

## South African Electoral System Roundtable Report

By Claude Kabemba, EISA, 17 September 2002

South Africa is in the process of reviewing its current electoral system. The Minister of Home Affairs, the Hon. M Buthelezi, appointed an Electoral Task Team to undertake the process of reviewing the current electoral system in South Africa. The Task Team, chaired by Dr. Frederick Van Zyl Slabbert, was established in May 2002 and is required to finalise draft legislation by the 11<sup>th</sup> November 2002.

The Team was provided with Terms of Reference to examine the current electoral system as to whether it requires any changes and amendments. After months of discussions and consultations with political parties, civil society institutions such as NGOs, academic institutions and others, the Task Team convened a roundtable from 9 to 10 September to share international, regional and national perspectives and the findings of a survey that had been commissioned. The roundtable was held at the Vineyard Hotel in Cape Town and brought together various South African, southern African and African stakeholders including representatives from government, political parties and members of civil society. The meeting was officially opened by Minister Buthelezi who emphasised the importance of electoral legislation in defining the nature of democracy.

The debate was initiated by a presentation by Professor Wilmot James who noted that the current electoral system, the Closed List Proportional Representation (PR) system has served South African society well for the last two democratic elections. He noted that in order for the Task Team to undertake the review they had identified four core values to inform their debate. These include *fairness, inclusiveness, simplicity and accountability*. Professor James highlighted that in terms of these core values the issue of *accountability* seemed to be the issue that vexed not only the Task Team but also was of concern to those representatives of political parties and civil society that the Task Team had consulted.

All the respondents to Professor James' paper - Adv Pansy Tlakula, Dr A Molokomme and Dr Pallo Jordan - agreed that accountability was important but questioned how, in itself, an electoral system can guarantee the accountability of elected representatives. Adv Pansy insisted that no perfect system exists which is able to address equally all the values identified by Dr James. She further questioned the basis on which Professor James was suggesting that changes to the electoral system should be introduced. Dr. Molokomme attested the fact that the South African electoral system is admired in the SADC region and the PR system is renowned for its gender inclusivity. She noted that the three countries in SADC that have adopted the PR system have a higher number of women in parliament. However, she cautioned that the PR system by itself does not guarantee women's representation. She noted that it succeeds only when it is combined with a quota system, either through legislation or when quotas are included as part of the constitution. Dr Jordan mentioned that any discussion of the current South African electoral system needed to first examine the history that informed the adoption of the system. The contextualisation would help us answer the question of whether or not the electoral system needs to be changed or amended. He noted that the current electoral system was chosen to deal with a specific South Africa situation. He argued that the conditions that informed the electoral system choice in 1994 had not significantly changed as the society was still divided along racial, class and gender lines. After eight years into the new dispensation, he however noted that it was premature to consider changing the current system. Most respondents agreed that accountability was an important feature of political life but questioned whether it was possible for an electoral system to guarantee *accountability*. He suggested that Members of Parliament should

be accountable to their political parties, which in turn are accountable to the electorate. As we become accustomed to democratic values, political parties will increasingly find it easier to put in place mechanisms for their MPs.

Professor Tom Lodge, as Discussant, summarised the discussion by saying there seem to be consensus about the key values of fairness, inclusiveness and simplicity that is contained in the current PR system. He did however note that it would advantage our young democracy considerably if accountability of our MPs was enhanced. This may necessitate an improvement in our electoral system to increase personal accountability of parliamentary representatives.

The second panel discussion, with Dr Khabele Matlosa as the key speaker, focused on electoral systems from an African perspective. Dr Matlosa noted that African heads of state have committed themselves to democratic governance. He presented the current status of elections and governance in the SADC region, and gave a comparative analysis of the different electoral systems currently operating in the SADC region, highlighting the advantages and disadvantages of these different systems. He said most countries in SADC use the first-past-the-post electoral system. Only three countries (Mozambique, Namibia and South Africa) use the Closed List Proportional Representation system. Three others (Mauritius, Seychelles and most recently Lesotho) use a mixed system. Dr Matlosa argued strongly for the need for an electoral system that adds value to democracy and enhances the accountability of MPs to their constituencies. He argued for the adoption of a similar electoral system throughout the SADC region, proposing that the adoption of a combined system of the FFTP and PR systems could stand the SADC region in good stead as a mechanism to nurture and consolidate democratic governance. Mr Patekile Holomisa suggested that Dr Matlosa failed to refer to the real African system, ie. that of traditional leadership. He questioned the efficacy of the different electoral systems referred to by Dr Matlosa, since one electoral system might work in one country but fail in another. He suggested that it was necessary to pay attention to both systems, the Western democratic models and traditional African democracy. He argued the best electoral system is the one that takes into account the will of the people. For him both the party list and the constituency-based electoral systems do not encapsulate the will of the people. He argued that the people of Africa who have been subjected to external domination deserve to have the best of all worlds. Dr K Afari-Gyan presented some specific issues to be considered when contemplating making any changes to an electoral system. He said that the first question that needs to be asked is what problem does the electoral system want to solve? An electoral system must be selected in an effort to resolve a specific problem (eg. Lesotho and Sierra Leone). Equally important, an electoral system must ensure a degree of social and political cohesion for fragmented society. He suggested that the best system would be one that ensures inclusiveness. He confirmed that the PR system offers many positive elements. However, the accountability of MPs must be reinforced to reassure voters. He proposed that the simplest way to incorporate the issue of traditionalism into a modern electoral system would be to focus on the local level by creating a council of traditional leaders. As a result of the different traditional systems it would be difficult to elevate one set of leadership to represent others at a national level. Finally, Dr Chris Landsberg suggested that any changes brought about should be done in an effort to improve the current system. But if such changes were only intended to protect the interests of a group of elites, then there would be no necessity to change the system.

The third panel discussion included a presentation by Professors Jorgen Elklit, Murray Faure and Albie Venter. The discussion revolved around the issue of what electoral system options exist 'out there' that could be adjusted and adapted to reflect the South African conditions.

Professor Elklit began the discussion by stating that an electoral system cannot guarantee accountability but merely help facilitate it. In the case of South Africa, the Closed List PR system was chosen as one of the mechanisms to facilitate transition. However, when society starts to consolidate democracy, there is always the need for change in order to deal with new challenges. The question that begs an answer is to know if there is indeed need to change the current electoral system in South Africa? He pointed to two advantages South Africa has in its effort to resolve this question in comparison with other societies. The first advantage is the high level of interaction between role players. This is not found elsewhere even in Europe. Secondly, the degree to which consensus is met using the options available.

Professor Elklit outlined the various PR options and the technicalities. He reviewed different electoral systems, focussing on the family of PR electoral systems, in order to remain within the requirement of the South African constitution. He gave seven basic electoral system components, which are essential when it comes to the construction of an electoral PR system. These are: the choice of the formula, the constituency structure, surplus seats, formal electoral threshold, electoral alliances possible, vote splitting possible and lists. He argued that there was not full agreement about what the best way of measuring proportionality actually was. But he stated that there were specific systemic elements—constituency magnitude, constituency structure, the formal electoral threshold (if any), and the surplus seats (if any)—which have more effect on the level of proportionality than the other elements in PR Systems.

Professor Elklit argued that if he had to identify the most important elements for achieving a high level of proportionality - which is of fundamental importance as it reflects respect for inclusiveness and fairness in the allocation of seats - he would opt for the constituency structure (especially the constituency magnitude component) and the issue of whether or not there is a formal electoral threshold (combined with the surplus seat). He added that if accountability was the main issue, he would still point to the constituency structure, but he stressed that he would include the type of list used.

Professors Murray Faure and Albert Venter who presented a paper on the *Electoral system and Accountability: A proposal for electoral reform in South Africa* proposed that a mixed-member proportional (MMP) system with single-member constituencies (SMCs) (50%list seats/50% constituency seats) replaces the current one. They argued that such a system would significantly increase the responsibility of members of the legislature towards their constituency. While recognising the merit of the current system, they argued that it had been suitable for the transition and that the time had come to change the system that would ensure the consolidation of democracy. Democratic consolidation requires a higher degree of accountability by representatives; it requires channels for the electorate to express a more sophisticated range of needs and choices, as well as procedures for the voters to "get rid" of the non-performing MPs.

Dr Ginwala responded by alluding to the fact that what is most important before proposing any change to the current system is to identify what needs to be changed. She said the choice in 1993 was based on certain values and political realities. She asked whether the situation had changed enough for South Africans to amend and alter their

electoral system. Since, according to Dr Ginwala, the situation has not changed sufficiently, a strong argument is required before the system is changed. The argument that there is distance between MPs and their electorate is not strong enough justification to make any alterations to the current system. She noted that the question of *accountability* could be resolved without tampering with what we have, which is serving the country well. In order to enhance the accountability between the electorate and political parties she proposed that the latter could establish more efficient constituency offices to ensure a link between the party and its constituents.

The debate evolved between those who supported the review of the current electoral system and those who supported the current system. Even the results of the survey commissioned by the Electoral Task Team failed to resolve whether there is a demand by the voting population for a change in the electoral system. Professors Roger Southall and Dr Robert Mattes, the authors of the draft survey report, concluded that there were two pertinent sets of findings. Firstly, South Africans recognise the enormous virtues the adoption of the Closed List Proportional Representation system has had on the consolidation of democracy in the country, in terms of its fairness and inclusiveness. However, there is an expressed desire for the electoral system to provide for a greater element of accountability to political parties, their members and to the voters at large. Secondly, despite the apparent support for the current system, the electorate also criticised the performance of the representatives, and representatives' institutions. The authors, based on the findings, proposed that voters would prefer a shift towards a mixed electoral system that provides for a stronger link between voters and elected officials; a system that would keep to the constitutional requirements of proportional representation, as well as facilitate broad representation. This was also the view of Murray and Alberty in their presentation. They argued that a mixed electoral system would not tamper with inclusiveness that is the most cherished value in the current South African political set up. Similarly, Mr Norman Du Plessis, using the results of the 1999 elections, translated the different concepts into election results. He concluded that the introduction of a new electoral system or improvement of the current one would not necessarily change the outcome of election results.

Finally, three positions eventually emerged from the roundtable debate and discussion. These were:

### **1. The reformists**

'The Closed List PR system has served us well but there is a need for it to be changed in order to improve on accountability.' There is a belief that the electoral system can indeed facilitate a process of accountability. Likewise, that once the relationship is established between the electoral system and political accountability, there is the possibility of putting in place a system that would improve the accountability of MPs without undermining the other values of the electoral system — including inclusiveness, simplicity and transparency.

They also argue that accountability does not only have to do with MPs and voters. It is also about what happens in parliament and the relationship between parliament and the executive. It is necessary to move away from politics of allegiance, which forces MPs to tow the party line on every issue, to politics of opinion where MPs speak their mind on issues.

### **2. The conservatives**

'The Closed List PR system has served us well and there is no need to change it.' The proponents of this viewpoint argued that the conditions that informed the initial choice

of the PR system, have not changed. The change of the PR system to a constituency-based system would undermine the very foundation of the political stability enjoyed by South Africa. They argue that an electoral system does not create accountability. A distinction must be made between accountability and accessibility of MPs to the voters. Accountability can best be served at political party level. In fact, a change in the system would undermine diversity both at the national and local levels.

### **3. The moderates**

They argued that while there are strong arguments both for change and for keeping the current system, the decision should not be taken by a few people. We need to include many other people in this process. They also argued that a proper definition of accountability needs to be given since every group has a different understanding of what accountability means in this specific situation. They noted that two important questions were not resolved during the discussions and debate, namely: Accountability by whom – and Accountability to whom?

### **Concluding remarks**

Dr F van Zyl Slabbert concluded the Roundtable by observing that the Electoral Task Team was not a crisis committee. He pointed out that only a country in a crisis situation would necessitate immediate consensus. The ETT was asked by Cabinet to consider the advantages and disadvantages of the current system and make recommendations to Cabinet as to whether any changes should be made, and in the event that this was the viewpoint of the Task Team, the changes would be crafted into a draft bill which would then be presented to Parliament where it would be discussed and either accepted or rejected.