 18 years; and (d) results, in general, in proportional representation.”⁵⁶ It must be noted that the constitution prescribes neither the PR nor any other electoral system.

⁵⁶ Constitution of the Republic of South Africa, Act 108 of 1996.