

Journal of African Elections

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PUBLIC PARTICIPATION

The Political Challenge in Southern Africa

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ABSTRACT

Placing 'liberal democracy' as a polar opposite to 'participatory democracy' is less than helpful, particularly in the African situation. In this article I suggest an alternative approach to democracy which I think is more constructive, and which, equally, I think, will prove useful in guiding our thinking about political participation.

INTRODUCTION

Public participation in political processes is viewed by scholars and democrats as a virtue in its own right and a fundamental dimension of democracy. 'A healthy democracy,' note the editors of a book, published by the Human Sciences Research Council, on *Public Participation in Democratic Governance in South Africa*, 'is generally seen as one in which the citizens participate regularly in formal political activities, despite the lack of agreement among scholars about the required nature and degree of participation' (Houston, Humphries & Liebenberg 2001, p 2).¹ They go on to cite Diamond, Linz & Lipset (1995) as defining a democratic system as one in which there is:

- meaningful and extensive competition among individuals and organised groups, especially political parties, for all effective positions of government power through regular, free and fair elections that exclude the use of force;
- a highly inclusive level of political participation in the election of leaders and policies, such that no major (adult) social group is prevented from exercising the rights of citizenship;

¹ The author is grateful to the Human Sciences Research Council for granting gratis permission to quote extensively from this publication.

- a level of civil and political liberties – freedom of thought and expression, freedom of the press, freedom of assembly and demonstration, freedom to form and join organisations, freedom from terror and unjustified imprisonment – secured through political equality under a rule of law, sufficient to ensure that citizens (acting individually and through various associations) can develop and advocate their views and interests and contest policies and offices vigorously.

Yet, while this is an important start, other scholars (Huber, Rueschmeyer & Stephens) cited by Houston, Humphries & Liebenberg also insist upon a fourth dimension of democracy, involving: '[a]ccountability of the state's administrative organs to the elected representatives' (which we might note interlocks with electoral and party competition, given that elections constitute an opportunity for electorates to hold representatives accountable).

I have borrowed so freely from Houston, Humphries & Liebenberg because – rather than my re-inventing the wheel about so vast a subject – their work provides a useful condensation of a conventional approach to the study of democracy, which views 'liberal democracy' as either a competing model with, or as one end of a spectrum from, 'participatory democracy'. Against this, of course, there are those who would appear to place 'liberal democracy' in the middle of a spectrum which places 'quasi' or 'formal' democracy – that is, systems which display democratic features while lacking democratic substance – as the polar opposite of participatory democracy.

I am not going to enter into a discussion here about the differential merits of the two approaches for, in my view, this is easily as much an issue of utility (that is, what purposes definitions of democracy are being used for) as it is of achieving consensus about definitions. However, what is common to both is the language of 'democratic deepening': a participatory democracy in which the mass of citizens regularly involve themselves in political decision-making would be said to be 'deeper' than a 'liberal democracy' in which – whilst possessing a battery of rights – their active political participation was restricted to occasional visits to the ballot box.

This, of course, is not in itself to indicate that 'participatory' democracy would definitely be 'better than' 'liberal democracy', for some theorists would argue that the former will lead to democratic excess, whereas the latter has in-built protections of property, minorities, or whatever. How we decide what is 'better' or 'worse' for democracy depends, of course, upon our normative assumptions. This is a debate which can run and run and need not detain us here – even though a return to discussion involving normative assumptions will prove unavoidable later in my argument.

My view is that the placing of 'liberal democracy' as a polar opposite to 'participatory democracy' is less than helpful, most certainly in the African situation. I will, therefore, suggest an alternative approach to democracy which I think is more constructive, and which, equally, I think, will prove useful in guiding our thinking about political participation. However, to reach that point, it will be necessary to explore briefly how our two competing models (or poles) of democracy have been realised in Africa and, most notably, within our more immediate region, and the dilemmas they have confronted or produced.

LIBERAL DEMOCRACY IN SUB-SAHARAN AFRICA

Most observers would agree that the history of liberal democracy in (sub-Saharan) Africa has been rather dismal. Even a cursory mention of key factors underlines this. There were numerous ideas and political practices in indigenous African societies which we would term 'democratic', yet 'liberal democracy' – as formulated by Western theorists – was a Western import to Africa, introduced initially by colonial regimes which had not practised in their colonies what they came to preach in the run-up to independence. This had two major aspects.

The first was that 'liberalism' became identified by African rulers (and many intellectuals) for whom its liberating implications were to prove inconvenient as associated with Western imperialism. The result was outright abolition or systematic abuse of the basic freedoms (of opposition, speech, assembly, and from torture, and so on) in country after country in Africa. In South Africa, meanwhile, because non-revolutionary white opponents of the apartheid regime, notably a succession of parties which participated in the racially restricted parliaments, proclaimed themselves as 'liberals', liberalism (as a set of principles and ideas) was too readily dismissed as hypocritical or inherently and/or covertly supportive of apartheid and imperialism by many connected with the liberation movements. (In contrast, of course, many writers – from John Plamenatz to Ali Mazrui – have demonstrated that in numerous ways liberal ideas were actually corrosive of imperialism.)²

A second, equally important aspect is that whereas liberal democracy had evolved organically (which, it is important to stress, is not to say that it occurred peacefully) in countries such as Britain and the United States of America it was imported into African societies in which the conditions for its existence were barely there: established liberal democracies in the West were overwhelmingly industrial societies, African ones were not; Western societies were class based,

2 See, for instance, the fine book by John Plamenatz (1961). Mazrui's early work was full of references to the way European political ideas helped undermine the colonial edifice in Africa, eg, Mazrui 1967.

with established bourgeoisies who had wrested rights from previously ruling aristocracies and organised working class movements which had made their own demands on bourgeoisies; African societies were tribe, lineage or clan based, with only small emergent bourgeoisies with close ties to the state and small working classes whose organisations were often to be controlled or suppressed by nationalist and liberation movements after independence.

Broad-based political economies in the West had provided, historically, for balances of power (and hence checks and balances) among rival classes and within state institutions, whereas mineral or agricultural export-oriented colonial economies prescribed close connections between the economy and the state (often institutionalised via nationalisation of production and/or marketing) in independent African countries; and not least, of course, whereas militarism (in the form of fascism) had been defeated in the West in 1945, newly formed African militaries were to prove apt at taking advantage of the economic and political failures of civilian regimes from the mid-1960s through to the late 1980s.

In these circumstances, participation by the public in Africa in political processes was extremely limited. Where independence had been won, it was severely inhibited, if not suppressed. Meanwhile, in the settler-ruled political economies of Southern Africa, the majority was largely excluded, on the basis of race, from participation. Yet a rapidly moving history, in the form of the end of Cold War Western and Soviet rivalries in Africa, along with the externally-induced decline of African economies (via unequal exchange, decline of relevant terms of trade and so on) and internally-induced contractions (notably mass protest against oppression and armed struggle against late colonialism and apartheid in Southern Africa) were to bring about a democratic renewal in the 1990s.

The impact of the return to democracy was highly uneven, for far too many states were plunged into civil war and/or collapse. Yet many African states found themselves now embracing the basic tenets of liberal democracy via the re-constitutionalisation of liberal rights and, most notably, multipartyism and competitive elections. This found resonance in South Africa, too, where the negotiated transition of 1994 was founded upon the adoption of a Constitution (finalised in 1996) which was one of the most advanced democratic instruments that the world had yet seen (amplifying conventional liberal democratic rights with recognition of the putative socio-economic rights of citizens).

How has public participation in Africa fared amid this new re-assertion of the liberal democratic formula? I am going to restrict myself to four major points.

First, competitive electoralism has apparently come to stay, providing hugely important freedoms of association and expression. Of major importance is the fact that almost all regimes recognise a need for electoral legitimacy (the ability to claim support from their populations, as demonstrated by regular, fair

and free elections). This need for democratic legitimacy is recognised even by those regimes which manifestly abuse power, so that even where, for instance, inconvenient election results are effectively overturned (as with the presidential election in Zimbabwe in March 2008), they tend – Alice in Wonderland-like – to be transformed into victories (as in the second round of the Zimbabwean 2008 presidential election, where regime repression led to the withdrawal of opposition candidate Morgan Tsvangirai, allowing Robert Mugabe to ‘win’).³

Importantly, the return of electoralism has provoked a wide-ranging, continuous and at times innovative debate about the appropriateness of inherited electoral systems and has embraced a new recognition of the need for fair representation of segments of the population (majorities such as women, minorities such as ethnic groups) in legislatures and state institutions. In Southern Africa, following the adoption of national list system proportional representation in Namibia in 1989 and in South Africa from 1994, by far the most exciting development has been the adoption of mixed member proportional representation (MMP) in Lesotho from 2002, following plurality elections in 1993 and 1998 which, although fairly conducted, produced imbalanced results which provoked political instability by leaving the opposition without representation in the key house of Parliament.

The form of MMP adopted in Lesotho (the addition of a national list contest for an additional 40 seats to secure ultimate proportionality in parallel to elections for an existing 80 first-past-the-post constituency seats) subsequently provided for the proper representation of opposition parties in Parliament via the 2002 election, providing a firmer basis for representative democracy. Even though the spirit of MMP was subsequently to be undermined by the political practices of the ruling Lesotho Congress for Democracy in the 2007 election (when that party formed a pre-election alliance with a minor opposition party and ran a number of the other party’s candidates under its name in the PR election in order to amplify its overall majority (Elklit 2008, pp 10-19)), the switch to the new electoral system has remained an important development, pointing the way to how representativeness (the chief merit of national list PR) can be combined with the accountability of elected members of Parliament (a key aspect of constituency based systems).

Even so, the practice of electoral democracy has been widely flawed and the result has been that far too many African elections record hollow victories for ruling parties. Citizens are free to form political parties to challenge ruling

3 The presidential candidate, Morgan Tsvangirai of the Movement for Democratic Change, was placed ahead of Mugabe in the presidential poll, although because of massive state terror he ultimately chose to withdraw from competing in the (unconstitutionally delayed) second-round poll (required because he had narrowly failed to gain a 50.1% majority). This cleared the way for the unchallenged re-election of Mugabe to the presidency.

parties and, as a result, elections are usually contests among myriad competitors. Nonetheless, in countries where ruling parties enjoy the genuine support of a majority of the population (as in South Africa, Botswana and Namibia), the resulting dominance of those parties can result in arrogance and illiberalism, intolerance of minorities, and reluctance of rulers to render themselves adequately accountable to those who elect them. Meanwhile, in those countries where ruling parties fear they do not have the support of the majority they often resort to suppression of freedoms and manipulation of the electoral game to guarantee their return to office (for example, the Kenya African National Union (Kanu) in 1992 and 1997, the Zimbabwe African National Union-Patriotic Front (Zanu-PF) in successive elections from 1990, the Movement for Multi Party Democracy in Zambia in 2001 and 2006). However, as Kenneth Kaunda and his United National Independent Party were to discover in 1990 and as the defeat of Kanu at the end of 2002 demonstrates, this does not mean that decaying regimes can cling to power forever, for their very failures or incapacities of rule (notably in the sphere of economic management) generate popular oppositions which can longer be denied. Even in Zimbabwe, where the peculiarly recalcitrant Zanu-PF regime has long demonstrated its determination to resist challenge through concerted and massive repression of domestic opposition, economic collapse has forced it into an unwanted coalition with the emergent Movement for Democratic Change (MDC, which won the parliamentary elections in 2008)⁴ and wrestling with the problem of how to gainsay future repeat victories for the MDC at the polls.

Second, the idea of political representation of classes, groups and diverse opinions and interests is central to the idea of liberal democracy, notably through the instrument of political parties. However, despite some evidence that 'civil society' (that hotly disputed term!) has become a greater presence in African polities during the latest phase of democracy, the issue of political representation remains extremely problematic. Now, of course, any analysis of political representation in established liberal democracies will demonstrate that access to political decision-makers is heavily skewed in favour of the richest and most powerful elements of society; so political representation in those countries is highly problematic too. However, the problems are multiplied in African societies, not least because political parties are, on the whole, considerably weaker than they are in the West.

Early structural functionalist literature informed us that political parties served the 'functions' of 'interest aggregation and articulation'.⁵ Yet any suggestion that they serve such functions uncomplicatedly in Africa needs to be

4 For a valuable overview of these elections, see Masunungure 2009.

5 For example, Almond 1970.

queried. Traditionally, we are told, political parties in Europe (especially) and North America represented classes (as well as religious and regional interests and so on). However, the representation of classes itself assumes the existence of nations and nation-states. In Africa, by contrast, post-colonies are, with only occasional exceptions (Lesotho?), only 'nations in the making', which are divided along lines of ethnicity and, in Southern Africa, also along lines of race. In the absence of national unity, political parties have therefore tended to represent rival ethnic groups (or ethnic coalitions) rather than classes. They have often tended to be exclusive rather than inclusive.

Otherwise, parties have served their functions of 'aggregation and articulation' of interests very imperfectly: apart from functioning poorly, intermittently, and usually being dominated by their leaders, they have tended to substitute domination and incorporation of groups and diverse opinions for representation. Party women's and youth groups, for instance, have commonly been instruments of 'interest suppression or control' as much as they have been vehicles of 'articulation and aggregation'. Similarly, trade unions allied to ruling parties have often been denied autonomy, while traditional leaders have similarly been brought to heel.⁶ Ruling parties, in short, have attempted to impose their domination upon society, not least by too often identifying political opposition with treason.

To be sure, considerable advances have been made with regard to political representation and public participation in politics, especially in some of the societies of Eastern and Southern Africa, during the latest wave of democracy, with Botswana and South Africa the most visible exemplars of functioning 'representative democracies'. But even in these countries political representation is far from being unproblematic. Hence Ken Good (1997, chap 1), for example, refers to 'Authoritarian liberalism' in Botswana, noting, for instance, the government's attempts to inhibit the media on sensitive issues (Good 1997, ch 1). In South Africa, meanwhile, critics claim that internal democracy within the ANC and the Tripartite Alliance has fallen foul of 'democratic centralism', and demands for accountability emanating from the historically white opposition parties, whatever their justification, are, too often for comfort, dismissed as racist.

A third problem relates to constitutionalism and citizenship. Those constitutions in Africa which enshrine democracy are suitably sound founding documents, replete with guarantees of political and, certainly in South Africa's case, social and economic freedoms. Yet in country after country (and most certainly not just in contemporary Zimbabwe), basic human rights are abused and trampled upon, often in the vilest manner: state violence is regularly visited

6 On relations between ruling parties and trade unions, see Beckman, Buhlungu & Sachikonye 2010.

upon government opponents in many countries, and brutality and torture within institutions of incarceration is systematic, unprotected by (often noble) judiciaries and other organs of accountability.

In Swaziland, meanwhile, the new Constitution continues to deny even basic rights of association to political parties, all in the name of Swazi tradition. Rights guaranteed by constitutions are either unrealised (notably in the case of women, for even the most advanced African democracies remain highly patriarchal) or systematically denied to certain categories of the population.

In Botswana, for example, the San are formally Botswana citizens, yet they are subject not just to ethnic stereotyping as inferior to 'real Batswana' but are subject to a resettlement policy that harks back in no uncertain terms to the worst excesses of forced removals under apartheid (Good 2002, pp 185-206). In South Africa, 'permanent residents' are denied the right to vote in national and provincial elections as well as access to important welfare benefits, whatever their past or present contribution to the economy: effectively, citizenship becomes two-tier, with no cognisance given to the classic rallying call of the American Revolution: 'No Taxation without Representation!'

The fourth problem relates to the intersection of money and democracy. Political parties everywhere exist for the acquisition by groups or categories of people of overt or covert influence over policymaking and implementation, as well as access to resources. The vast amounts of money that circulate at election time in the United States demonstrate crudely and forthrightly that, to a very considerable extent, public policy and decisions are for sale to the highest bidder in contemporary liberal democracy, even if the return to those who fund political parties is indirect. Corporations do not fund the two major political parties in the US out of altruism but because they expect that whoever wins, be it Democrats or Republicans, will repay the favour generously once they are in power. Numerous funding scandals indicate that similar expectations operate in Europe, even if less brazenly than in the US. Even so, the intensity of financial and political competition in advanced liberal democracies is reduced by the fact that the government's involvement in the economy is counterbalanced by the operations of the market, and that corporate survival and profitability rest primarily upon corporations' ability to compete against each other (even if such competition is oligarchical).

In contrast, in Africa, even in these days where conversion to pro-market reforms has become uniform, the state plays a much more central role in the economy, precisely because – with the partial exception of South Africa – capitalist markets are less advanced: they tend to be export-oriented, highly dependent upon government contracts, and dominated by foreign companies, and the public service (and its extensions in parastatals) is the major source of employment. In this context, the lobbying of state officials by corporations and

business interests for contracts and favours which takes place in Europe and America is no less intense in Africa, with bribery and all sorts of backhanders, together with corporate funding of political parties (overwhelmingly of those in power) coming to play a significant role in decision-making about the allocation of resources by government.⁷

Necessarily, such deals are hidden from the public view, as they are designed to unfairly advantage ruling parties and enrich well-placed individuals. Yet apart from distorting the outcomes of decision-making, they reinforce what analysts such as Ken Good (2002) deem to be the inherently oligarchical, elite nature of liberal democracy. Overwhelmingly, decisions are made and policies pursued that favour the interests of the rich over the poor: the lobbying of government by elites becomes much more salient politically than participation by a 'public' which, although able to provide political input (via the media, parliamentary committees etc), lacks financial clout and otherwise only possesses intermittent veto power (via the vote, strikes, demonstrations).

Yet if the practice of liberal democracy is highly flawed, does 'participatory democracy' provide a realistic alternative?

PARTICIPATORY DEMOCRACY: AN ALTERNATIVE FOR AFRICA?

If public participation is deemed to be a public good it might be presumed that it should be maximised via participatory democracy. Indeed, this assumption is inherent in much public debate, especially in South Africa, where the goal is often espoused of our making our democracy 'more participatory'. Yet things are not quite as easy as they might seem.

To begin, it is wise to distinguish between 'direct' and 'participatory' democracy. Literally speaking, 'democracy' means 'rule by the people', yet this is regarded by democratic theorists as an unrealisable ideal. As noted by Norman Barry (1989, p 261) this is because, on the one hand, 'direct democracy' – 'a system in which decision-taking and law-making is a function of the whole community unmediated by any form of representation' – is impossible to achieve in all but the smallest of societies. On the other hand, the idea of people 'ruling' over themselves implies that the majority will shall prevail, which – on the basis that all people are deemed to enjoy political equality – tends to take us back to the idea of elections and representative democracy.

In contrast, theorists of participatory democracy recommend that politics should be a *continuing* activity and not just be confined to voting in elections at

7 Direct and indirect (and illegal) funding of ruling parties by parastatals is also proving to be important (and highly controversial) in South Africa (Southall 2008, pp 103-121. However, this is an aspect which requires systematic research on a regional basis.

regular intervals. Inspired by the ideas of Rousseau it is argued that decision-making should be taken away from the bureaucratic state and devolved to smaller communities that will enable individuals and groups to produce laws and policies directly related to their needs. Participation will also be facilitated by such devices as referenda and other means of ensuring close consultation between government and people.

Meanwhile, just as Rousseau held that the General Will would be realised if individuals were imbued with public spirit and were approximately equal, so contemporary theories of participation see people being 'moralised' through the process of democratic consultation and interaction: selfish motivations which might lead to anti-social outcomes will tend to be harnessed for the public good under the right conditions (Barry 1989, p 283).

There are numerous difficulties with this schema. A first problem is that if the conditions for curbing people's selfish agendas cannot be realised the outcome will more likely be Rousseau's 'will of all' (the sum total of individual wills) than the 'General Will': or, in other words, there will continue to be divisions between majorities and minorities. Individuals may be able to escape domination by majorities with which they disagree or deem oppressive by moving to other communities, yet, in the real world, mobility is likely to be limited.

Meanwhile, even if the people's capacity is enhanced by the devolution by governments of powers to local communities, the issue of aggregating, assessing and realising public desires at the national level remains. Furthermore, as elite theorists have long pointed out, the widening of opportunities for political participation will tend to favour those who enjoy, or who have a particular talent for, participating: hence, they argue, elites will tend to emerge just as much under participatory systems as under other political systems, a tendency which will be reinforced the larger the unit of participation concerned. What is more, the immediate benefits to the individual of participating in politics for a selfish, sectional interest are likely to outweigh those which are defined by a longer-term, public interest. Hence we get back to the idea of the importance of the traditional machinery of constitutionalism which is so central to liberal democracy: the separation of powers, the rule of law, judicial review and so on. Such institutions, at their best, are intended to curb illiberal excess and to institutionalise the moral values which guide democracy (Barry 1989, pp 283-5).

Despite these difficulties the idea of 'participatory democracy' still retains a powerful hold upon the popular imagination in Africa, especially in Southern Africa. As Ken Good has elaborated at length, this is at one level because of widespread popular disillusionment with the limited returns to ordinary people of electoral democracy, notably as it has been practised during the latest, post-Cold War wave (Good 2002). Parliamentary checks and balances, as written

into constitutions, have been nullified by the dominance of ruling parties; PR electoral systems may have enhanced representivity, but they have diminished the accountability to their electorates of parliamentarians because they have concentrated power in the hands of party leaders; opposition parties are weak and fail to constitute 'alternative governments'; the centralisation of power in the hands of presidents promotes autocracy, elite rule, corruption and state profligacy; and so on. Given these huge failings, he argues the necessity for African societies to turn towards participatory democracy.

Good finds the immediate inspiration for this in the political practices of the United Democratic Front (UDF) and the Congress of South African Trade Unions (Cosatu) under apartheid. From the Durban strikes of 1973 onward black workers in South Africa forged a democratic movement inside the country which was harnessed to independent working-class action. This gave rise to a style of politics which emphasised grassroots participatory democracy, or 'people's power', as evidenced by the appearance of street committees and people's courts that were organisations concerned with dispute resolution and self-government. Such locally based initiatives were seen as foundations for democracy, for the UDF argued that conventional parliamentary democracy would work to exclude the bulk of ordinary people.

The basic principles of democracy were seen by the UDF and Cosatu as entailing:

- periodically elected and recallable leadership;
- mandates and accountability;
- reporting and reporting back;
- criticism and self-criticism.

Good 2002, p 178

A survey of the political attitudes of Cosatu workers undertaken just prior to the country's first democratic election, in 1994, confirmed how strongly black trade unionists transformed their commitments to participatory democracy into similar expectations about parliamentary democracy: they expected the ANC to consult them on all issues that affected them and to report back on all related decisions. If the party and its representatives in Parliament did not do what its supporters required of it, it should be subject to recall (Ginsburg, Webster, Southall, Wood, Buhlungu, Maree, Cherry, Haines & Klerck 1995, p 49).

Good goes on to argue that, faced with an internal culture of participatory democracy that threatened the elitist practices which it had long honed in exile, the ANC moved quickly to shut the UDF down. In contrast, Cosatu's industrial strength was such that a labour-repressive policy was not possible and the

ANC was constrained to erect a relatively labour-friendly industrial regime. Subsequently, however, workers' organised muscle has been steadily eroded by the ANC's pro-capitalist policies, industrial restructuring and increasing unemployment.

The potential of the highly promising experiment in participatory democracy has therefore not been realised, nor, indeed, has an industrialised working class demonstrated such capacity to challenge the power of autocratic elites anywhere else on the continent. Nonetheless, Good is disappointingly vague about how participatory democracy in South Africa can be revived and sustained, referring only to that challenge as 'an unending struggle'.⁸ All in all, his celebration of this heroic and highly admirable political practice of the 1980s and early 1990s seems to have run up against many of the difficulties enumerated above. Participatory democracy, he seems to be reluctantly conceding, may be attainable in certain unusual historical circumstances, yet is inherently fragile: a rare utopia!

A WAY FORWARD FOR PARTICIPATION AND DEMOCRACY?

In this brief article I have sketched out in highly rudimentary fashion key problems with both liberal and participatory democracy as they have been implemented and experienced in Africa. We might summarise this by lamenting and contrasting the oligarchical nature of the former with the utopian dimensions of the latter. So, how are we to move beyond this impasse, save by simply seeking to make liberal democracy more participatory, as implied by the idea of the democratic spectrum to which I referred at the beginning? Building upon ideas I have expressed elsewhere (Southall 2003) I would propose that we should argue for a conception of democracy which:

- recognises the fundamental importance of a number of liberal tenets: notably a constitution to guarantee and protect rights, a diversity of power centres within and outside the state, and mechanisms to promote competition and debate about alternative political platforms;
- accepts that centralised state institutions are necessary devices for enacting legislation, enforcing rights, promulgating new policies and containing inevitable conflicts between particular interests. Representative electoral institutions, including parliament and

8 'The Unending Struggle' is the title of Good's final chapter in *The Liberal Model in Africa*.

a competitive party system, will be an inescapable element for authorising and coordinating these activities;

- demands that state officials and political representatives be held to continuous and systematic account. Such a system would require absolute transparency and public access to all information and documents relating to government activities, except in very limited areas;
- restricts the influence of moneyed interests by setting unambiguous and strict limits to political party funding, which should be wholly open to public scrutiny, and by devising and enforcing rigorous standards of corporate governance;
- ensures societal conditions that facilitate political participation. However, although citizens should not normally be forced to participate in politics,⁹ they should be obliged to accept democratic decisions unless these can be proved to have violated their rights;
- recognises that in order to create conditions for political equality grossly unequal distribution of material resources should be disallowed. Political equality demands a tough conception of distributive justice which will recognise the necessity of minimising inequality in the ownership of control of the means of production. The right to private ownership must be recognised as a fundamental condition of democracy. Equally, however, democracy demands that there must be clear restrictions on private ownership;
- understands that clear limits should be put on the extent of liberty which citizens can enjoy. The liberty of some individuals must not be allowed at the expense of the majority of citizens. So some people will no longer have the scope to accumulate vast resources at the expense of others.¹⁰

Is such a conception of participation and democracy as utopian as the vision of participatory democracy I have criticised unrealistic and unsustainable? I do not

⁹ I use the word 'normally' as I, personally, am very open to the idea that, as in Australia, citizens should be legally required to vote in elections.

¹⁰ Beware both corporate CEOs and brazen politicians!

think so. Indeed, I think it is necessary, for we live in a world whose very survival is being rendered increasingly endangered, both ecologically and politically, by massively widening and utterly obscene wealth and power differentials between the globally rich and strong and the globally poor and weak which have been hugely encouraged during the present era of rampant (albeit crisis fraught) capitalism. Indeed, it is not difficult to argue that in South Africa, the most unequal society in the world, the prospects for democracy are becoming increasingly blighted by widening not narrowing wealth differentials between the top and bottom people in our society as the economy seeks to 'compete' in the global market economy.

Perhaps the pursuit of a more participatory democracy must start at home, yet it cannot – and should not – be divorced from assertive steps taken by the poorer countries of the South for a much fairer, more equal and therefore safer world.

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THE STATE, ELECTIONS AND HIDDEN PROTEST

Swaziland's 2008 Elections

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ABSTRACT

In many African countries elections are accompanied by conflict emanating from the concerns of different sections of the population. The continent has experienced numerous protests over election results or the manner in which electoral processes have been conducted. Yet while protest by organised groups has been admirably analysed by some scholars, their analysis falls short of providing a comprehensive picture of some of the more obscure reasons for the discontent. For a comprehensive understanding of sources of conflict around elections there is a need to look beyond the actions of organised groups into the realm of the not-so-spectacular hidden forms of protest by rural communities. Such research reveals not only the extent of unhappiness with existing electoral processes but also the extent to which voices of dissent are suppressed under pseudo-democratic dispensations. This article focuses on protests in Swaziland against the electoral process, adding the dimension of hidden forms of protest as they unfold in some rural communities.

INTRODUCTION

One of the most important themes in the study of democracy is the holding and conduct of elections. Consequently, theories of democratic transition and consolidation have highlighted elections as one of the important pillars of democratisation (Carothers 2002, p 7). Writing during the first half of the 20th century Joseph Schumpeter (1942) argued that elections are the very heart of democracy. Some scholars have pointed out that holding regular, free and fair elections is one of the most important signposts of democracy (McQuoid-Mason,

Mchunu, Govender, O'Brien & Curd-Larkin 1994; Harrop & Miller 1987; Katz 1997; LeDuc, Niemi & Norris 1996).

These over simplistic assertions assume that an election provides people with the opportunity to vote and decide what happens to the future of their country (Heywood 2002). They give the impression that elections equal democracy, but that is an academic terrain with many landmines. They also give the impression that there is general agreement on the functions of elections, when, in fact, that is a highly contested issue. For instance, conventionally, elections are seen as a mechanism through which politicians can be called to account and forced to introduce policies that somehow reflect public opinion. However, a more radical view is that elections are a means through which governments and political elites can exercise control over their people, making them more quiescent, malleable and, ultimately, governable (Ginsberg 1982; Liebenow 1986; Mazrui & Tidy 1984). It is clear that the discussion of elections remains a contested terrain, with no simple issues. However, in spite of the numerous controversies surrounding their study there is a strong case for a continued analysis of elections as they take place in different countries.

Most analysis of African political history remains unbalanced, concentrating on the actions of formal political organisations (Beinart & Bundy 1987, p 2). The agency of rural communities in political and social developments has remained neglected and outside the historical record. Some scholars have attempted to address this imbalance (Marks 1970; Bozzoli 1983; Beinart, Delius & Trapido 1986), but the views and actions of rural communities remain, somehow, on the edges of scholarly analysis.

For instance, in some African countries there are no data on the responses of rural communities to recruitment and registration for elections except as affiliates of one political party or another. To acquire a better understanding of how elections are shaped and the way election registers expand or contract, it is important to move from the known and well documented to the less obvious and unpublicised. This enables scholars to reconstruct the conduct of elections for a better understanding of the dynamics that lead to non-participation in the electoral process.

Swaziland is an example of a country in which formal reactions to the electoral process are dominant, while very little is said or researched about the reactions of unorganised rural communities. Since the country embarked on its version of democratic elections in 1978 different scholars have highlighted protests from segments of the population. Richard Levin (1997) analysed the Swaziland democratic movement, showing how there has been an upsurge in protests against the failure to democratise, especially the refusal to hold elections under a multiparty democratic framework.

The same approach is seen in the work of Stephen Rule, who has argued that there was widespread protest in the early 1990s by the political opposition against the traditional political framework (Rule 2000). Similarly, Michael Neocosmos (2002) detailed the struggle for democratisation in Swaziland, showing how organised political groups have protested against elections since 1973. These writers have been impressed by organised protesters, whose views have been highlighted in the local media and echoed in regional and international fora. Formal protests have been chronicled, albeit in journalistic fashion, and have entered the historical record.

There is no doubt that the attention given to formal protests against elections in Swaziland has contributed to our understanding of the struggle for democracy in the country, but the analysis would be even more rewarding if it went beyond formal protest into the realm of the personalised and unorganised. These hidden protests, which are not televised and do not find their way onto national radio, give an indication of the sentiments of rural dwellers, who account for about 70 per cent of Swaziland's population and remain a reality for most of the rural areas of Swaziland.

Observer missions during the 2008 Swaziland elections declared that the elections were free and fair. The African Union (AU) Observer Mission concluded that 'we did not come across any form of intimidation of voters' (AUOM 2008, p 2), while the SADC Election Observer Mission stated, 'The overall conclusion of the SADC Electoral Observer Mission is that the elections were free, peaceful, transparent and credible' (SEOM 2008, p 5) and the Electoral Commissions Forum of SADC Countries concluded that 'a conducive environment existed for the electorate to exercise its will freely'. It was only the Commonwealth Expert Team that picked up on the intimidation that occurred at the time of registration and concluded that 'We cannot therefore conclude that the entire process was credible' (Commonwealth Secretariat 2008, p 26).

The aim of this article is to show that the 2008 elections in Swaziland were accompanied by a great deal of intimidation in the rural areas during the pre-registration and registration periods. The article points out that the intimidation was a response to the hidden protests of some rural communities that manifested themselves in a reluctance or outright refusal to register. There were also threats that scholarships and other forms of state assistance would be withheld from potential students who, or whose parents, refused to register.

In some cases the protests were against the political system in general. The article argues that protest against the traditional political system and the electoral process that accompanies it is not restricted to organised political groupings but is also present in the rural areas, albeit in a different form. It uses the registration process for the 2008 legislative elections to show how rural communities have

protested against elections and that such protests have been followed by different forms of intimidation perpetrated by state officials in an attempt to legitimise the *tinkhundla* political system.

METHODOLOGY

The chapter relies heavily on qualitative research conducted in some rural areas, mainly in the southern part of the country. Unstructured interviews allowed the interviewees to express their feelings about the elections. Simple purposive sampling was used to identify people to be interviewed. Because of the economic and labour history of southern Swaziland it was natural that many of those interviewed had a history of involvement in cross-border migration. This resulted in a bias in favour of this group, whose thinking, perceptions and attitudes are possibly shaped by their experience. However, they remain members of rural communities and their views demonstrate a departure from conventional wisdom based on the assumption of total loyalty to the traditional system of governance. Their views remain important as indicators that rural communities are involved in protest against unfavourable electoral practices.

The subject of the paper is sensitive, especially in a repressive political system such as that of Swaziland. Those who were willing to be interviewed and express their views insisted that their identity not be revealed. Consequently, the names used in the paper have been changed to protect the identity of the interviewees.

THE FOUNDATION OF HIDDEN FORMS OF PROTEST IN RURAL SWAZILAND

An analysis of hidden forms of protest in rural communities against the 2008 elections should be contextualised within the broader framework of the way in which the Swazi leadership has deconstructed and reconstructed spaces for political participation. This calls for an analysis of the manner in which country's leaders have invented their own form of democracy, which systematically suppresses opposition and voices of protest in general. It is also important that hidden forms of protest should be understood within the context of political control as it affects rural communities in Swaziland.

The colonial period was the golden age of the participation of Swazi rural communities in the electoral process. Two elections were conducted during this period, one on 23 and 24 June 1964, another on 19 and 20 April 1967 (Rule 2000, p 287). During this period the colonial government permitted the formation of political parties for an all-inclusive process of political participation. Political parties multiplied, indicating an appreciation of multiparty democracy.

Some of the parties were too small to survive, but competitive politics allowed them space for self-expression. What was fascinating here was not the ideological sophistication of the parties or the lack thereof but the freeness with which people in the rural areas were given an opportunity to listen to different agendas and decide which party best addressed their concerns. Rural dwellers were sometimes subjected to intimidation at the hands of some parties, especially King Sobhuza II's Imbokodvo National Movement (INM).

In spite of the intimidation there is no indication that rural communities were engaged in hidden forms of protest, probably because the political process at this time allowed open criticism. In other words, in spite of colonial dictatorship there were still open spaces for political dissent, especially during the decades of decolonisation. Both elections affirmed the popularity of the traditional political system, especially the centrality of the monarchy, because the Swazi were united against an identifiable and common enemy – British colonial rule.

The era of tolerance of political dissent or a version of it continued for about four years after the country gained its independence in 1968. The traditionalists, under the leadership of King Sobhuza II, grudgingly permitted political dissent because the Constitution, inherited from the British, allowed it. Those who held different political views could still register their protests through the ballot box, and therefore had no reason to employ hidden forms of protest. In the run-up to the first elections after independence, freedom of expression was allowed and protests took the democratic form of supporting one party against another. Members of rural communities, in common with everybody else, were free to shift allegiance from one party to another.

During the run-up to independence Sobhuza II and his traditional allies were concerned about the growing strength of the opposition. For instance, in the elections of 1964 the Ngwane National Liberatory Congress (NNLC), the main opposition party, won only 12.3 per cent of the vote, while in 1967 it won 20.2 per cent (Rule 2000, p 287). The elections that took place on 16 and 17 May 1972 proved to be crucial to Swaziland's political process as the NNLC confirmed that it was a threat to the hegemony of the traditionalists.

While it is possible that between 1968 and 1971 the traditionalists were plotting to overthrow the Constitution it was the result of the elections that seem to have been decisive. Dr Ambrose Zwane, leader of the NNLC, defeated an INM candidate in the Mphumalanga constituency, while two of his colleagues, Thomas Ngwenya and Madonki Masilela, did the same in other constituencies (Levin 1991).

This meant that for the first time there was an elected official opposition (Rule 2000, p 288), confirming to the traditionalists that the NNLC was growing in strength and was a threat to the survival and reproduction of traditional politics.

The elections also pointed to the growing political strength of industrial workers and the urban population who constituted the majority support for the opposition parties (Libby 1987).

The immediate response of the traditionalists was to purge the opposition. On 25 May 1972 Ngwenya was declared an illegal candidate as it was argued that he was born in South Africa (Kuper 1978) He was then deported to South Africa (Levin 1991). The results also prompted the traditionalists to conclude that the Swazi were adopting 'foreign' political doctrines (Matsebula 1972). The final assault on democracy came with the repealing of the independence Constitution and declaration of a state of emergency. King Sobhuza II was given the power to rule the country by decree. Most importantly, all opposition political parties were banned. This was the beginning of a closing down of the spaces for political dissent and protest and the majority of the Swazi were left to engage in hidden forms of protest that operated mainly at an individual level.

From 1973 the political landscape in rural Swaziland changed completely. Although this was the case with all population groups in the country the situation was worse for rural communities because they could no longer be mobilised or organised. While urban groups benefited from secret meetings organised by political parties, which were now operating underground, no political motivation or mobilisation was taking place in the rural areas, all of which were once again being sucked into the realm of traditional politics, which had a huge democratic deficit. Also, while urban areas were to benefit from limited trade union activities, rural areas were left on the margins. Rural communities remained the backwater of even the limited political modernisation that was taking place.

In 1978 the rural areas were brought back into the realm of political activity through the establishment of *tinkhundla* – regional constituencies. Of the 55 that were created more than 80 per cent were in rural areas. The new system ensured that political organisation and elections could only take place under the traditional system, with all other forms of participation disallowed. This indigenisation of the electoral process excluded and marginalised all groups that believed in alternative forms of political participation.

Political participation no longer took place in terms of multiparty democracy, as had been the case before 1972. This time, rural communities were not mobilised by political parties, instead they were required to vote for individual candidates from their communities, through whom the monarchy entrenched its control over the general population. Under this system elections do not change the leadership or the governance system but are reduced to a ritual carried out every five years. Leaders and policies are not contested but remain forever in the hands of the king, princes, and traditional chiefs. Any form of protest is met with severe suppression. However, suppression has not eliminated protest against the

traditional political system and the manner in which elections are conducted. Protest in rural areas takes hidden forms, as was demonstrated in the registration for the 2008 elections.

There is evidence of growing unhappiness with the country's electoral process (Rule 2000) because elections under *tinkhundla* imply a denial of freedom of choice, as multiparty democracy has been eliminated. Rural communities are compelled to vote within a structure predetermined, controlled and manipulated by the country's leaders. Consequently, the people they send to Parliament have no power because Parliament is controlled by the monarchy. For the five years they are in office, they are not accountable to the voters because the voters have no power to recall them – Swaziland's Constitution has no recall clause. The electoral process simply assists King Mswati III to form a government, which he heads, and to have a Parliament he controls and manipulates. Rural communities are not blind to the limitations of this process and some do not support the *tinkhundla* system, hence the hidden forms of protest.

Rural communities in Swaziland are more obliged than urban populations to engage in hidden protest. The reason is that, according to Swazi law and custom, all land in the rural areas is under the control of the king. Through regional chiefs the king allocates homestead land and retains the power to evict occupants if he feels it is necessary. This enables him to exercise extreme political control over rural communities through land control, a fact that has forced these communities to avoid open protest against the monarchy or institutions created by the monarchy.

RURAL COMMUNITIES AND PROTEST AGAINST THE 2008 ELECTIONS

There is no documented evidence of the views of rural communities about elections under *tinkhundla*. The media hardly cover the sentiments of these communities, probably because they are not formally organised and there are no spokespeople to articulate their views. The general assumption is that most rural dwellers support the monarchy and are happy to participate in elections under the *tinkhundla*.

Some of these conclusions have been the result of a failure to conduct research in rural communities. Pushing the frontiers of analysis beyond the easily accessible gives us an indication of what these communities feel and an indication of the sustainability of the present Swazi electoral process. The only way to do this is by means of person-to-person interviews. The testimonies used below to reconstruct the feelings and attitudes of rural people about elections in Swaziland are not meant to be nationally representative. Instead, they are intended to indicate

alternative views to the conclusion that all rural communities support elections under *tinkhundla*. This is very important for those interested in the extent of protest against the electoral process and the future implications of this protest.

Anecdotal evidence indicates that there is simmering discontent and hidden forms of protest against elections under *tinkhundla* among rural dwellers. These forms of protest are not organised or publicly articulated and therefore can only be brought to the surface through personal testimony. One of the major views among these communities was that the elections are nothing but a royal ritual with no relevance to the quality of life of the citizens.

Velaphi Mhlongo, a resident of Nyamane, in Southern Swaziland, stated:

Things have changed in Swaziland as the king now travels to all parts of the world and hears other leaders talking about elections as an indication of people's participation in politics. The problem is that in our case the elections are built on a system that is against change. We are allowed to participate in elections, but only as far as they do not challenge the power of the king. What is important is that we have been having these elections for years, but our lives have not changed. It is useless to participate because my vote will not change anything.

Interview, 21 July 2008

It appears that a negative attitude to the elections is not based on any form of philosophical consideration or subscription to the ideas of any political party, it is a reaction to the inability of the system to respond to people's needs.

This was revealed in the testimony of Mzwandile Myeni of Nyamane:

I wonder why we are called to vote every five years because nothing changes. The poor of this country are as poor as before and *tinkhundla* have done nothing to improve their lives. If you look at the situation today more Swazi stand in long lines waiting for food aid than before and we have a large number of people who go without a meal every day. Economically, all rural communities are worse off, but we continue every five years to vote for a system that is ineffective and non-responsive to the needs of the people. I do not think we should be voting any more, we should just let the king appoint his chosen people.

Interview, 21 July 2008

Some of the respondents focused on the non-democratic nature of the elections. It is interesting to note that some of the commentators on democracy were former

migrant mineworkers who were comparing what they saw in South Africa with what was happening in Swaziland. Even though they are poorly educated, they seem to have learnt from the electoral process in South Africa.

Somuzi Dladla of Makhosini, who has been a migrant labourer since 1995, said:

The elections that we are registering for in Swaziland are very difficult to understand. Why do we vote for people who do not belong to parties? What kind of voting is it that does not have political parties contesting the elections so that we can choose the party that we feel promises to make our lives better. There is absolutely no choice here and you are never sure what you are voting for. All these years we have been called upon to vote for the king's men, who have no meaning to our lives.

Interview, 23 July 2008

It would be interesting to follow the impact of cross-border migration on Swazi attitudes to the country's electoral process. This is especially the case now that more and more educated Swazi are engaged in such migration. It is possible that expressions of concern about the country's electoral process may increase.

One of the most interesting testimonies came from John Ngozo of Mahlandla, who subscribes to a kind of conspiracy theory:

I have been observing the elections in Swaziland for some time now. I have come to the conclusion that they have nothing to do with improving the welfare of the people. Instead, it is something that was introduced by the leaders of this country to allow their friends to share the riches of the country and use the poor people as a vehicle to such riches. For most of the people we elect to Parliament it is a story of rags to riches. They are allowed to make laws that enrich themselves and hardly think about the poor. Once they are in power they forget about the people who voted for them and they become very good at singing the praises of the king. The whole elections thing is a ploy to make some people rich, it is all a process of plundering the riches of the state.

Interview, 23 July 2008

The scenario that emerges from the above testimonies is that some rural communities see the electoral process as having no relevance to their daily lives and doing nothing to improve their wellbeing. The failure of the *tinkhundla* process

to address the plight of rural communities in terms of economic wellbeing has resulted in a negative attitude to elections in the country. It is an attitude that leads to non-participation, as indicated by the low numbers who registered in the initial stages of the 2008 elections. The views expressed above indicate a form of hidden protest based on individual assessment of the country's elections and an inclination to retreat from the electoral process. This shows that much as rejection of the elections has been a hot issue among organised political formations it is also embedded in the feelings of some rural dwellers, though it has not yet crystallised into open protest.

While the above views are recognised there is a need to conceptualise correctly the meaning of elections in Swaziland. Swazi elections are founded on royal absolutism and not on democratic principles. The country has experienced considerable pressure from regional and international communities with regard to its failure to democratise along with other Southern African countries. In an attempt to reduce criticism of the country's absolute monarchy an electoral process based on a traditional political structure was put in place. In doing so the country's leaders were appeasing the international community, particularly donor organisations and institutions, while ensuring that the absolute monarchy remained intact. Swazi elections, therefore, are intended to nourish the monarchy and not to address the plight of the citizens through better and more efficient service delivery. It is understandable that rural communities are beginning to question the relevance of the electoral process to their everyday struggle to survive.

HIDDEN PROTEST AND INTIMIDATION

The Elections and Boundaries Commission (EBC) described voter registration for the 2008 elections as smooth. At the end of the registration period the commission announced that about 400 000 people had registered, but the validity of this figure is questionable. Deeper research indicates that, as was the case in other African countries (Kadima, Leonard & Schmidt 2009; Leonard & Owuor 2009) registration was characterised by low intensity conflict and protest.

Evidence suggests that failure to register was the initial form of protest. This was indicated by the fact that at the start of the process few people turned up to register and in most of the rural areas registration officials spent long hours doing nothing.

As Mbovane Masuku described it:

I was employed as one of the competent witnesses in my *Umphakatsi*. From the beginning to the middle of registration people were coming out in very small numbers. We spent some days doing nothing as there

were no people to register. We were aware that people were just staying at home but we did not know the reason behind such a reaction.

Interview, 24 July 2008

This was corroborated by the testimony of Maxwell Dlodlu, who said:

I have heard people of this area talking among themselves, saying they were not eager to register for the elections because Swazi elections have no meaning in their lives. They claim that the elections have no relevance to their lives because the people they vote for have no power because they listen only to what the king says. They also claimed that past elections have shown that those who are elected are not capable of bringing meaningful economic changes to the area. It appears that refusal to register is some form of protest against the whole system.

Interview, 29 July 2008

In some *imiphakatsi* (headquarters of chiefdoms) registration officials, forced to change strategy as a result of the disengagement of rural communities, decided to create mobile registration centres.

According to Thulani Bhembe:

Up to the middle of the registration exercise it was not clear what we were doing in our registration centre. People were not coming out to register. There were instances when, for the whole day, we registered only three people. We were forced to think of the best way to attract people to registration. We decided against staying in one area but to move from area to area, literally sending the registration centre to people's doorsteps. We ended up registering people in 11 more areas as against one as per our initial instructions. It was only at the end of the registration period that people began to come out.

Interview, 25 July 2008

The Embilaneni Umphakatsi, located in the southern part of the country, was one of the areas where the strategy of providing mobile registration centres was adopted. Robert Ntuli, who was one of the representatives of the chief of the area in the registration process, had an interesting explanation for the reluctance of the residents to register. He said:

At the beginning of registration we encountered a problem of reluctance by people to come out for registration. It was like they were boycotting

the registration process. I think the main reason for such reluctance is that the people in this part of the country have an identity problem. I feel that they are not sure whether they are Zulu or Swazi. This makes them not loyal to the Swazi king and, as a result, they were reluctant to register for this important activity sanctioned by the king. I also feel that they are not loyal to Swaziland as their country of birth. I hear that many of them are officially citizens of both countries.

Interview, 28 July 2008

With rural disengagement continuing, stories of intimidation perpetrated by government officials began to circulate. Intimidation took different forms, but all of them revolved around threats to prevent access to government services for those who refused to register. Evidence indicates that another threat was the denial of a government study loan or scholarship.

At present, the Swaziland government offers study loans to all Swazi students admitted to a university or college either within the country or outside it. While this has proved positive for skills development it has also been used as a control mechanism for both students and their parents. Recipients of the loans are systematically coerced not to criticise the monarchy or the government for fear of being deprived of study facilities. Parents are also required to toe the line where the monarchy is concerned in fear that their children may be denied access to the loan. The result is a forced docility on the part of both parents and children through manipulation of the scholarship fund. The politics of patronage are well utilised, with critics likely to be punished and supporters rewarded. Evidence that this instrument was dangled as a threat against those who were reluctant to register for the 2008 legislative elections was highlighted by Sibusiso Shabalala of Ngelane:

It appears that there was concern that people were not coming out to register for elections. A story started circulating that all those who were above 18 years and completing high school but did not register were not to be granted government scholarships to go to university or colleges. It was also reported that children whose parents did not register for the elections were to be denied government scholarships to go to university and colleges. Some of those who had not registered quickly went to register so that their children could be eligible for government scholarships.

Interview, 25 July 2008

Another form of intimidation was to portray registration as an instruction from

the king that should be complied with. Some rural communities were informed that all those who were not registering for elections were against the king and were refusing to follow his instructions.

This emerged from the testimony of Vuyisile Ndlovu:

My original intention was not to register for the elections. I have voted twice before and I did not benefit anything. When there were three days left for registration I was told by some members of my community that all those who had not voted were in trouble. We were told that we were against the king by not registering. I was told that after the elections we might be evicted from Swaziland. Hearing this, my husband ordered me to go and register immediately and I did so.

Interview, 25 July 2008

The thrust of this intimidation strategy was to capitalise on the traditional Swazi belief that any instruction from the king has to be complied with because failure to do so will bring punitive measures against all concerned. Out of fear of the king and the absolute authority he wields over everybody in the country many people were coerced into registering.

The strategy also contained a material component that was bound to influence rural dwellers. Traditionally all rural dwellers in Swaziland occupy land as a privilege dispensed by the king (Libby 1987). Consequently, they all live under threat of being dispossessed of the land they occupy. Their fear is very real because the monarchy has indeed dispossessed people who refused to follow the king's instructions. For instance, in 2000 the chiefs of Macetjeni and kaMkhweli, together with their supporters, were evicted from their territories because they refused to follow an instruction from King Mswati III to renounce their chieftainship and territories in favour of his older brother, Prince Maguga (Simelane 2010).

Intimidation also took the form of the politicisation of food and cash aid. With the escalation of poverty in the country about 400 000 people are currently dependent on aid. At the beginning of the century it was estimated that 60 per cent of the population was living below the poverty line (Swaziland Government 2000). That proportion has now risen to 70 per cent (*Swazi Observer*, 7 July 2009). Such high rates of poverty mean that the majority of rural dwellers are dependent on food handouts either controlled by or whose distribution is under the influence of the state. The politicisation of food distribution has enabled the state to use it as a tool to force rural communities into loyalty and acquiescence.

According to some sources, a few days before the deadline for registration

a rumour circulated to the effect that those who did not register would receive no aid. This appears to have hit a nerve for most people.

Khethiwe Zulu related her story:

It is always difficult to think about registering to vote and voting if the whole process has failed time and again to make a difference in one's life. This time I had told myself that I was not going to waste my time registering. In fact when the registration began I went to Piet Retief to visit some family friends. I had intended to stay there for the whole of July because I was also selling some articles. On the 26th of June I received a call from my husband telling me to come back to Swaziland to register for the elections. I came back with two days left and my husband told me that they had received information to the effect that all those who did not register would not receive food or cash aid.

Interview, 27 July 2008

The most interesting story came from Duma Dlamini. It was about a friend who was intimidated by being left out of the food distribution. Duma said:

My friend Vusumuzi stays about two kilometres from the area of registration. Because our area is next to the border to South Africa he sometimes spends some time in Pongola, South Africa. He came back to Swaziland on the last day of registration and it was after lunch when closing time at the registration centre was 5 pm. Vusumuzi is 63 years old. It was only when he arrived home that he received the information that those who did not register were to be left out of food distribution. Only one and a half hours was left to closing time. He started running from his home and when he reached the registration station he was sweating and his clothes were wet. The police officers and the registration officials allowed him to lie down and rest because he was not even able to speak coherently.

Interview, 27 July 2008

It is not clear where the intimidation originated. The Elections and Boundaries Commission has condemned the allegations of intimidation, stating that it stands for free and fair elections. Its spokesman maintained that 'The allegations are, therefore, meant to water down the smooth and peaceful voter registration process and we, therefore, urge the perpetrators of this evil act to desist from making such unfounded allegations' (*Swazi Observer*, 24 June 2008). The testimonies of some

rural dwellers indicate that the stories of intimidation were real and could not be contested. It is the source of the intimidation that remains unresolved. It is also a fact that, for purposes of legitimacy, King Mswati III and his government were looking forward to a high turnout during the registration period. The slow and low turnout at the start of the process must have been a source of concern that called for corrective strategies to be put in place.

CONCLUSION

The electoral process in Swaziland has always been accompanied by controversy as some groups have contested the legitimacy of the elections. This has been the case because, in the absence of multiparty democracy elections, have been conducted under the auspices of a traditional political system characterised by patronage and the nourishment and reproduction of royal absolutism. It is, therefore, natural that voices of protest should be heard from different sections of the Swazi population. Currently only the voices of organised groups in urban areas are heard. Those of rural communities have not been brought to the forefront. This article has shown that rural communities are using hidden forms of protest. Their reluctance to register for the 2008 legislative elections is an indication of such protest.

In spite of assumptions that Swazi rural communities support elections under *tinkhundla*, oral evidence indicates otherwise. These voices may not be very loud, and may not be well articulated, but they are there. Their main concern is that elections in Swaziland bring no improvement in the quality of life of the majority of the people. They have become a ritual for choosing the king's men and have no relevance to the economic wellbeing of rural communities. The electoral process is intended to improve the image of the monarchy in the international community while contributing very little to the democratic transformation of the country.

Rural protest against the electoral process in Swaziland has not been overt, but is still based in individual reaction. In 2008 this reaction took the form of disengagement or retreat from the system, with individuals deciding that they would not register and would therefore not participate in the elections. This forced some registration teams to adopt strategies to attract people to register. One such strategy was to create mobile voting stations which would go where the people were. The impact of this strategy is difficult to determine, but it must have assisted in increasing the number of registered voters.

Protest through disengagement appears to have been effective, as intimidation was employed to force eligible citizens to register. Anecdotal evidence indicates that there was a close relationship between the circulation of rumours of intimidation and the improved turnout during the final days of the registration period.

Oral evidence indicates that elections under *tinkhundla* do not run as smoothly as the nation and the international community have been led to believe. Elections are punctuated by different forms of intimidation, much of which is not brought to the notice of regional and international communities.

The presence of hidden forms of protest against the electoral process in Swaziland has serious implications for the future of the country, indicating that there is a simmering conflict that may explode at any time. While suppression of the voices of protest appears to be successful at present its sustainability is highly questionable. There is a need to put in place a mechanism to defuse the tension. The most plausible mechanism is to fast-track the democratisation process, which is presently showing a huge deficit compared to what is happening in other Southern African countries.

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MOZAMBIQUE'S 2009 ELECTIONS

Framing Democratic Consolidation In Context

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ABSTRACT

Mozambique's fourth post-conflict elections, held in October 2009, accorded citizens and the political elite an opportunity to assess their democratic experiences over two decades of transition from one-party to multiparty democracy. Dominated by the two oldest political parties, the incumbent Frelimo and the opposition Renamo, the election tested the degree to which Mozambicans were able to consolidate their democratic gains and exposed the extent of the political elite's capacity to play by the rules of the democratic game. Despite robust electioneering, heated debate and the exclusion of some presidential and party candidates from standing, the election was conducted in relative peace, attesting, by and large, to the elite's ability to combine political competition, cooperation and a few selfless compromises in pursuit of safeguarding hard-won democratic gains, peaceful co-existence, political stability and a modicum of economic growth. This article analyses Mozambique's 2009 elections with specific reference to: the major issues which dominated the elections; the framing and salient features of post-conflict democratic consolidation or the lack of it; and the role of the new political parties in the party alignment. By addressing these issues, we hope to shed light on the implications of the elections for post-liberation politics and democratic consolidation.

INTRODUCTION

The background to Mozambique's fourth competitive multiparty democratic elections since the country acquired its independence from Portuguese colonial rule on 25 June 1975 invites comment. The Frente de Libertação de Moçambique (Frelimo) has dominated Mozambique's political history both as a liberation movement, since its establishment in 1962, and its transformation of the country into a one-party Marxist state in 1977 and the formation of the first national government under self-rule. Frelimo also dominated political life in post-conflict Mozambique during the civil war and post-Rome General Peace Accord in 1992. Likewise, Resistência Nacional Mocambicana (Renamo) has spent most of its political life as a liberation movement and an opposition to Frelimo.

Generally, it was expected that the fourth multiparty election would reveal signs of political consolidation or, rather, a greater comprehension of the normative and pragmatic rules of party politics. The adherence of Mozambicans since 1994 to the principle of holding regular and periodic elections and former President Joaquim Alberto Chissano's compliance with the Constitution in stepping down at the end of his second term, in 2004, could be considered glimpses of a semblance of political maturity.

Other positive aspects include the call for a second round in Nacala in the third local elections and the recognition by the National Electoral Commission (CNE), which is perceived as biased in favour of Frelimo, of the landslide victory of Daviz Simango, an independent candidate, in Beira (Ruigrok 2005). Although some political parties were not excluded from the general election they conformed with a Constitutional Council ruling that excluded them from fielding presidential candidates. None of the smaller and new political parties resorted to unconstitutional means such as violence.

Political parties in Mozambique have gained experience and knowledge of party politics in a multiparty democracy. Both Frelimo and Renamo have, to some extent, been transformed from highly militarised centralised liberation and guerrilla movements into civil political organisations operated increasingly by a combination of educated civilians, political cadres and party functionaries. They have also established offices throughout Mozambique to galvanise the support of their members.

However, Frelimo is better organised than all the other political parties because of its proximity to power and the opportunities brought about by its control of the financial resources and personnel of government. Incumbency offers Frelimo considerable advantages in acquiring better skills, education and social mobility for its cadres, particularly loyal middle-range politicians and civil servants.

With this in mind, we analyse Mozambique's 2009 election and highlight on party politics, factions, alignments and major issues that dominated the elections; the framing and salient features of post-conflict democratic consolidation or the lack of it; and the role of the new political parties in party alignment and electoral outcomes. By addressing these issues we hope to shed light on the implications of the elections for post-liberation politics and democratic consolidation.

PARTY POLITICS, FRICTIONS AND ALIGNMENTS

Party politics

Party politics in Mozambique is dominated by the centrality of Frelimo in the country's polity and society and its ability to maintain an integrated power structure, ensuring a close relationship between the party, the presidency, the political executive and the state apparatus. On the other hand, despite an impressive showing in the elections, Renamo has maintained its position as the main opposition party but has not, as yet, posed a serious challenge to Frelimo.

Because of the existence of opposing trajectories, with one party forming a perpetual government (Frelimo), the other a perpetual opposition (Renamo) the relationship between the two is barely cordial and not commensurate with the democratic norms prevalent in mature democracies. For example, from 1992 to 2004 the two parties maintained a degree of political collaboration and accommodation, including direct dialogue between then incumbent President Joaquim Chissano and opposition leader Afonso Dhlakama. Unfortunately, this situation changed in 2005, to the extent that Dhlakama and Armando Emílio Guebuza, Chissano's successor, have not met in the past five years.

The strained Frelimo-Renamo relationship has had at least two negative implications for party politics and the democratic norms governing the relationship between government and opposition: firstly it weakens the party system and jeopardises the institutionalisation of stable inter-party competition, with the effect that democracy is not sufficiently embedded in society. Although elections are accepted as the only legitimate institution through which citizens' preferences are weighed, they are often marred by squabbles and scattered electoral violence (see, eg, *Mozambique Political Process Bulletin* 3, 14 September 2009).

With few exceptions the opposition parties lack basic organisational structures, operating as fiefdoms of one or two leaders seeking state electoral support only to disappear from the political scene once they receive their share of the windfall and, at times, without campaigning for the popular vote. Such

greedy politicians often hibernate and emerge only with the onset of registration for the next elections, to receive their share of election funds.

The only difference between Renamo and the 'briefcase' parties is that it has a constituency and sizeable electoral support. But as an organisation it lacks the basic elements of a political party – there is no communication between the national, provincial and district levels and it has organised few proper conventions since its transformation from guerrilla movement to political party. It has retained much of its military style and, while its president has exchanged his military fatigues for civilian clothes, he still behaves like a military commander. He silences intellectual voices, stifles genuine debate within the party and quickly eliminates those who disagree with him. In a recent interview Dlhakama admitted that he is authoritarian and believes he should continue to lead the party because that is the only way to halt Frelimo's dominance.

In a rare show of bi-partisan agreement the first provincial assembly elections were postponed from 21 January 2008, the date specified in the Constitution, to October 2009, to coincide with the national and presidential elections. The change of date required a constitutional amendment and thus the collaboration of government and opposition was critical. Frelimo mellowed its rhetoric and was able to persuade Renamo to accept the amendment. Despite the use of harsh language by parliamentarians across the party divide a consensus was reached and the amendment was accepted, thus saving the country considerable expense and the risk of electoral violence. While Frelimo was able to secure a peaceful leadership succession from President Chissano to Guebuza in 2004 and the current president has already pledged that he will not try to have the Constitution changed to permit him a third term (AIM 4 October), the succession debate in Renamo is taboo and can only be whispered about for fear of reprisals. Since 1992 Dlhakama had organised only two congresses, at which he presented fictitious candidates for the party presidency only to satisfy externally driven demands (by regional and transnational democracy promotion activists) for Renamo to adopt internal party democracy measures (Lalá & Ostheimer 2003).

Mozambique may either be defined as an electoral democracy, where an election signifies peaceful transition, or as a process of renewing and legitimising Frelimo's mandate to govern. Once in power Frelimo uses the machinery of government as an extension of party influence over the state apparatus. In the circumstances, democracy is equated with elections and after elections the country returns to 'business as usual' or rule by the party faithful and the exclusion of the opposition and government critics. In addition, Frelimo's control of key government institutions (the police and the army), including the electoral institutions, has strengthened its grip on power, creating uncertainty and doubt even about whether the elections are free and fair.

Factions and alignments

After 20 years of relative internal cohesion, factions and internal schisms began to beset Renamo in 2008, almost a year before the 28 October 2009 elections. Fearful of being challenged by the charismatic style and leadership qualities of Daviz Simano, the Mayor of Beira (the largest city in Mozambique), Renamo withdrew its support for his candidacy for re-election in 2008. For his part, Simano decided to defy the party's ruling and contest the municipal elections as an independent candidate. He won 62 per cent of the vote, defeating the two candidates endorsed by Renamo and Frelimo, and had his position as mayor reconfirmed. The results attested to his popularity as well as to the lack of support at grassroots level for the conventional parties.

In preparation for the 2009 elections Simano founded the Movimento Democrático de Moçambique or Mozambique Democratic Movement (MDM, a Renamo offshoot) in order to oppose the dominance of Frelimo and Renamo. There are similarities among the three parties in relation to their support for peace, political stability, democracy and development. But there are also considerable differences. Politically, the MDM stands for *Mozambique for all*, democratic leadership, inclusive, plural and participatory democracy, freedom, equitable distribution of wealth, wellbeing for all, solidarity and moralisation of society, and the abolition of Frelimo party branches in state institutions such as schools, hospitals, ministries and others. With social policies oriented towards the youth, which it claims to be its key social base, the MDM leans towards social democracy.

Frelimo claims to stand for consolidating national unity, peace and democracy; a school for promoting and consolidating democracy; combating poverty; promoting the culture of work; good governance and accountability and the promotion of friendship, solidarity and cooperation. Frelimo also claims that its programme is mindful of the need to combat corruption, though the so-called 'war against corruption' was played down in the 2009 electioneering rhetoric compared with that in 2004. Frelimo's manifesto also advocates continuity in the path of development and poverty reduction under a social democratic dispensation.

Like the MDM Renamo advocates the abolition of Frelimo party branches in state institutions. It promises to promote tolerance and guarantee citizen freedoms in a plural polity that allows access to the media and promotes the concept of the inviolability of the right to life. It promises the right to differ, to elevate the dignity of traditional authority, to promote the defence of human rights, and to reform and depoliticise the judiciary. Like Frelimo, Renamo promises to combat corruption, crime and drugs, and to decentralise public administration.

The MDM experienced a taste of *real politik* in late September 2009 when the CNE rejected its lists of candidates in nine of the 13 parliamentary constituencies. According to the CNE the decision was made on the grounds that the MDM had not submitted the legally required documents. This partial exclusion of the MDM resulted in an unprecedented outcry from moderate voices and civil society organisations.

The following headlines from key independent newspapers in 2009 illustrate the argument: 'Unlawful decisions by CNE may provoke bloodshed' (*Magazine Independente*, 9 September), 'CNE is transformed into a Frelimo political cell' (*Zambeze Independente*, 10 September), 'Political earthquake in Mozambique' (*Savana*, 11 September), 'A high tension week in Maputo between CNE and parties' (*Magazine Independente*, 16 September), 'Signs of danger from CNE' (*Magazine Independente*, 16 September), 'CNE jumped important steps of the law' (*Diario Independente*, 17 September) and 'Fraudulent and Technological Stalinism at CNE' (*Zambeze Independente*, 17 September).

Multilateral and bilateral international development agencies active in Mozambique¹ criticised the CNE for its failure to release information about the real grounds on which it excluded some political actors. The tight grip of the CNE on information relating to this matter 'gives an impression of lack of transparency', said the Finnish Ambassador to Mozambique. He and others argued that it was not clear whether the procedures had been followed correctly or the electoral calendar had been respected. The credibility of the electoral process would be placed in question if the issues were not resolved quickly. After reading the statement, the ambassador added that he had the impression that excluded political parties had not been given the opportunity to make corrections, as set out in the law (*Mozambique Political Process Bulletin* 5, 19 September 2009).

In September 2009 the MDM complained to the Constitutional Council (CC) about the CNE ruling that the documents presented in support of some its candidates to contest the elections were not complete and in some cases were not even submitted. The CC's decision in favour of the CNE decision is in sharp contradiction with the CNE's notification to the MDM, which set out the procedural problems the party had to solve before its lists could be accepted. The CC based its ruling on an internal (confidential) CNE document, the *mapa de controlo*, which is the register of all decisions taken with respect to candidate lists. The issue revolves around the requirement that political parties submit not only the name of a candidate but also a file, known as a *processo individual*, containing five supporting documents.

¹ The G19 includes 16 bilateral budget support donors plus the African Development Bank, the World Bank, and the European Commission. The United States and the United Nations are associate members.

According to the CNE if the list of candidates shows that the listed candidates do not possess *processos individuais* the list must automatically be rejected. There must be more candidates than constituency seats, plus three extra candidates, known as *suplentes*. An example of the weakness of the CC ruling can be found in Cabo Delgado constituency, where it says two candidates – Jerónimo Artur and Miguel António Suquia – did not have their voters' cards and five – António Mendonça de Carvalho, Pissura Amade, Elias Gabriel Riquichi, Miguel António Suquia, and Dale Alfredo Alamo (*suplente*) – did not have *processos individuais*. But in a formal notification sent by the CNE to the MDM it said the first two candidates do not possess *processo individual*, the first three on the list (de Carvalho, Amade, and Riquichi) had failed to present a criminal record certificate and the other two (Suquia and Alamo) were not mentioned at all in the MDM's submissions.

It is difficult, almost impossible, to work out whether the CNE ruling was correct and to what extent the deliberations and the CC's decision were based on neutrality, because fundamental information was withheld. The CC and CNE were harshly criticised by the media and civil society. Headlines in a key independent newspaper illustrate the ferocity of the arguments and what was at stake: 'FRenamo at the Constitutional Council' (*Diario Independene*, 30 September 2009). FRenamo is a name coined by the media to insinuate collusion between Frelimo and Renamo in the CC to exclude the MDM. 'The CC ruling killed democracy' (*Diario Independene*, 30 September 2009). Important civil society figures expressed disappointment with both the CNE and CC. '... I am ashamed of this country where important institutions are commandeered by political parties to the point that these institutions were ordered to shred or steal files of other parties,' said Alice Mabote, president of the Mozambican Human Rights League.

The MDM and other excluded parties chose to abide by the CC ruling. The MDM contested the election in four national constituencies and the remaining parties aligned with the three larger parties, Frelimo, Renamo and the MDM. The Ecologist Party (PEC-MT), the Labor Party (PT), the Independent Party of Mozambique (PIMO), the Democratic Alliance of Veterans for Development (ADACD), the Mozambican National Party (PANAMO), the Social Liberal Party (SOL), the Union Party (PUP) and the Party for Freedom and Development (PLD) declared their *unconditional* support for Frelimo and its candidate, Armando Guebuza. 'The Political Council of our party analyzed the manifestos of the three presidential candidates, and we are now announcing our unconditional support for Armando Guebuza,' said Joao Massango, leader of PEC-MT. The United Congress of Democrats (CDU), the Social Broadening Party (PASOMO), the Party of Solidarity and Liberty (PAZS), the United Democratic Front (UDF), the Ecological Party of Mozambique (PEMO), the Party of Social and Democratic Reconciliation (PRDS), the Union for Change (UM) and other obscure small

parties supported the MDM. This support was more symbolic than statistical since these are tiny parties without a substantial share of the vote. For instance, in the 2004 general election, the PT won 0.47 per cent of the parliamentary vote, and the Ecologist Party did even worse, with 0.4 per cent.

There is no doubt that the position of new political parties has been greatly undermined by the dominance and, at times, intimidation of Frelimo and Renamo and, in some cases, a number of small parties supported Guebuza. There was also the emergence of the DMD as an offshoot of Renamo. Although the impact on the results of the new and smaller political parties was negligible, their very emergence could point to a long-term political development which may, in the distant future, reduce the dominance of Frelimo and Renamo over Mozambique's politics.

THE 2009 ELECTORAL PROCESS

On 13 October 2009, 45 days before election day, the election campaign began in earnest. It ended on 25 October, 48 hours before voting started at the country's 12 694 polling stations. The total number of registered voters was 9 871 949 – about half a million more than in the 2004 elections. A total of 19 parties were involved but only Frelimo and Renamo fielded candidates in all constituencies.

The election returned 250 MPs – the number of seats allocated to each party is based on the proportion of votes it receives. Following the electoral reforms of 2007 the five per cent threshold stipulated in the 2004 Election Law was abolished. A presidential candidate must win a majority of the valid votes cast to be elected. If no candidate obtains more than 50 per cent of the vote a run-off is held between the two strongest candidates and the candidate who wins the most votes is elected.

For the presidential elections the Constitutional Council accepted the nominations of three of nine nominated candidates: Afonso Macacho Marceta Dhlakama (Renamo); Armando Emílio Guebuz (Frelimo); and Daviz Mbepo Simango (MDM). The other six, the CC ruled, had failed to secure the required 10 000 supporting signatures.²

Since the establishment of the precedent setting United Nations trust fund in the founding democratic elections in 1994 official government funding has

² The candidates whose nominations were rejected were: José Ricardo Viana Agostinho (a coalition of União dos Democratas de Moçambique – Partido Popular, UDM-PT); Leonardo Francisco Cumbe Partido Unido de Moçambique e de Liberdade Democrática, PUMILD); Raul Manuel Domingos (Partido para Paz, Democracia e Desenvolvimento, P DD); Artur Ricardo Jaquene (Coligação União Eleitoral); Jakob Neves Salomão Sibindy); Partido Independente de Moçambique, PIMO); and Khalid Husein Mahomed Sidat (Aliança Independente de Moçambique, ALIMO).

been provided to political parties. In the 2009 elections, the state made \$1.85-million available. One-quarter of the funds was divided equally among the three presidential candidates and a quarter went to the two parliamentary parties, Frelimo and Renamo, divided according to the number of parliamentary seats held by each party. The third quarter went to all parties contesting seats in the National Assembly, divided in proportion to the number of constituencies each party was registered to contest. The fourth quarter went to parties standing for provincial assembly elections, also divided in proportion to the number of constituencies being contested. Half the money was distributed immediately, the rest in two tranches once the original amounts had been accounted for. Election funding may be used for posters and other campaign expenses, but not for salaries, buildings, or the purchase or rehabilitation of vehicles. Frelimo received the largest amount (\$810 000).

Unlike in 1994, 1999 and 2004, in 2009 all presidential candidates and major parties used the stipulated 45 days allocated for campaigning to debate publicly their political manifestos and policy orientation on major social issues. Access to public health, water, education and housing for the youth, among other social issues, were raised and debated more persistently at party rallies than they had been in previous elections. Nonetheless, party politics and campaigns were still mass oriented, with huge conglomerations of people, many of them brought in from outlying areas, listening to presidential candidates and other party leaders rather than debating and arguing with them. Speeches were largely loaded with jargon and with slurs and divisive accusations, with each of the three bigger parties trying to disqualify its opponents.

There was less electoral violence in 2009 than in 1994, 1999 and 2004 but this did not mean that there was no violence at all. The media reported various minor incidents, tentatively identifying three lines of confrontation – Frelimo vs the MDM; Frelimo vs Renamo and Renamo vs the MDM. Several MDM offices were vandalised by Frelimo vigilante groups in Gaza and Maputo. With apparent police connivance or apathy Frelimo vigilantes used loudspeakers and trumpets to obstruct the MDM's campaigns in several parts of the country. MDM supporters and party members were reportedly harassed and beaten up. Although the incidents were minor compared to those in previous elections, Frelimo vigilante groups also sabotaged Renamo's campaign by tearing down its propaganda material, obstructing its members from reaching rally locations and beating up opposition party leaders at district and community level. Renamo, for its part, sabotaged the MDM campaign and there were several confrontations between the two parties.

The emergence of the MDM as a third party and a serious contender in the parliamentary election was illustrated by Frelimo's unwelcoming reception of

its establishment. Frelimo pursued a covert strategy to undermine the MDM, including the use of violence against MDM supporters. The result was its landslide victory in the presidential race and a two-thirds majority in the parliamentary elections, thus enabling it to reduce Renamo to a residual, although still important, political force.

Growing support for the MDM is reflected in the fact that it won the equivalent of half the votes of Renamo supporters nationally as well as provincially in its strongholds in Sofala and Manica. This success explains why it came under sustained pressure from both Frelimo and Renamo, which feared that its ascendancy would jeopardise the status quo.

According to the media Frelimo abused state assets – mainly vehicles, fuel, state facilities, personnel and campaigning in prohibited public places such as schools – throughout the campaign, placing in doubt the fairness of the elections. Frelimo also had more financial resources than all the other parties together and Guebuza had four helicopters at his disposal throughout the campaign. The *Mozambique Political Process Bulletin* 17 (21 October 2009) estimated that Frelimo had spent \$1-million on helicopters alone – more than the total amount (\$810,000) allocated to it by the state.

The Technical Secretariat for Electoral Administration (STAE) registered 1 082 journalists (1 017 nationals and 65 foreigners). The National Electoral Commission registered 2 689 national observers and 530 international observers to monitor the elections. However, some of these national observation missions were problematic. The largest private television station (STV) showed footage of 1 000 observers from the National Forum for Electoral Observation (FOMOE) being transported in state vehicles. The following day, the state vehicles were still used to transport the observers, this time with the state insignia removed from the vehicles. These ‘strange observers’ were members of the establishment, used not only to prevent real observers from monitoring certain areas but also to issue ‘free, fair and transparent’ statements about the election even before the count had started.

Following the pattern which had emerged since 1994 polling day was peaceful and voting was orderly, but there were several incidents. Some polling stations opened very late due to transport problems. According to the *Mozambique Political Process Bulletin* 43 (17 November) in some places party submissions were misplaced and voters’ registers went missing, incidents which created confusion. The bulletin reports that several polling stations could not open in Maputo city (Escola Primaria Filipe Samuel Magaia); in Mucumbura in Tete province; in Gondola in Manica province; Meconta, Nicoadjuni and Namialo in Nampula province; Machanga and Maringue in Sofala province and Cuamba in Niassa province. In Caia in Sofala province, according to the bulletin, one registration

roll was in a polling station 3 km away. Some voters walked the extra distance, but others simply went home. In Mapolo Inhabando, Magoe and Tete there was no polling station at the registration location and 170 voters had to walk 10 km to the next village, Missão.

Two domestic observers were arrested and, after being released, disappeared. In Dombe, Sussendenga and Manica an observer was refused permission to stay overnight close to the polling station. When he returned to the station the following morning the presiding officer called the police to arrest him. He was handcuffed, beaten and told to leave town. In Changara, Tete, after presenting his credentials, he was told that observers were not officially recognised. Again the presiding officer called the police, who told the observer to leave Changara immediately. Similar problems had occurred in 2004, and without observers or opposition party delegates present, there was extensive ballot box stuffing (*Mozambique Political Process Bulletin* 28, 17 December 2004).

Ballot box stuffing was reported in the same places in 2004 – in Tete and in remote areas of Gaza. For example, the results recorded at several polling stations in the Chicualacuala district, in the southern province of Gaza, returned an extraordinary 100 per cent of the vote for the incumbent Guebuza. 'When one candidate receives 100 per cent of the vote not in one, but in several polling stations, credibility is severely tainted. Gaza is certainly a Frelimo stronghold, and thus a heavy Guebuza vote would be expected in Chicualacuala. But it is incredible that not only was there not one vote for the opposition but that no voters made mistakes or put their cross in the wrong place because of such factors as illiteracy or poor eyesight.

The MDM gave the first evidence of election administration staff spoiling ballot papers. In polling station 0056 at EPC Esturro, Beira, there were 124 invalid ballot papers (nulos) of a total of 388 (ie, 32% compared to a normal 3%, which is considered an acceptable ratio of spoilt papers). The MDM distributed a video showing stacks of spoilt papers correctly marked, with the cross next to the name of Daviz Simango, its presidential candidate. Many ballot papers, including that of Simango himself, were tainted with ink in exactly the same place, indicating that this must have been a deliberate act to invalidate votes cast for the MDM (*Mozambique Political Process Bulletin* 43, 17 November 2009).

Although there was harsh criticism of the lack of transparency on part of the National Elections Commission, EISA and the Commonwealth and European Union (EU) observer missions both praised STAE on the administration of the election and the organisation of the voting. They also praised the political parties for their conduct during the election campaign and commended the press for balanced coverage. However, EU team head Fiona Hall, a member of the European Parliament, pointed to what she called a 'fundamental problem'. The process

relating to the rejection of candidates lists 'was confused and not transparent'. It was not clear which parts of which laws were being applied, and there was 'a climate of confusion'. The EU's preliminary statement indicates 'a general lack of trust in the independence of the CNE, due in particular to insufficient measures to improve transparency' (*Mozambique Political Process Bulletin* 28, 17 December 2004).

The head of the Commonwealth Observer Group, Tejan Kabbah, the former president of Sierra Leone, observed that

... the ruling party enjoys a predominant position. In order to deepen democracy in Mozambique it is important to ensure that for future elections the process enjoys a greater degree of transparency and the playing field is reasonably level for all aspirant participants, thereby increasing confidence and participation and helping to encourage consolidation of the country's multiparty system.

The 2009 election resulted in a landslide victory for Guebuza, who won about 75.01 per cent of the vote, with 16.41 per cent for Dlhakama and 8.59% for Simango (see Table 1). With 191 seats out of 250, Frelimo secured a two-thirds majority, which allows it to change the Constitution without coalitions with or reliance on other political parties (see Table 2). Renamo won 51 seats and the MDM eight.

Dlhakama, who has contested the results of every election apart from that in 1994, which Aldo Ajello, the representative of the UN secretary-general declared the best ever held in Africa, threatened the use of force to gain political power. Similar threats were made by Renamo parliamentarian Jose Manteigas, who dismissed the election as fraudulent. He called for the current Parliament to be dissolved, the elections annulled and new elections organised. Manteigas claimed that many votes for Renamo had been deliberately invalidated by polling station staff, who had added ink marks to ballot papers to make it look as if the voters concerned had tried to vote for more than one candidate.

After reaching its peak in 1999, Dlhakama's share of the vote has declined sharply as a result of his disastrous party management style and lack of organisational capacity. In 1994 he received 1 666 965 votes (33, 7%), in 1999, 2 133 655 (47%) and in 2004, 998 059 (31.74%).

In 1994 the percentage poll was 89 per cent and in 1999, 74 per cent. Voter turnout in 2009 was about 43 per cent, up from 36 per cent in 2004, when the voters' register was chaotic, with many duplications. Names of people who had moved or died had not been removed. A total of 3.3-million people voted. Officially there were 9.1-million people on the register, giving an official turnout of 36%. However, it was estimated the real number of voters on the register was

only 8.1 million. A similar correction needs to be made to the totals for 2009. STAE estimated that there were 160 000 duplicated names on the register (*Mozambique Political Process Bulletin* 30, 27 August 2004). The mortality rate among registered voters is estimated at 1.5 per cent per year, which means that at least 250 000 voters would have died. So the actual number of potential voters is probably 9.4 million instead of 9.8 million. Thus, if the official percentage poll is 43%, the real figure would be 45 per cent. The election results of the four years are summarised in Table 2.

Table 1
Results of Mozambique's presidential elections 1994, 1999, 2004 and 2009

Candidate	1994 millions (percentage)	1999 millions (percentage)	2004 millions (percentage)	2009 millions (percentage)
Chissano	2.6 (53%)	2.3 (52%)		
Geubuza			2.0 (64%)	3.0 (75%)
Dahlakama	1.7 (34%)	2.1 (48%)	1.0 (32%)	0.6 (16%)
Domingos			0.1 (3%)	
Simangos				0.3 (9%)
Others	0.6 (13%)		0.1 (2%)	

Source: Compiled by *Mozambique Political Process Bulletin* 43, 17 November 2009, from the official results announced by the Mozambique National Elections Commission

Table 2
Distribution of parliamentary seats in the 1994, 1999, 2004 and 2009 elections

Party	1994	1999	2004	2009
Frelimo	129	133	160	191
Renamo	112	117	60	51
Others	9	0.0	0.0	8

Source: Compiled by *Mozambique Political Process Bulletin* 43, 17 November 2009 from the official results announced by Mozambique National Elections Commission

In general, the 2009 elections were logistically well organised and run, and less violent than the three previous elections. Comparatively this time around the election was relatively different because Frelimo did not appear complacent or regard the results as a foregone conclusion, an uncertainty illustrated by the party's organised and combative campaign, which enabled it to reverse the electoral apathy which had marred the post-1999 elections.

The CNE's poor handling of the issue of party exclusions and the ruling by the CC were divisive episodes which harmed the already meagre confidence in and credibility of the electoral institutions in the eyes of citizens and of the opposition and contributed to the atmosphere of mistrust amongst the political elites.

The electoral results confirm Frelimo's 'hegemonic' dominance, although it received no more votes than it had in previous elections. This suggests that about half the registered voters voted with their feet in protest against the current state of affairs. Renamo's fortunes have gone from bad to worse, with the party winning less than 50% of the votes it won in 1994.

FRAMING POST-CONFLICT DEMOCRATIC CONSOLIDATION

A question often raised is whether governments can be both liberatory and democratic, considering the tension between the two: liberation is radical and revolutionary while democracy is conservative, incremental and requires accommodation and cooperation between government and opposition as contending members of the governance process. In other words, can a democratic process led by two opposing former liberation movements be consolidated? We attempt to answer the question of the extent of democratic consolidation in Mozambique.

Using what Andreas Schedler (1997, p 11) describes as three operational indicators of democratic consolidation (peaceful transfer of power, the absence of 'serious challenges' to democracy, and the passage of time), we explore Mozambique's fortunes in democratic consolidation. We add two imperatives: the quality of the electoral process through the 'passage of time' and government accommodation or opposition compromise instead of opposition for the sake of opposition, even in the face of issues of 'national significance' for the country.

Firstly, following the Rome General Peace Agreement, Frelimo won the 1994, 1999 and 2004 elections with two distinct and rather different notions of the peaceful transfer of power: the transfer of power from Frelimo the liberation movement operating a one-party system to Frelimo the reformed political party under a multiparty system and the peaceful transfer of power from President Chissano, who won the 1994 and 1999 elections, to President Guebuza, who won the 2004 elections. Mozambique has experienced a peaceful transfer of power from

a one-party system to a dominant-party system where democratic institutions have been created in order to accommodate a nascent democracy.

Secondly, although there were challenges to democracy during the immediate post-Rome General Peace Agreement and prior to the demobilisation of combatants these challenges have receded tremendously over the years. Non-democratic practices such as Renamo MPs rioting in Parliament or verbal threats to return to the arms struggle have thus far fortunately not materialised, but there is a great deal of verbal violence among the former belligerents and this has increased since Chissano's departure. Mazula (1995) posits that there were three stages in the relationship between the former belligerents from 1992 to the founding democratic elections of 1994. Stage one was characterised by *radical distrust* between the government and Renamo, stage two by *structural distrust*, with a significant change in the social relationship from 'enemies' to 'compatriots' and stage three by *objective distrust*, which gradually moved towards *subjective trust* and towards the formation of the CNE. This subjective trust opened the space for dialogue between the parties represented in the CNE, and, although they have different ideals, the Renamo representatives were recognised as co-authors, co-leaders, co-stakeholders and co-process administrators (AWEPA 1998).

Mazula (1995) characterised the post-election period as one of *basic social trust* (stage 4) during which the first multiparty Parliament would help build constructive opposition based on respect for differences. With time the basic social trust would give way to *democratic trust*, the stage at which equal citizens would participate freely in the rebuilding of the nation. Mazula's teleology took hold until 2004 and started shrinking from 2005, the year that coincided with the hegemonic ascension of Frelimo to dominant-party status.

The spaces for liberal democracy (eg, local governments) were gradually marginalised in favour of participatory democracy (unelected district governments and their participatory councils along party lines) and *democracy* and more particularly *elections* were used as a weapon to thwart the opposition. This was epitomised by the 2009 elections, which appeared not to be a substantive instrument for political participation but rather one used to annihilate the opposition, mainly Renamo.

The political and electoral discourse from both Frelimo and Renamo was not consonant with multiparty politics. Although party leaders appealed for a non-violent election campaign the language used conformed more to stages 1 and 2 of Mazula's scheme than to stage 5. Expressions like 'getting a hundred per cent of the vote', 'destroy their dominance', 'get two-thirds majority', 'convincing victory' were often heard on television and read in newspapers. Frelimo campaigners appeared to be asking the voters to help them get rid of Renamo while Renamo demonstrated a similar attitude towards Frelimo (AWEPA 2001).

The 15 years between 1994 and 2009 are brief relative to the democratic life of any country but can be treated as a pivotal period for transition from a one-party system to multiparty democracy and for the former liberation movements and the newly established political parties to experiment with the complexities and the making of democratic polity. Taken at face value democratic consolidation means that all political parties have accepted democracy as a system through which the transfer of power should occur and where the possibility of the governing party losing elections looms large (Przeworski 1991, p 10).

Democratic consolidation is continuous and context specific. Exploring improvements in the quality of elections and the electoral process through the 'passage of time', at least in our view, refers, among others, to two factors:

- Improvements in the legal and administrative frameworks governing the electoral system for: ensuring representation, making elections accessible, providing incentives for reconciliation, facilitating effective government, and promoting parliamentary opposition.
- The need for an effective and transparent election administration leading to 'free and fair elections'.

IDEA 1997, pp 9-14

These factors can be tested only with reference to practice; with pressures in Mozambique to improve the quality of legal and administrative reform as well as electoral reform leading to free and fair elections. For example, with respect to the quality of the conduct of the elections it is worthwhile recalling Renamo's decision to boycott the 1994 local elections and then to rejoin, an act which necessitated the extension of the elections from two to three days in order to compensate for lost time. Dhlakama's decision to abandon the boycott was the result of considerable pressure exerted by the sponsors of the Rome General Peace Agreement (AWEPA 2001) and, more importantly, a donation of \$15-million for the Renamo 'Trust Fund' (Nuvunga 2007).

Renamo did not repeat this tactic in 1999 and 2004, despite alleging that Frelimo was involved in mass election rigging in both elections (Lundin 2004; Ostheimer 2005; Salih 2007). There was also election violence in both cases, but not sufficient to threaten national peace or democracy. Alleging fraud, Renamo contested the 1999 election results and demanded a recount. When the Supreme Court rejected its appeal it threatened to divide the country by putting up a barrier at the Save River (which separates the south from the centre of the country).

'Our first argument is that Renamo won 52% in the legislative votes and 60% of the presidential votes. Frelimo forged the results and Renamo recognises neither Chissano nor his government. If Chissano wants stability, he must satisfy

Renamo's demands. Otherwise there will be more trouble,' said David Alone, Dhlakama's political adviser at the time of these events (Nuvunga 2005).

In order to resolve the impasse negotiations were held between the Frelimo government and Renamo. When the negotiations failed Renamo organised nationwide demonstrations intended to paralyse the country. Lives were lost in Montepuez, Cabo Delgado Province, as a result of confrontations with police and some who were arrested suffocated in crowded prisons.

Renamo members of Parliament took their seats but ignored the chamber's business. During Chissano's state of the nation speech in December 1999 and several times in the early days of the session in February Renamo MPs banged on their desks and played various instruments, making so much noise that it was impossible to hear what was being said. Members of the international community, including the United States, which had traditionally supported Renamo, told Dhlakama that this behaviour was unacceptable and that in a democracy it was necessary for people to talk to one another. As a result, Dhlakama ordered his party's members to stop their disruptions (Nuvunga 2005).

Democratic consolidation can also be reflected in government accommodation and opposition compromise in the face of momentous national issues or fundamental social issues as well as the formation of parliamentary committees reflecting various political parties in Parliament (Ostheimer 1999; Ruigrok 2005; Alexander, Eatwell, Persaud & Reoch 2007).

Signs of accommodation have been in sharp decline since 2005 and there is no realistic possibility of compromise since dialogue has given way to the instrumental use of the law. If a parliamentary decision requires a substantial majority Frelimo is able to seek a compromise from the opposition, but if only a simple majority is required there is no dialogue and even good proposals from Renamo would be rejected merely because they came from the wrong side. Some examples, all related to the revision of electoral legislation, will help to substantiate this.

Since the peace agreement all electoral legislation has been the outcome of a bipartisan process and has been approved by consensus. Following the ruling of the CC, which validated the 2004 elections and pointed out several weaknesses in the electoral legislation, the electoral institutions and the electoral system itself and made clear the need for legislation revision, an ad-hoc parliamentary commission was set up in early 2005 with the mandate to improve the legislation.

In May 2006 the commission was abolished and the revision of the electoral legislation was transferred to the regular Commission on Agriculture, Regional Development, Public Administration and Local Authority. Decisions in a regular commission are made by a simple majority, whereas the ad hoc commission could only decide by consensus. This implied a radical break with the past. The amended

electoral legislation was approved by the regular commission and, against loud protests from Renamo, by Frelimo in Parliament in late 2006.

In June 2009 Renamo tabled detailed proposals for amendments to the electoral law in order to resolve some of the problems encountered in the 19 November 2008 local elections. The proposals dealt with spoiled ballot papers, ballot box stuffing, police presence, and the role and presence of party delegates. Some of Renamo's proposals responded to fundamental issues of electoral irregularity such as the widespread practice of election officers deliberately tainting ballot papers with ink. Renamo proposed that ink should not be allowed into polling stations before and during counting. Although this is a sensible idea Frelimo discarded it as having no merit.

CONCLUSION

Sandbrook (1996, p 85) argues that 'If multiparty elections in Africa institute a change in the form of government (from "authoritarian" to "democratic"), they cannot guarantee a transformation of the political regime (ie, in the operative rules of governance).' Such statements are not obviously true throughout Africa. Mozambique's fourth multiparty elections show that the prospects of consolidating democracy are not that bleak. The assumption that regime change and 'operative governance' can emerge over two or three decades is rather pessimistic and often contingent on the democratic context.

In this article we argue that there are indications (for example, Schedler 1997) that democratic consolidation is a long-term gradual process, often marred by setbacks and imperfections. Although Mozambique's electoral processes have some deficiencies, the parties have gained considerable experience in managing democratic institutions and elections which minimise fraud and irregularities.

Likewise, the continuity of the old and emergence of new political parties which challenged the dominance of Frelimo and Renamo illustrate that the 'operative rules of governance' have not been comprehensively obliterated or overlooked. Rather it shows that some of the new parties, and even Renamo, have been able to use, albeit in a limited manner, the opening of the democratic political space and the relative tolerance of Frelimo compared with the three previous elections.

The major issues that dominated the elections, the framing and salient features of post-conflict democratic consolidation and the role of the new political parties in party alignment are pointers to vibrant political developments that cannot be written off as an unimportant part of democratic consolidation, increased political competition and political participation by diverse political and social forces. Equally true is the insistence of the parties on conducting regular

and periodic elections, the consolidation of peace and stability and respect for the rules of the democratic game even if and when there are serious differences of interpretation. Awareness of and respect for the operative rules of governance has not been translated into reality, which, in turn, has resulted in such governance deficits as the banning of presidential candidates, disappearance of candidate's lists and non-transparency in candidates' registration.

In the circumstances, we have attempted to highlight tangible events and experiences of an emergent electoral democratic polity and not to search for indications that the end game of democratic consolidation in Mozambique has been achieved. From this perspective we have been able to trace several elements of a continuing 'political democracy' which could contribute to democratic consolidation in the future.

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A CRITICAL STOCK TAKE OF MALAWI'S 19 MAY 2009 ELECTIONS

Processes, Outcomes and Challenges

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ABSTRACT

This article reviews critically Malawi's fourth consecutive general elections since the country's momentous return to multiparty democracy in May 1994. The results of the May 2009 elections marked a complete departure from the familiar patterns of voting along tribal, ethnic or regional lines. The main argument of this article is that the historical uniqueness of the 2009 elections has failed to act as a catalyst for the fundamental and sustainable democratic transformation that was widely prophesied by observers and commentators in the immediate aftermath of the polls. This illustrates, inter alia, that Malawi is still a defective democracy, whose politics are neither democratic nor undemocratic. The major lesson is that democracy cannot flourish if a society does not have any consciousness of its own contradictions and does not set out social practices to provide rules for society to manage its interests and objectives with equity, justice and fairness.

INTRODUCTION

On 19 May 2009 Malawi held its fourth consecutive general elections in the 15 years since the historic transition to democracy. The Democratic Progressive Party (DPP) and its presidential candidate won the elections with potentially epoch making landslide victories both at parliamentary and at presidential levels. Of the 192 seats contested in the parliamentary elections, the DPP won 113 compared to 27 seats for the Malawi Congress Party (MCP) and 17 for the United Democratic Front (UDF). The rest of the seats went to independent candidates, who won 32, and to three smaller political parties, the Alliance for Democracy (AFORD), the Malawi People's Party (MPP) and the Malawi Forum for Unity and Development (Mafunde), each of which won a single seat. President Bingu wa Mutharika was

re-elected with twice as many votes (2 946103) as those polled by his closest rival, John Tembo, of the surprising MCP/UDF electoral alliance.

This article undertakes a critical appraisal of Malawi's fourth consecutive general elections, paying particular attention to the pre-election political context and electoral preparations, election day and the election results and their implications, as well as to a series of post-election developments, especially in terms of the way they dovetail with the prospects for fundamental and sustainable democratic transformation.

The outcome of the election heightened expectations of a new beginning in the country's quest for such a democratic transformation because they defied the regional, ethnic and tribal patterns that had seemed so intractable in the previous three elections. As early as 1995 Malawi's elections were stereotyped as merely regional or ethnic censuses (Kaspin 1995; Chinsinga 2009). The fact that the DPP's victory de-regionalised and de-ethnicised the country's configuration and alignment of political forces and interests was therefore widely regarded as a potential catalyst for turning the corner in the country's quest for fundamental and sustainable democratic transformation.

This review of the 2009 elections is inspired by an institutional approach to understanding democratic transition and transformation, which is mainly concerned with making sense of how institutions, understood as the rules of the game, emerge, function and change in the establishment of a viable democratic dispensation (Olsen 2008).

The main argument of this article is that while the outcome of the elections was historic in signalling a complete departure from the familiar patterns of voting along regional faultlines it has not really lived up to the immediate post-election euphoria as heralding a new phase in the form and substance of democratic politics in the country. This illustrates, *inter alia*, that the country is still very much a defective democracy. The major characteristic of defective democracies is that they have difficulty in establishing constitutional guarantees and the rule of law and in institutionalising free and fair elections (Merkel & Croissant 2004).

The rest of the paper is organised as follows: the next section delineates briefly the institutional perspective for understanding the processes of democratisation, the third section sets the context for understanding the dynamics of the political milieu in May 2009 as well as the preparations for the poll. The fourth section, drawing mainly on the reports of various observer missions both local and international, examines the outcome of the elections, including how the polling day passed off. The fifth section addresses the significance of the poll in relation to its historic outcome and the subsequent implications for the country's quest and prospects for sustainable democratic transformation. The sixth and final section offers some concluding remarks.

DEMOCRATISATION FROM AN INSTITUTIONAL PERSPECTIVE

As the rules of the game, institutions give order to social relations, reduce flexibility and variability of behaviour and restrict the possibilities of a one-sided pursuit of self-interest (March & Olsen 2006). Consequently, democratisation is seen as a process of establishing democratic institutions and making them work. This is considered to be a defining prerequisite because 'institutions are markers of a polity's character, history, vision and identity' (Olsen 2008, p 10). Democratising countries are thus expected not only to establish a range of democratic institutions such as free and fair elections, an elected parliament, a free press, an independent judiciary and a vibrant civil society but also to allow these institutions to function efficiently and effectively.

This is quite fundamental to successful democratic transformation as it prevents regimes in transition either degenerating into defective democracies or breaking down altogether. Defective democracies are stuck in transitional mode while being regarded by many elites and the population as adequate solutions to acute problems experienced during previous authoritarian regimes. The total breakdown of the democratisation process is inevitable, since the process of establishing institutions of any kind is not a politically neutral process. Processes of institutional formation, maintenance and change are inherently subjects of contestation because ultimate outcomes distribute advantage and disadvantage to different groups and interests in different and often new ways (Leftwich & Hogg 2007). Potential winners tend to favour change, while potential losers are inclined to defend the status quo.

The key assumption is that institutions in emerging democracies will improve with the passage of time (Rakner & Svasand 2005) because voters, candidates and administrators will have progressively gained experience of the demands, values, ideals and practices of a democratic political dispensation. In other words, the political culture of emerging democracies is expected to adapt to the intrinsic demands of a democratic political dispensation. However, most countries are struggling to get to a stage where democracy is the only game in town because of the preponderance of informal over formal institutions (Cammack, Mutebi, Kanyongolo & O'Neil 2007; Chinsinga 2008a). This is attributable to the enormous weaknesses in the implementation of the norms and rules of governance and of the guarantees of human and civil rights, the authority of which depends on overall institutional quality and society's general respect for these institutional arrangements.

Thus, the success or failure of electoral processes can be understood using this perspective, with election management bodies assuming centre stage since they are entrusted with the responsibility presiding over the electoral rules for

the game. In the election literature the major assumption is that the quality of election management will improve over time through a process of institutional learning (Rakner & Svasand 2005). This is the case because electoral processes are repeated by the same set of actors over time, the processes are evaluated, and corrective measures are put in place in subsequent elections. By this logic, the elections of 19 May 2009, as the fourth consecutive general elections, should surely have been a better managed.

THE PRE-ELECTION CONTEXT

The political context

The electoral dynamics of the May 2009 elections were, to a very great extent, shaped by the enduring legacy of the previous elections, in 2004. The single most important legacy of the run-up to the May 2004 elections was the failure of former President Muluzi of the UDF to extend his term of office beyond the maximum two five-year consecutive terms allowable by the Republican Constitution (Dulani 2005; Murithi 2007).

For the UDF it was imperative to extend Muluzi's term of office to ensure continuity in his ambitious development agenda (*Daily Times* 27 August 2001). Any change of leadership at this juncture, it was argued, would interrupt the agenda, which could only be seen through to its logical conclusion if his tenure could be extended for at least another five-year term. If President Muluzi were to pave the way for new leadership from within the UDF it would be like starting again from a blank slate on the development front (Chinsinga 2003; Lwanda 2005). Thus, for the ardent supporters of this view, it did not matter whether Muluzi was succeeded by a fellow UDF politician since they felt that his potential successors would not match his leadership stature (*The Nation* 1 August 2001, 18 September 2001). All potential successors to President Muluzi, both within and outside the UDF, were branded 'maize husks', *madeya* in the vernacular.

It is against this backdrop that the UDF government orchestrated the tabling of the Open Terms Bill in Parliament on 4 July 2002 by an Alliance for Democracy legislator. Specifically targeting s 83(3) of the Constitution, the rationale of the Open Terms Bill was that 'the provisions of section 83 (3) are considered to infringe upon people's power to elect into office of president the person of their choice and renew his mandate for as many times as they may wish him or her to serve them'.¹ The Bill failed to secure the requisite two-thirds majority and

1 For details of the Bill see *The Malawi Government Gazette Supplement Containing Private Members Bills*, 24 May 2002.

thus was not passed. This did not, however, mark the end of President Muluzi's aspiration to prolong his tenure. Instead of further pursuing an Open Terms Bill the strategy shifted to the proposal of a constitutional amendment that would extend the tenure of the president from two to three five-year terms. This proposal, popularly referred to as the Third Term Bill, was, however, never formally tabled in Parliament because of fierce opposition from both within and outside the UDF. Civil society and faith based organisations rallied against it under the auspices of the Forum for the Defense of the Constitution (FDC) (*The Nation* 19 October 2002, 24 October 2002).

Muluzi's determination to push for the extension of his term of office led to the resignation of several senior UDF officials with leadership aspirations. Among many others these included former vice-state-president Justin Malewezi, former UDF vice-president Aleke Banda, Brown Mpinganjira, Harry Thompson, and Gresham Naura (*The Nation* 8 October 2002). The spate of resignations was triggered mainly because of Muluzi's use of s 65 of the Constitution, which regulates floor crossing in Parliament, facilitating the amendment of s 65 to extend floor crossing outside Parliament as a strategy to deal with dissent against the proposal (Dulani & Van Donge 2005). S 65 was amended to reflect the fact that legislators may lose their seats if they associate with organisations whose objectives are political in nature.

These developments eventually propelled the rise to political prominence of Bingu wa Mutharika, who, until then, was relatively unknown. He had gone into politics after his forced retirement as secretary general of the Common Market for Eastern and Southern Africa (COMESA) in the late 1990s and stood as a presidential candidate in the June 1999 elections on the ticket of the United Party (UP), which he had founded. The UP failed to win a seat and Mutharika had quite a dismal showing, winning less than 0.5 per cent of the total national vote. He dissolved his party in 2001 and joined the UDF-led government, initially as deputy governor of the Reserve Bank, and became Minister of Economic Planning and Development before finally being anointed as a surprise successor to Muluzi, leading the UDF presidential ticket in partnership with Cassim Chilumpha, an ardent critic of Muluzi's bid for an extension of his tenure.

Muluzi presented the choice of Mutharika as a unanimous decision of the UDF's National Executive Committee (NEC), a claim that was widely disputed by the majority of the senior NEC members. For this reason the choice of Mutharika, considered by many not only as a UDF outsider but also as a political lightweight, was characterised as a strategic ploy by Muluzi to retain influence over the day-to-day running of government affairs (Dulani 2005; Murithi 2007).

This view was somewhat underscored by the subsequent amendment of the UDF constitution to replace the position of party president with that of national

party chairman, to which Muluzi was elected in clearly stage managed elections. Mutharika's entire presidential campaign was conducted by Muluzi, punctuated with brief occasions on which Mutharika was merely asked to greet people and quickly outline his vision for the country (Lwanda 2005; Chinsinga 2009). It was therefore widely expected that Mutharika would be Muluzi's obedient successor and Muluzi would continue to pull the strings from his position as the ruling party's chairman.

This was not to be. Barely eight months after the 2004 elections Muluzi and Mutharika fell out dramatically over a destructive power struggle between Mutharika as head of government and Muluzi as head of the UDF. While Muluzi wanted to dictate the shape and form of government affairs, as widely expected, Mutharika was determined to create an independent base of political power and legitimacy, especially since he had not been the architect of his own political campaign and had won the presidency with the slimmest of margins.

Mutharika's determination to extricate himself from Muluzi's omnipresent political shadow was apparent in his inauguration speech, in which he called for a new beginning, underpinned by inclusive governance, genuine commitment to poverty reduction by reorienting the people's mindsets and attitudes, and a total crackdown on corruption by implementing a zero tolerance anti-corruption strategy (Lwanda 2005; Phiri 2008). The persistent political tensions created by Mutharika's desire to create his own political base and Muluzi's desire to pull strings from behind the scenes eventually culminated in Mutharika breaking away from the UDF to form his own party, the Democratic Progressive Party (DPP) in February 2005. This led to an unprecedented development. The DPP became the governing party and the UDF went into opposition (Lwanda 2005; Chinsinga 2006). The Muluzi-Mutharika political fallout demonstrated that a subdued cat can become a tiger when it assumes a throne.

The dispute plunged the country into a state of tension which left it teetering on the brink of political paralysis until the eve of the 2009 elections. The repercussions manifested mainly in acrimonious engagement between the government and the opposition, driven, to a great extent, by the imperatives of neopatrimonialism. Taking advantage of the strength of combined numbers the opposition was determined to wrest power from the minority government, which had only six legitimate MPs elected in by-elections in December 2005, while the government was determined to stay in power at all costs. This resulted, *inter alia*, in the excessive judicialisation and informalisation of politics, as each party was determined to achieve its goals. Both the government and the opposition made use of formal and informal means to advance their own selfish motives (Cammack, Mutebi, Knyongolo & O'Neil 2007; Chinsinga 2008a).

The protracted antagonism between the government and the opposition not

only created a tense political atmosphere it also greatly battered and exacerbated the institutional fragility of the foundations of Malawi's democracy. Parliament was particularly affected because of massive defections of parliamentarians from the UDF to the DPP. Instead of functioning as a platform for national dialogue, debate and compromise, the august house degenerated into a political battleground characterised by endless battles waged, among other ways, through s 65, threats of impeachment of the president and deliberately orchestrated rejection of presidential nominees to key public offices.

Of all these battles, the one relating to s 65 assumed centre stage (*The Nation* 9 April 2009). The main challenge was that Mutharika's DPP, as a new party at the helm of government, did not have legislators of its own apart from the six who were elected on its ticket in the December 2005 by-elections. The majority of the legislators, estimated at more than 70, who either publicly or tacitly aligned with the DPP-led government belonged to the opposition political parties, mainly the UDF and the MCP. Therefore, working as a block and taking advantage of their combined strength in Parliament the goal of the opposition was to petition the Speaker to invoke s 65 against those legislators deemed to have crossed the floor to the DPP. In doing so the opposition block principally used the budget as a bargaining chip (*The Nation* 17 April 2008a, b, 22 June 2008, 30 June 2008).

For three consecutive fiscal years the budget was delayed for about three months as the opposition was determined to force the Speaker to invoke s 65. While the Supreme Court of Appeal had upheld the constitutional validity of s 65 following a presidential referral, as provided for in the Constitution, the government side managed to create roadblocks that made it extremely difficult for the speaker to invoke it against opposition legislators deemed to have crossed the floor to the DPP (*The Nation* 24 April 2008). In the referral, the president argued that 'section 65 dealing with the issue of crossing the floor should be deemed not to be compatible with or contradictory to section 32 of the [constitution] and should be deleted from the constitution' (*The Nation* 26 March 2006).

Mutharika and his DPP-led government survived by means of a series of constitutional and governance transgressions as well as a groundswell of public sympathy. The populace tolerated some blatant constitutional and governance infractions on the part of Mutharika and his administration because it was widely acknowledged that they were operating in a very hostile environment (Chinsinga 2008a; Chilenga 2008). The widespread public sympathy was buoyed by the impressive achievements in areas of economic management, food security and infrastructure development, particularly the road network. These developments eventually forced the opposition to turn to the 2009 elections as a last ditch attempt to eject Mutharika from the helm of government.

Muluzi, who was particularly bitter about Mutharika's betrayal, took it upon

himself to lead the political battle against him in his capacity as self-proclaimed master political strategist. He therefore offered himself as the UDF's presidential candidate, arguing that he was best suited to dislodge Mutharika from power since he had put him there in the first place (*The Daily Times* 24 January 2009, 6 January 2010). The battle lines were thus drawn for what promised to be hugely competitive elections. Muluzi desired a comeback primarily to get rid of Mutharika; the MCP's John Tembo was desperate to seize power as he strongly believed that the previous elections had been stolen from him and Mutharika was determined to stay on for a full second term, buoyed by the success of his administration in engineering unprecedented economic recovery, ensuring food security and an impressive track record in infrastructural development, particularly roads (Chinsinga 2008a).

Preparations

The verdict on the preparations for the elections is inconclusive. While the Electoral Commission (EC) displayed the authority and flexibility to address a range of challenges the 2009 elections were characterised by the same weaknesses that had affected previous elections. These include a delayed response to the electoral calendar, leading to a failure to re-demarcate constituency boundaries; a poor and delayed registration exercise, leading to an inadequate voters' roll, with many names missing; excessive incumbency advantages; and a delay in the vote count (Rakner 2009; Chinsinga 2009). The situation might, perhaps, have been different, since the electoral preparations were, to a very great extent, shaped by the political context preceding the polls.

The political context and electoral preparations

Two main issues are significant to an understanding of the way the EC handled the preparations for the polls. These were excessive delays in the constitution of the EC itself and the protracted controversy surrounding the candidature of former president Muluzi (CPSP 2009).

The delays in the constitution of the EC inevitably had a serious domino effect on the electoral calendar. The commission was only constituted towards the end of 2008 after a protracted legal battle between the government and the opposition over the legality of the procedure used by the president to identify EC commissioners. The EC had to be reconstituted because, by the end of 2007, it could not take any binding decisions since the contracts of five of its eight commissioners had expired (*The Daily Times* 19 December 2007). When the president finally appointed the commissioners the opposition objected to their appropriateness and fought over it all the way to the Supreme Court of Appeal

(*The Nation* 18 January 2008). However, the opposition withdrew the case before the Supreme Court of Appeal could make a determination on the matter.

The opposition's argument was that the president had transgressed the law that requires him to appoint EC commissioners in consultation with leaders of those parties represented in Parliament, and that he had not ensured that parties were represented on the EC in proportion to their parliamentary strength (*The Nation* 16 January 2008). The opposition further argued that the commissioners who had been appointed could not guarantee a level playing field for the election because they were well known as sympathisers of the DPP (Chinsinga 2008b).

The battle over the appointment procedures was principally a strategic attempt by each side to contest the elections in circumstances that would guarantee it a favourable outcome. If the commissioners were to have been appointed according to the established practice the DPP would have been underrepresented since it was a minority party in Parliament and the EC would have been dominated by UDF and MCP representatives. The EC is thus quite a pivotal institution in the battle to gain control of the state through elections.

Muluzi's candidature presented a considerable challenge to the EC in its preparations for the polls. The UDF had endorsed him as its candidate in April 2008, but according to s 83(3) of the Constitution he was ineligible because he had already served the maximum of two consecutive five-year terms as president of the country. However, his supporters, inspired by the word 'consecutive' in the section, believed Muluzi was eligible because he had taken a five-year break from the presidency.

The EC was hesitant to make a determination on the matter, fearing that, given the perceived popularity of Muluzi, if they did so it would plunge the country into violence. The commission only ruled on 21 March 2009 that in terms of s 83(3) Muluzi was ineligible to stand (Kanyongolo 2009; Rakner 2009). The decision was a blow to the UDF. It was too late to identify an alternative presidential candidate since it was felt that only Muluzi had the pedigree to take on Mutharika successfully. The UDF referred the EC's decision to the Constitutional Court, which, on 16 May, a mere three days before the elections, upheld the EC's ruling. This left the UDF without a presidential candidate, forcing the party to strike a last minute electoral alliance with the MCP, as both were desperate to eject Mutharika from the helm of government (see EU 2009; EISA 2009; COG 2009; *The Nation* 26 April 2009).

Constituency demarcation

The constituency demarcation exercise did not take place, as required by law, in the lead up to the 19 May elections. According to s 76(2a) of the Constitution

the EC is required to review existing constituency boundaries at intervals of not more than five years and alter them in accordance with principles laid down in the Constitution. Because of the delay in constituting the EC the commission failed to carry out the exercise. However, the official justification for violating this constitutional requirement was that it would only make sense to review the boundaries of the existing constituencies after the results of the 2008 population and housing census had been officially released (EC 2009).

The previous constituency demarcation exercise had been carried out in 1998, thus both the 2004 and the 2009 elections were held on the basis of the 193 constituencies delimited then. The exercise was widely criticised as being driven by selfish and partisan interests rather than the principles laid down in the Constitution, which lays down that the constituency demarcation exercise should be based on population density, ease of communication, geographical features, and existing administrative areas.

Informal processes linked to traditional leaders' authority, MPs' self interest, and regional concerns, coupled with financial constraints, reportedly undermined the EC's capacity to re-demarcate constituencies on the basis of these principles. The failure to do so was not only a gross constitutional violation but also, in a way, undermined the credibility and integrity of the election since 'discrepancies noted more than 10 years ago continue, and had probably increased with the new age groups reaching voting age' (Rakner 2009, p 12).

Voter registration

A new voters' roll had to be created because the one used in May 2004 was inadequate. The voter registration exercise was initially scheduled to run from 2 August to 28 November 2008 but was extended to the end of December 2008. The exercise was marred by serious logistical challenges. There were only about 870 field data capture equipment packs to cover about 3 900 voter registration centres and the unexpected breakdown of many of them in the field made the registration exercise even more problematic, leading to the extension of the registration period with substantial financial and time costs (Coker, De Brito, Chinsinga & Banda 2009).

The voter registration exercise was negatively affected by time constraints. A much needed second inspection of the voters' roll was not carried out despite the discovery of serious errors when it was first inspected, between 30 March and 3 April. By 11 May a corrective audit of the roll had only been carried out in 3 611 of 3 897 registration centres, which made it impossible to carry out a second inspection without having to change the election date, which would have required parliamentary approval (Rakner 2009; EISA 2009).

The audit was hindered by poor archiving and retrieval of materials from the voter registration exercise and it is estimated that only 42 per cent of registrations were checked. This forced the EC to implement emergency measures on election day in response to numerous inaccuracies and omissions detected during the verification period. The measures included having at each polling station an additional list of voters according to the numeric voter registration code, and allowing voters with a valid voter ID to vote, even if they could not be found on either the official alphabetical or the additional numerical roll.

Civic and voter education

The EC is mandated by the Presidential and Parliamentary Elections Act (PPEA) to coordinate civic and voter education, working in partnership with political parties and civil society organisations (CSOs). The major challenge in the 2009 elections was that the programmes were not rolled out in time. Seventy CSOs were accredited to provide voter and civic education and each was allocated several constituencies in which to focus their activities, to ensure the whole country would be covered (MESN 2009; see also *The Daily Times* 25 June 2009). However, of the 70 accredited CSOs only 35 were funded from the UNDP basket fund to conduct voter and civic education and even that funding came rather too late to have the desired strategic impact. Civic and voter education activities were adversely affected by several other factors – they were rolled out long after the voter registration exercise had already started; there was little attempt to ascertain the appeal and impact of many of the messages; as a result of logistical challenges to the distribution of materials from the EC's headquarters most CSOs did not stick to messages that were approved by the EC. In addition, because the CSOs had too little time in which to cover all aspects of civic and voter education, voters were overloaded with information (Coker, De Brito, Chinsinga & Banda).

There was debate about whether the higher voter turnout, estimated to be 78 per cent, was due to the success of the education campaign. The popular view is that this is unlikely since the campaign was, by all accounts, a failure. The alternative view is that the higher turnout was mainly due to the fact that Malawians were bored with the political stalemate between the government and the opposition, epitomised by the s 65 standoff, and with Muluzi's wish to stand for a third term. The opposition thus made itself popular over unpopular issues.

Media and the abuse of public resources

There is a host of legislation regulating media coverage and the abuse of public resources for the purposes of advancing political goals. For instance, s 63 of the

PPEA states explicitly that every political party is entitled to have the substance of its campaign reported on the public broadcasters and s 194(4) of the Constitution prohibits the use of state resources for campaigning for a particular political party. In partnership with the Malawi Communications Regulatory Authority (MACRA) the EC is expected to enforce this legislation to ensure a level playing field in the electoral processes (Chiyamwaka 2009).

While the legislative framework relating to communications is generally restrictive, to allow for fully vibrant media to flourish, the EC, in partnership with the Media Council of Malawi (MCM), developed a code of ethics as a self-regulatory mechanism for journalists and media houses reporting on the 2009 elections. The conclusion was that coverage of the elections, particularly by the public broadcasters, was unbalanced in favour of the DPP, as the governing party (EC 2009). Of the private media houses only Joy radio station rivalled the public broadcasters, devoting 84.4 per cent of its coverage to the UDF (Coker, De Brito, Chinsinga & Banda 2009).

The EC's Media Monitoring Unit indicated that the Malawi Broadcasting Corporation (MBC) dedicated 97.6 per cent of all electoral coverage from 17 January to 24 April 2009 to the DPP and, in the same period, Television Malawi (TVM) gave it 94.4 per cent of its coverage. Apart from Joy, the private media had offered fairly balanced coverage. These findings were mirrored by MACRA's own Media Monitoring Unit, covering a different, but overlapping period. According to MACRA, in the period between 1 March and 17 May the DPP received 86 per cent of the positive coverage from the MBC and 97 per cent from the TVM. In the same period Joy radio gave slightly more than 50 per cent of its positive coverage to the UDF, the decline influenced, to a large extent, by the last minute electoral alliance between the UDF and the MCP.

The president and his DPP benefited massively from public resources in promoting their political causes. The president took advantage of incumbency to abuse public resources under the guise of performing ostensibly government functions when these were clearly campaign events. He also used state resources, particularly vehicles and security services, to facilitate his campaign activities (EISA 2009; EU 2009). The vehicles used for campaign purposes were taken mainly from parastatal bodies such as the Electricity Supply Commission of Malawi (ESCOM), the Agricultural Development and Marketing Corporation (ADMARC) and Malawi Telcoms Limited (MTL).

The paradox was that MACRA, which is supposed to regulate the process, was implicated in the DPP's abuse of public resources. MACRA reportedly funded the production of DPP posters and T-shirts, justifying its action as a contribution to the civic and voter education campaign.

While the EC boldly condemned the ruling party's abuse of state resources

and the blatant bias of the public broadcasters, it was unable to take any decisive action. The legislative framework in terms of what it can do beyond admonishing such practices is rather ambiguous. Even MACRA's powers are constrained by a weak legislative framework which governing parties have, since the transition to democracy in May 1994, been reluctant to reform for purely selfish political reasons (Coker, De Brito, Chinsinga & Banda 2009; Chiyamwaka 2009).

The EC's questionable decisions

Notwithstanding the fact that the EC presided over the 19 May 2009 elections in an extremely difficult political context it made two decisions that attracted scathing criticism and substantially undermined its credibility as an independent arbiter of the electoral process.

The EC unilaterally hiked the nomination fees for both presidential and parliamentary candidates. The fee for parliamentary candidates was raised from MK5000 to MK100 000, while that for presidential candidates was increased from MK50 000 to MK500 000, refundable only to the successful candidates (*The Daily Times* 4 December 2008).

Despite the fact that the EC, as a means of ensuring consensus, constitutes a committee of those political parties who are contesting an election to deliberate on decisions affecting key aspects of the election, it increased the nomination fees without discussing the proposals with this committee.

The commission also yielded to the demand of the DPP's presidential candidate to change his name on the ballot paper (using his first name instead of his surname) long after the nomination period had closed, contravening the law stipulating that the name on the ballot should be the one used at the time of nomination. The change meant that his name appeared first on the ballot paper, giving him a huge advantage (Rakner 2009; Chiyamwaka 2009). Several studies of elections show that the position of candidates on the ballot paper has considerable influence on the results (Rakner 2009).

The net effect of these decisions was to undermine the integrity of the EC as an impartial referee over the electoral process since the decisions were widely seen, especially among opposition parties, to have been influenced by the governing party to undercut the competitive edge of the opposition. It was extremely difficult for many parties to raise MK100 000 for their candidates to stand in all 193 constituencies. The DPP paid the nomination fees for all its parliamentary candidates, while candidates of other political parties struggled to raise the fees on their own.

The suspicion that the EC's decision was influenced by the governing party was heightened by the way the finances of James Nyondo, an independent

presidential candidate, came under state scrutiny. Nyondo had offered to pay nomination fees for independent MPs across the country in return for their support. Malawi's anti-money-laundering legislation was invoked and Nyondo was charged and his accounts frozen almost for the duration of the nomination process. As part of his bail conditions he had to report to the police at regular intervals during a crucial phase of the electoral campaign, yet the case was not pursued after the election. By the time he was charged, though, he had paid nomination fees for about 120 independent candidates.

Parallel vote tally centre

Civil society's proposal to establish a parallel vote tally centre (PVT), a proposal strongly backed by donors, was one of the contentious issues in the run-up to the polls. The PVT was justified as a means of enhancing the credibility and integrity of the outcome of the election. As a mechanism for determining through a reasonable sample whether the official count reflected the actual vote, the PVT would have provided an independent audit mechanism for assessing the credibility and authenticity of the results and detecting whether they had been manipulated.

For civil society and donors the PVT would have allayed fears of election results being rigged by the EC working in collaboration with the governing party; a widespread perception in the 1999 and 2004 polls (Patel 2010). However, the proposal was fiercely resisted by both the EC and the DPP. They argued that the establishment of a PVT would undermine the constitutional integrity of the EC as the sole body charged with the responsibility for conducting elections in the country.

THE RESULTS

Sixteen parties contested the 2009 elections. However, only six fielded presidential candidates. The seventh candidate was the independent, James Nyondo. A record 1 184 candidates contested the 193 parliamentary seats. The DPP fielded 193 candidates, the UDF 171, the MCP 134, the People's Progressive Movement (PPM) 50, the New Rainbow Coalition (NARC) 33, the Alliance for Democracy (AFORD) 29, the Republican Party (RP) 24 and the People's Transformation Party (PETRA) 16. The remaining parties fielded a limited number of candidates, with a good number only managing one, the party president. There were 480 independent candidates.

The increase in the number of independent candidates is attributed to increasingly undemocratic candidate selection exercises, especially in the major political parties. The choice of most candidates does not reflect the will of the

electorate as much as it does that of the political party machines (Patel & Mpesi 2009; Magolowondo & Svasand 2009).

Election day passed off quite peacefully despite fears that the majority of the voters might be disenfranchised because of the enormous number of errors in the voters' register. As pointed out above, however, the problem was averted by the use of a numeric register to help identify voters by their voter identification numbers. In addition, voters who did not appear on either register but whose ID number fell within the polling station range were allowed to vote. This worked out very well, to the extent that there were insignificant incidences of voters being turned away without voting (EISA 2009; EU 2009; COG 2009). The turnout was 78 per cent, a dramatic surge from the record low of 59 per cent in the 2004.

Although there were a few minor hiccups these did not have any significant impact on the overall integrity of the voting exercise. Polling staff as well as security officials conducted themselves professionally, although, in some cases, the roles of security personnel and party agents were unclear in relation to cases of assisted voting. Polling stations opened and closed as scheduled, although there were reports of some running short of materials (EISA 2009). All constituencies were involved except one in Blantyre, where the poll was postponed because of the death of one of the candidates just days before election day.

There were, however, some serious problems with the transmission of the election results from district headquarters to the National Tally Centre. There is consensus that the counting process at the polling centres was quite transparent and accountable. In some cases, however, counting was done in extremely difficult circumstances because of poor light. The EC made an effort to provide each polling centre with a generator to ensure adequate lighting, but the generators did not always function as expected.

Party representatives were present at the polling stations and had the right to a copy of the certified results. This allowed parties recourse to legal redress in the event of huge discrepancies in the tally of the final results (EISA 2009; COG 2009). The transmission of the results from the district headquarters to the National Tally Centre was problematic due to a combination of factors that led to a total breakdown of the fax transmission system. These factors included a lack of adequate training, the complete absence of systems of checks and balances and a lack of quality assurance guarantees (EISA 2009; EU 2009). The EC eventually resorted to using hard copies from the constituency returning officers, which expedited the process somewhat, but at the expense of security measures and auditing to identify and correct errors.

The EC announced the results of the elections on 22 May 2009, a substantial improvement on previous elections (Rakner 2009). The results of the presidential elections were announced after 93.2 per cent of the votes from 3 634 of 3 897

polling stations had been counted. The EC argued that the 670 090 votes from the remaining 19 constituencies would not alter the overall outcome. The conduct of the 19 May 2009 elections was, perhaps, aptly summed up by the Malawi Electoral Support Network (MESN), which observed in its final report that:

... overall, electoral officials properly reconciled ballots, leaving no room for speculations ... 90% of all party agents got a copy of the polling station results form and 82% of all polling stations posted their results outside, minimal differences between total results as released by the EC and percentages calculated by MESN as indicated by the fact that MESN report puts runner up John Tembo at 30.3% while the EC said he got 30.7%.

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This enhanced the credibility of the EC, especially since one of the contentious issues in the run-up to the elections was the proposal that a PVT be established to guarantee the credibility of the final outcome.

The results of the elections are summed up in Tables 1 and 2.

Table 1
Malawi Presidential election results 2009

Candidate	Percentage of votes	Number of votes
Bingu wa Mutharika (DPP)	66.17	2 963 820
John Tembo (MCP)	30.49	1 365 672
Kamuzu Chibambo (PETRA)	0.79	35 358
Stanly Masauli (RP)	0.76	33 982
Loveness Gondwe (NARC)	0.72	32 432
James Nyondo (Independent)	0.61	27 460
Dindi Nyasalu (AFORD)	0.45	20 150
Total	100	4 478 874

Source: Electoral Commission Presidential and Parliamentary Report 2009, p 2

Table 2
Malawi parliamentary election results 2009

Party	Percentage of seats	Number of seats
DPP	58.9	113
Independents	16.7	32
MCP	14.1	27
UDF	8.9	17
AFORD	0.52	1
MAFUNDE	0.52	1
MMP	0.52	1
Total	100	192

Source: Electoral Commission Presidential and Parliamentary Report 2009, p 3

The results of the elections were a surprise. Most observers had anticipated a close contest between the DPP and the opposition MCP / UDF's electoral alliance, led by the MCP's presidential candidate, John Tembo. The DPP not only secured an overwhelming share of the seats (113) its presidential candidate won twice as many votes as his closest rival. The MCP and the UDF were beaten to third and fourth places respectively by the independent block of MPs, which, with 32 seats, came a distant second to the DPP (Chinsinga 2009; Rakner 2009).

There was also an improvement in the representation of women in Parliament. In the May 2004 elections women constituted only 14 per cent of the 193 parliamentarians. The proportion jumped to 22 per cent in 2009, a significant improvement under the first-past-the-post system. The improvement is attributed to the 50/50 campaign that was sponsored by a consortium of donors led by Norway in collaboration with the Ministry of Gender and Child Development as a strategy for increasing women's participation in politics. The campaign was motivated by the fact that women are grossly underrepresented in politics in particular and public life in general despite constituting about 52 per cent of the national population (Malumelo & Njikho 2009).

While the rest of the presidential candidates, including former president Muluzi, graciously conceded defeat to Mutharika, the MCP's presidential candidate challenged the credibility of the results (*Daily Times* 28 May, 29 May, 29 June 2009). Several parliamentary candidates also protested against the results. Like Tembo they argued that the election was marred by excessive irregularities such as alleged tampering with the figures by presiding officers (Rakner 2009).

Tembo's reaction triggered instant instability in his party, with some of its executives arguing that it was pointless to complain about the results because they simply reflected the will of the voters. They stressed that the most honourable thing for Tembo to do would be to resign to pave the way for new leaders who would revive the political fortunes of the MCP. These party executives, led by the late Ishmael Chafukira, constituted themselves into a taskforce for leadership change that has had a tremendous impact on opposition politics in the post-May 2009 era. The DDP worked with this MCP faction to devise a change in the standing orders governing the election of the leader of the opposition.

Even before the first Parliament was convened a substantial number of independent MPs began to align themselves with the DPP. They argued that they had been forced to stand as independents because they were frustrated by the way in which the primary elections to identify party candidates had been conducted. The exercise of choosing party candidates for general elections is becoming an increasingly important source of political patronage among influential senior party executives determined to push certain individuals as a means of rewarding them for their political loyalty (Patel & Mpesi 2009).

The results of the May 2009 elections defied the regional, ethnic and tribal patterns of voting that had seemed so entrenched in the previous three elections (Chinsinga 2009). The outcome, therefore, challenged some beliefs in political circles about regional, ethnic and tribal voting patterns in the country. Zeleza (2009) characterised the results in polemical terms, arguing that they were a cautionary tale for those who tend to analyse African politics in oversimplified ethnic and cultural terms and underestimate the capacity of African voters to act in their best interests as rational political players.

The elections were far from an ethnic or regional stereotype but instead reflected the aspirations of the people of Malawi to an issue-based political order. The outcome was thus widely interpreted as a vote of no confidence by the populace in self-serving politicians who are obsessed with narrow interests instead of championing a bigger picture reflective of the country's national interest.

SIGNIFICANCE OF THE ELECTIONS

These elections were quite significant for two reasons. Firstly, they not only drew the curtain on the political careers of the nationalist generation of political leaders but they were also closely fought. Secondly, the outcome marked a complete departure from the familiar pattern of people voting along regional, tribal or ethnic lines.

All the first-generation politicians are past their prime. The 2009 elections, therefore, offered them a last realistic chance for active involvement in politics,

which made the elections even much more competitive. Former president Muluzi desired a comeback primarily to get rid of Mutharika, who, as his handpicked successor had, he felt, betrayed him; Tembo, believing that the May 2004 elections had been stolen from him, was making a last ditch effort to make his way to the helm of government and Mutharika was determined to stay on for a full second term, banking on his impressive performance during his first term, notwithstanding that his government operated in a hostile environment (Chinsinga 2008b).

The elections led, for the first time since the transition to democracy in the mid-1990s, to the birth of a political party with a truly national appeal and outreach. This was a big shock to the MCP/UDF electoral alliance, which had banked on regional and ethnic cards to usher them into power. Consequently, these two parties, instead of articulating a credible alternative, were concerned with how they would share the anticipated spoils. The MCP/UDF electoral alliance's platform remained shrouded in secrecy apart from uninspiring public pronouncements of a commitment to eject Mutharika from the presidency at any cost. The MCP even forgot to include the fertiliser subsidy programme in its election manifesto despite the fact that it was a central plank in its platform and that the party had credited itself with being the brains behind the programme.

This clearly did not inspire hope in voters, engender confidence or foster optimism about a better future. On the contrary, the secrecy invoked fear, raised suspicion and triggered uncertainty. This was inevitable given the political track record of the two leaders at the helm of the MCP/UDF electoral alliance. The country's economy had almost collapsed, corruption became rampant, and development virtually stagnated on Muluzi's watch and there is a popular myth that John Tembo was the brains behind most of the atrocities committed during Kamuzu Banda's one-party dictatorship.

According to the Afrobarometer survey results the dismal performance of the opposition political parties could also be construed as a backlash against the s 65 standoff. Up to 76 per cent of the respondents believed Parliament should prioritise budget discussions over other constitutional matters, including s 65 (Tsoka & Chinsinga, 2009). The DPP's success could be attributed to the government's solid track record in several sectors. The economy, which had been ailing under Muluzi, had been effectively revived; the road infrastructure had been improved and new roads built in areas where people had believed they would see no improvement in their lifetime without a substantial injection of donor funds; the spread of corruption had been somewhat contained; and, following the successful implementation of the subsidy programme that had been fiercely resisted by donors, the country had become a beacon of hope in the realm of food security after years of battling with chronic food insecurity.

Given the historical nature of the results the 2009 elections were widely regarded as a potentially defining moment in the country's quest for sustainable democratic transformation. Among other things, the outcome presented a golden opportunity to fast track the country's democratic transformation by establishing an inclusive system of governance that would make every Malawian a part of the new beginning. In this regard, a major task would be to clear the excessive legislative backlog that made it difficult to implement some of the reforms that are fundamental to sustainable democratic transformation.

Most of the country's laws, enacted to regulate political, economic and social life in a hugely restrictive one-party authoritarian political dispensation, are archaic and inconsistent with the demands and ideals of democracy (Kanyongolo 2009; Chinsinga 2009).

However, several developments since the elections have effectively shattered the prospects for the accelerated and sustainable democratic transformation forecast by most observers and commentators in the immediate aftermath. In fact, most of the government's practices, policies and laws have threatened to undermine the democratic foundations of the country. They have, in fact, the potential to reverse, if not to undo entirely the democratic gains achieved thus far.

The government has declared that it will ban all CSOs that are critical of its performance, and criticising government has been declared unconstitutional (*Weekend Nation* 27 March 2010). The justification is that its overwhelming victory has given the government a mandate to do as it pleases. All parliamentary committees are chaired by DPP MPs, including those such as the Public Accounts Committee, the Public Appointment Committee and the Budget and Finance Committee, which play vital roles in promoting a robust system of checks and balances (*The Nation* 23 November 2009). The standing orders governing the election of the leader of the opposition were changed to involve the entire Parliament, in an attempt to target John Tembo, who, as leader of the second-largest party, would automatically have become leader of the opposition (*The Nation* 18 November 2009; *Daily Times* 25 November 2009). The new procedures have, however, been quashed by the courts as being unconstitutional (*Weekend Nation* 8 May 2010; *Malawi News* 8-14 May 2010).

There have also been several legislative changes whose overall effects do not augur well for the quest for fundamental and sustainable democratic transformation. The Local Government Act (LGA) has been subjected to sweeping amendments which ultimately amount to the reversal of the democratic disposition of the country's local government system (*The Nation* 3 February 2010; *Daily Times* 10 February 2010).

In addition, the Electoral Law has been amended to empower the president

to decide on the date of local government elections (LGEs) – formerly set in the Local Government Act (LGA). This is a cause of concern because LGEs have been postponed continuously since May 2005. The amendments to the LGA were justified on the basis of efficiency and effectiveness but clearly at the expense of the democratic robustness of the local government system as envisaged in the initial framing of the legislation.

The Police Act has been amended to empower the police to undertake searches without warrants as long as they have reasonable suspicion that a crime has been committed (*Weekend Nation* 21 November 2009; *The Nation* 10 February 2010). Taken together, these developments have created a generalised and undefined sense of anxiety in the country underpinned by the retreat of various segments of society from constructive public debate and critical engagement, both of which are vital for fundamental and sustainable democratic transformation.

CONCLUDING REMARKS AND REFLECTIONS

The elections of 19 May 2009 were generally a success despite the fact that the Electoral Commission prepared for them in extremely difficult circumstances. Both local and international observers judged the process to be free, although not necessarily fair. The playing ground for political parties was far from being level and the public broadcasters were heavily biased in favour of the governing party. This resulted in a media war between the public broadcasters and Joy radio station, which backed the UDF. This essentially reflected the failure of MACRA to exercise its powers in partnership with the EC to regulate the political playing field.

The governing DPP also had preferential access to public resources for campaigning purposes, contrary to s 194(3) of the Constitution. The MACRA was implicated in the DPP's scheme of abuse of public resources, which, by any account, was a serious indictment of its credibility as an impartial regulator of the electoral process. However, regardless of these challenges, the EC managed to pull off a relatively successful election. Election day passed off peacefully and with no reports of voters being disenfranchised, despite serious errors in the voters' register.

The results of the elections were historic, with the DPP registering landslide victories in both presidential and parliamentary elections, rupturing the established tradition of Malawians voting on regional or ethnic lines. This development inspired hope that the elections might mark a turning point in the country's quest for fundamental and sustainable democratic transformation. In some circles it was heralded as an opportunity to domesticate or create a Malawi-oriented brand of democracy. However, these hopes have been effectively dashed following a series of developments since the elections. The government's practices,

policies and laws since May 2009 threaten to undermine the foundations of a robust democratic nation, if not reverse altogether the democratic gains thus far.

These developments demonstrate that Malawi is very much a defective democracy. They denote a regime in transformation that has not achieved consolidation as a liberal democracy but which, at the same time, can no longer be considered an autocratic regime since it has established an electoral regime that essentially functions along democratic lines (Merkel & Croissant 2004). Defective democracies often emerge in the course of attempts to entrench or practice constitutional order, hence most defects can be traced to the weakness and non-implementation of the norms and rules of governance that are the main drivers of fundamental and sustainable democratic transformation.

The experience of 19 May 2009 and subsequent developments therefore demonstrate, *inter alia*, that it is not the mere practice of and adherence to textbook democracy that delivers equity, prosperity and justice but rather the determination of the country's leaders to invent developmental democracy and the new democratic paradigms needed to achieve progressive social change (Kasongo 2005; Chinsinga 2008). There can thus be no real democracy if a society is not conscious of its own contradictions, does not allow political debate, and does not outline the social practices necessary to provide rules for the society to manage its interests and objectives with equity, justice and fairness.

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PARTY OPPOSITION PERPETUALLY ON THE VERGE OF PROMISE – SOUTH AFRICA'S ELECTION 2009

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ABSTRACT

National and provincial elections in South Africa, 1994 to 2009, became characterised by elusive opposition party quests to dent the electoral dominance of the African National Congress (ANC). There was ebb and flow in the fortunes of both continuous and new opposition parties as they rallied to capture significant electoral ground from the ANC. In this setting, the article poses the question whether Election 2009 delivered evidence of 'game-breaking' performances by opposition parties – feats that dented or showed the potential to harm the ANC's commanding electoral majorities. The answer, explored in detail in the analysis, is ambiguous. On the one hand, the 2009 election trends show hitherto unimagined lapses in ANC performance. On the other, the opposition parties were continuously unable to make profound electoral imprints. The ANC suffered certain setbacks, but retained commanding majorities. Explanatory factors include the serial organisational lapses of old and new opposition initiatives, along with the existence of a powerful parallel non-electoral world of democracy and opposition in South Africa – a world in which opposition politics is enacted within the ANC Tripartite Alliance, and between the ANC and citizens in the between-election periods. The ANC's ability to conduct redeeming election campaigns also helps it to retain its status as 'chosen' governing party, while further sealing the fate of opposition parties, from one election to the next. Hence, election 2009 delivered changes in the ANC-opposition party power ratio – symbolising a turning point, with the ANC having moved beyond its electoral peak yet falling short of assuming a watershed-change character.

INTRODUCTION

By courtesy of competitive, legitimate, free and fair elections, South Africa had, since 1999, been considered a consolidated multiparty democracy. Multiparty elections were regularised and legitimate. There was little doubt that support for the overwhelmingly dominant ANC was anchored in true popular endorsement. South African multiparty democracy therefore was consolidated (see Suttner 2004; Lodge 1999), yet with party opposition remaining serially unable to break the ANC's hegemonic-dominant hold over multiparty, electoral politics. Opposition parties remained well below any threshold that could be considered to pose a threat to ANC dominance (see Sandbrook 1996; Lemon 2007). Election 2009 sustained this trend, albeit with opposition party performances – enabled by lapses in ANC accomplishments – that suggested that an erosion of blanket ANC dominance may have set in.

Initially, the election of 22 April 2009 held promise for opposition parties that none of South Africa's preceding three democratic elections (27 (26-29) April 1994, 2 June 1999 and 14 April 2004) had done. The Congress of the People (Cope), which had split off the ANC, was at first expected to make substantial inroads into the ANC support base. Cope had arisen 'from the loins of the ANC' (Jordan 2008) and appeared destined to inherit some of the ANC's popular legitimacy. An opposition party seemed to have emerged, 15 years into multiparty democracy, which could dent the ANC by accessing the same demographic-racial-class support base. The Democratic Alliance (DA), now in its tenth year as main national opposition party, was simultaneously closing in on the ANC in the Western Cape.

These were, however, no pincer grips on the juggernaut ANC. While the Cope threat largely faded under the weight of ANC 'fight-back' to regain support and esteem, and the DA was advancing below the racial ceiling of party political support in South Africa, the ANC made face-saving breakthroughs in the KwaZulu-Natal province. The KwaZulu-Natal feat veiled evidence that the ANC had, in all likelihood, moved beyond its peak of electoral fortitude. On several fronts there were slippages, albeit not collapses.

The article first elaborates aspects of the core argument of tentative changes in the party political and opposition landscapes, assessed in the context of *non-electoral and non-party opposition* to the ANC as party and government. It then positions the current analysis in relation to the literature on contemporary party politics and opposition in South Africa. Thereafter it focuses on the details of the overall 2009 election results (as reviewed in Table 1). It weighs up party gains and losses on national and provincial levels and identifies inter-party support movements. This part of the analysis includes a comparison of the Cope phenomenon with those of the United Democratic Movement (UDM) and the

Independent Democrats (ID), the respective new opposition party 'hopes' of the two preceding elections. It explores the DA's advances, especially as evidenced in the Western Cape. Opposition party performances are then linked to the ANC's feats in Election 2009, since the ANC continued to be central to the explanation of the opposition parties' lack of breakthrough. The final section reviews the contradictions within the ANC's continuously strong electoral performances and links these to prospects for opposition advances.

OPPOSITION AND PARTY POLITICAL LANDSCAPE, CIRCA 2009

Solely in electoral terms, Election 2009 presented concurrent evidence of opposition party advances (on the national and some provincial levels) and of the ANC retaining a commanding majoritarian presence. The ANC's continuous national-level performance of close to two-thirds was facilitated by its convincing conquest of KwaZulu-Natal, which compensated for it having shrunk proportionately, in relation to the opposition, in the other eight provinces. Here opposition advances pushed the ANC back and marked an important contrast with the opposition parties' cumulative national-level *shrinkage* in the preceding two elections (compared with their 1994 standing). For the ANC this indicated possible future problems, yet no crisis. Relatively minor variations in the party's electoral support also did not have a substantial impact on its close-to-full command of the South African state. The opposition parties, at best, were pushing the ANC marginally below a two-thirds national majority.

Non-electoral challenges to opposition parties

Opposition achievement in South Africa depends on both electoral and between-election dynamics. For South Africa's opposition parties to proclaim advances at the time of Election 2009 they would thus have had to dent significantly the ANC's electoral base, *and*, in the broader between-election period and non-electoral domain, conquer the powerful ANC-citizenry dynamic and then establish party political opposition as the 'only [opposition] game in town' (see O'Donnell & Schmitter 1986, pp 51-61).

The *two-worlds* phenomenon was a major between-election obstacle to opposition advances. This is the world in which popular opposition to the ANC is vibrant, but then recedes as national elections approach, with the broad base of ANC supporters fighting in unison against some or another party political enemy (Booyesen 2009a, 2009b). The *parallel democracy* trend in South African politics equally undermined opposition initiatives. Here, reference is to continuous and vibrant intra-Tripartite Alliance contestation, which often substituted for inter-

party contestation. Non-electoral, intra-alliance exchanges fulfilled an opposition role of contesting ideas and policies. The citizenry in the between-election periods regularly exercised opposition through protest against ANC government, yet would return the ANC to the polls come election times. Third, the '*extended grace*' trend highlights the existence of a voting population that had not yet started to penalise the ANC electorally, in any substantive and nationally evident way, for sub-optimal performance in government. As it turned out, these phenomena contributed strongly to thwarted opposition quests in 2009.

Hence, opposition party politics was not the only opposition game in town. The ANC's two Tripartite Alliance partners, the Congress of South African Trade Unions (Cosatu) and the South African Communist Party (SACP), remained at the centre of 'opposition politics'. The ANC Youth League (ANCYL) in this period also contested for oppositional space to the 'main ANC', alongside Cosatu and the SACP.¹ It was within this heart of power, the extended Tripartite Alliance, that many of the policy and succession contests *that mattered* unfolded. Party politics was an important yet separate show – relatively marginalised from this axis. In the between-election periods, particularly also in the periods before and after Election 2009, opposition politics was effectively realised *non-electorally* through the two alliance partners, Cosatu and the SACP.

Come national election times intra-alliance opposition tended to dissipate and all partners and their followers would once again unite against a chosen principal party political opponent. This opponent was the National Party (NP) in 1994, the Democratic Party (DP) in 1999, DP successor the Democratic Alliance (DA) in 2004 and the DA-Cope in 2009. In the 2009-2010 post-election period there were several instances of acrimonious ANC-Cosatu/SACP contestation.² The intensity of this opposition was suspected to have been increasing, especially in the presence of the ANCYL's ascent in the post-Polokwane period. In the aftermath of Election 2009, and escalating towards mid-2010, the Tripartite Alliance was vulnerable in its divisions, for example on elite enrichment and public sector

1 The debate between the SACP's Jeremy Cronin and the ANCYL's Julius Malema about nationalisation was an illustration of this phenomenon (see, eg, Cronin 2009 and Cronin/Malema 2009). The contest was linked to 2009 post-election expressions of interest in succession to senior ANC positions. The ANCYL then used organisational and policy positioning to try to ensure that SACP and union-associated current ANC secretary-general Gwede Mantashe might only serve one term – and vacate his position in favour of former ANCYL president and ANC 2009 campaign manager, Fikile Mbalula. Also see Monare 2009. It was a fluid process and remains in flux at the time of writing.

2 In a notable instance Cosatu general secretary Zwelinzima Vavi named two Cabinet members as guilty of corruption due to tender advantages and living a high life off taxpayers and at the cost of the poor. The ANC at first threatened disciplinary action, but then decided not to proceed. For an overview, see Mbanjwa 2009. Both the accusations and counter-actions at the time suggested that intra-alliance fallout was intensifying. However, it remained possible that the differences would be settled (at least for the time being) through alliance summits and council meetings. This was a typical way of addressing intra-alliance differences in the Zuma era.

corruption. Yet little evidence emerged that it was spiralling out of control and that an ANC split would result, ready for the picking by an opposition-alliance-in-the-making.³

Party political opposition also played out among South African voters exercising a dual repertoire of protest against and discontent with the predominant governing party in the *between-election periods*, which combined with pro-ANC mobilisation and unification against some or another opposition party enemy, *come election time* (Booyesen 2007, 2009c; also see Sachs 2004). Elections, time after time, brought the bulk of the mobilised electorate to restate their ANC support. Until at least 2009 elections were not the time and place of reckoning for an under-performing ANC.

On the one level, Election 2009 thus brought the opposition political parties to a seeming impasse. It delivered evidence of the ANC having moved past its electoral peak and of opposition party inroads, even if these were still scattered and relatively insubstantial. This was while the governing ANC, on another level and by now more than 15 years into multiparty democracy, appeared set to remain electorally dominant.

Enthusiasm for party politics in the world of elections

The relative peripheralisation of party political opposition politics in South Africa contrasts with the proliferation of political parties – all, by definition, *opposition parties*, in the prevailing epoch. The number of political parties in South Africa increased over the years, from around 70 in the late 1990s to 146 in late March 2008 and 157 in September 2008 (Tlakula 2008; Electoral Commission 2008, p 39; also see Spies 2009). Reasons for the high numbers included both enthusiasm for the act of, especially, electoral participation and the fact that it is easy and inexpensive to start a political party in South Africa. In terms of the Electoral Commission Act No 51 of 1995 unrepresented parties are simply required to renew their annual registration before 31 January of any particular year.

Even if small and with generally dismal prospects of ascending to government, South Africa's opposition parties that contested elections relished the participation and competition. On the floor of the Electoral Commission's Pretoria results centre, for example, these parties, election after election, rejoiced if they had advanced decimally, managed to survive one more election, or established a miniscule foothold in Parliament (Booyesen 1999-2009). In addition there was a multiplicity of minor parties that failed to achieve any representation

3 It has been a long-standing scholarly-activist advocacy project that the alliance needs to split, and that this would be the ultimate trigger for a strong opposition to emerge. For example, see Habib & Taylor 1999.

whatsoever, either in single or in consecutive elections, both nationally and provincially.

There is a vivid de-escalation in South Africa between the numbers of registered, participating and represented political parties. To illustrate, at the time of Election 2009 there were (see Booysen & Masterson 2009) more than 118 parties registered at national level, only four of them earning more than 4 per cent of the national vote. The 2009 details include:

- 156 registered political parties (118 of them registered at national level);
- 40 parties in total participating in elections (national *and* provincial);
- 26 parties contesting parliamentary elections (for the National Assembly);
- 13 parties winning representation in the National Assembly (two of them, Cope and the Pan Africanist Congress – PAC – split-off, the African People’s Convention – APC – were first-time contestants);
- 9 of the 13 parties represented in the National Assembly winning 1 per cent or less of the national vote (the comparative figures in the preceding three elections were 8 in 1994, 12 in 1999 and 11 in 2004);
- 4 parties only in the National Assembly winning more than 4 per cent of the national vote (ANC, DA, Cope and the Inkatha Freedom Party – IFP).

Cumulative opposition inroads, 2009

As the mirror image of this array of modestly- and non-performing opposition parties, the ANC in the first three democratic elections (1994, 1999 and 2004) continuously grew its proportion of the vote (also see below, regarding 2009 slippage). Nationally, from 1994 to 2004 the ANC rose from 62.6 to 66.5 to 69.7 per cent of turnout. Across the four democratic elections up to 2009, although not precipitously, the party’s proportion of the vote of the total of eligible voters simultaneously declined, going from 53.8 (in 1994, the only one of the four elections not based on a voters’ roll) to 46.9, 39.6 and 38.8 per cent of the national vote (Table 1; Schulz-Herzenberg 2009, p 25). There was gradual change, although opposition parties remained in an overall dismal zone, their joint support ranging between 30 and 37 per cent.

Come Election 2009, two results barriers tumbled. Although fleeting in the context of the party’s 2009-10 post-election turmoil, Cope had made inroads into ANC voter blocs. Previously, in post-1994 South Africa all opposition parties had

faltered in this quest. Largely as a result of the Cope performance, the ANC in 2009 was pushed back over a relatively wide front. The ANC now returned to its 1999 level of national support – rescued by its KwaZulu-Natal result.

The rest of South Africa's represented opposition parties had either gone into relentless decline or had stagnated in the below-1 per cent national bracket (Table 2). Most precipitous was the IFP's slide from 11 to 9 to 7 to 5 per cent of national support from 1994 to 2009 (also see Mottiar 2004). In the process it was provincially eclipsed by the ANC. The UDM declined from 3 to 2 to 1 per cent, and the ID from 2 to 1 per cent. The PAC stagnated below 1 per cent, and the Freedom Front (Freedom Front Plus after its absorption of the Conservative Party – CP) went from a 2 per cent to three consecutive 1 per cent performances. The African Christian Democratic Party (ACDP) vacillated between 0.5 and 1.5 per cent over four elections. The Bophuthatswana Bantustan relic party, the United Christian Democratic Party (UCDP), was doomed to the below 1 per cent mark after its 1999 'comeback'. These mostly dismal fates of the 'bigger' opposition parties – bigger in the sense of at least having won national representation – did not douse the enthusiasm of many a new political party to contest the elections. In the proportional representation (PR) electoral system at provincial and national levels opposition splintering did not detract from cumulative opposition performance vis-à-vis the ANC.

Table 1
Comparative turnout over four South African elections

Vote & voter category	Year of election			
	1994	1999	2004	2009
Turnout percentage of registered voters	No registration or voters' roll	89.3	76.73	77.3
Valid votes cast	19 533 498	15 977 142	15 612 671	17 680 729
Number of spoilt ballots	189 475	251 320	250 887	239 237
Total number of votes	19 533 498	16 228 320	15 863 558	18 159 203
Total number of registered voters*	No registration or voters' roll	18 172 751	20 674 926	23 181 997

Estimated voting age population*	22 709 152	22 589 369	27 436 819	29 956 957
ANC's percentage of VAP vote~	53.8	46.9	39.6	38.8
Percentage VAP registered*	No registration or voters' roll	80.4	75.4	77.3
Percentage turnout of VAP*	86.0	71.8	57.8	59.8

Sources: Compiled by author from www.iec.org.za, range of windows for respective elections; Reynolds 1999; rows marked with (*) from Southall & Daniel (eds.), 2009: 234; row marked with (~) from Schulz-Herzenberg 2009, p 25

SOUTH AFRICAN OPPOSITION PARTY RESEARCH IN RELATION TO THE LITERATURE

Opposition party research in South Africa is predominantly concentrated in published volumes on the state of the individual parties, come election times and the days of reckoning that election results bring. These edited compilations have been produced after each of South Africa's four sets of national and provincial elections (see Reynolds 1994; Reynolds 1999; Piombo & Nijzink, 2004; Southall & Daniel 2009).

The approach in the earlier volumes had been to gather party protagonists, along with a handful of academics and researchers who had been associated with scholarship on a particular party. By 2004 the approach had converted to full scholarship orientation (see Piombo & Nijzink 2004). This was largely sustained in 2009 (see Southall & Daniel 2009). The Konrad Adenauer Stiftung's (2001) *Opposition in South Africa's new democracy* was in the same genre. In extending this scholarship, Hamill (2004) goes some way towards capturing the relations between the dominant ANC and the opposition parties. Yet, the works capture insufficiently the pathos of opposition party politics failing to progress substantially in relation to the ANC in successive elections.

The work on the individual opposition parties is illuminating, yet relatively scarce. Illustrations are the work of Francis (2008) in a doctoral study that explores the IFP in provincial government, and Van der Westhuizen (2007), collecting the details of the decline of the NP, in a post-disappearance review. More historically, there was the definitive work by O'Meara (1996) on the NP, positioning the party in broad historical context. The floor-crossing studies (Booyesen 2005) captured important trends pertaining both to the gains of the main parties and

the mushrooming of factional and new micro-parties, but are not presented in an analytical framework that focuses on the election-related nuances of opposition stagnation or gains vis-à-vis the ANC. Similarly, authors such as Murphy & Blair (2009) investigate the correlates of low opposition party influence in South Africa – and relate the phenomenon, perhaps obviously, to electoral weakness and (some) parties' preparedness to be co-opted by the ruling party. Scholarship also tends to box party political studies either into opposition studies or into investigations into the ANC and its alliance relations – instead of considering these in an integrated manner.

The sprinkling of works on opposition parties contrasts with an extensive literature on the ANC, in both books and scholarly articles. Many of the works on the ANC are of an historical nature and capture it in exile and underground times. They are written by insiders, insider-scholars, and outsider-scholars (see Suttner 2003, 2004, 2008; Maharaj 2008; Shubin 1999; Dubow 2000; Ellis & Sechaba 1992). More contemporary work has often come from political scientists, especially Lodge (2004a, 2004b, 2005), with Butler (2007, 2009) also contributing.

Bond (2004a, 2004b, 2006) is prolific on the ANC, mostly offering insights into the socio-economy and contexts of party politics and voting in relation to it. Gumede (2008) and Feinstein (2007) delivered critical perspectives on the party, the latter from the vantage point of personal experience. The biographical work of Gevisser (2008) on Mbeki offers substantial insights into the character and operations of the ANC. There is a considerable literature on the Tripartite Alliance and policy contestation amongst the left partners (for example, McKinley 2008; Sachs 2007; Suttner 2007). However, these studies do not position the contestation alongside the competition of opposition parties in and around elections.

Some of the literature takes stock of the broader party political landscape (see Southall & Daniel 2009). Southall (2003) also places opposition politics and alliance politics side-by-side – with particular reference to ANC dominance. Southall & Daniel's 2009 work counter-positions the ANC and other political parties, yet without any systematic exploration of the dynamics of opposition politics. Other collective works too, such as the successive *State of the Nation* edited volumes, take stock of party politics in South Africa in general (Southall & Daniel 2005; also see Lodge & Scheidegger 2006). Suttner (2004) delivers useful analyses on this front, through his counter-positioning of the scholarship of one-party dominance with South African society's openness to civil society contestation.

Facets of the literature also dwell on the reasons why South Africans vote the way they do. The expositions range from the 'racial census' thesis to 'party image' (Schulz-Herzenberg 2009; also see Ferree 2006; Habib & Naidu 2006). Foremost among the reasons why South Africans continued to support the ANC overwhelmingly were the ANC's credibility of identification with, and

representation of the interests of the majority of, especially, black-African South Africans. Credible leadership and egalitarian policies contributed.

The ANC's liberation movement legacy added major impact, helping to sustain popular belief in the party's *bona fides* in the presence of a rising Gini coefficient, inordinate unemployment, widespread poverty, weak (and sometimes corrupt) governance and corruption or maladministration in high leadership circles. No matter how weak and incapable the ANC appeared, many South Africans had been experiencing improvements in conditions and continued to harbour high expectations. To the mass of the South African voters the opposition parties had less credibility than the ANC, as evidenced in the overwhelming absence of vote switching.

The current analysis strives to take stock, circa 2009-10, to detect trends and project trajectories on the unfolding power relations between the main opposition parties and the governing party – while recognising that opposition party politics is challenged in opposition roles by the ANC's alliance partners, and thus that electoral opposition politics is not the only opposition game in town. Civil society and social movement opposition to the ANC is recognised as a sidebar to the primary gist of the analysis. The analysis thus tracks opposition party trends across the four democratic elections, in relation to the 'other opposition games in town'. The main emphasis is on the national landscape, albeit with references to significant trends in the political parties' provincial results.

OPPOSITION REALIGNMENT AND THE 'GREAT OPPOSITION HOPES' OF 1999, 2004 AND 2009

New parties and new party coalition formations in South Africa's first 16 years of multiparty democracy elicited substantial pre-election enthusiasm ... and almost inevitably bigger election-post-election modesty. South Africa's opposition parties have invariably fallen short of plans and expectations.

Joint opposition party performance up to Election 2009 hovered around 30 to 37 per cent of the voting electorate. This was neither the result of a lack of new political parties emerging nor of inattention to alliances and cooperation agreements. In the latter game the ANC appeared to outplay the opposition when it struck a deal with the New National Party (NNP) – although mostly in terms of symbolical value after the DA had the first-round pickings in its failed DP-NNP venture.

New initiatives were realised in the form of realignment by electoral or other alliances (for example the DP and IFP), mergers (for example the DP and NNP), absorption into more successful parties (the NNP into the ANC), splits off the ANC (UDM, Cope), and parties formed in the era of floor crossing through splits

from bigger parties (for example the ID and APC off the PAC and a multiplicity of micro parties that failed to survive electoral exposure).

After the introduction of multiparty democracy in 1994 the main party opposition force switched from the NP (1994), to the small DP (1999), and then to the Democratic Alliance (DA; DP as bolstered by the merger with the NNP).⁴ Along with the slim growth realised by the DA, the DA jointly with the ID and UDM support of 2009 would only just approximate the old NP's 1994 support level of 20 per cent. It was only Cope that had managed to make convincing inroads into the ANC base – but then it effectively imploded in the aftermath of Election 2009 and, for the time being, relinquished its value to a possible new opposition alliance.⁵

The rest of the section explores the new opposition parties compared with the steadily growing DA, and specifically considers Cope as the most recent manifestation of a potential game-breaker in opposition politics in South Africa.

DA advances but encounters ceilings

The DP-DA was the only South African opposition party that had consistently, albeit modestly, grown across the three post-1994 elections. By 2008-09 it had set its sights on capturing the Western Cape, part of a strategy of piecemeal inroads into ANC bases.⁶ The Western Cape was projected as the bulwark of advancing DA forces. The DA's dual feats of being the opposition party that was most consistently growing and the party that managed to take the Western Cape from the ANC, however, remained hemmed in. Vote analyses of 2009 show that the DA's Western Cape victory was anchored in the combination of a larger turnout of white voters and coloured working-class switches from the ANC to the DA (Kimmie, Greben & Booysen 2010) in times of intense ANC in-fighting and turmoil in the province.

The DA's Western Cape advance thus appeared to have limited cross-provincial potential. In the sparsely populated Northern Cape, a province with a strong white-coloured demographic voter base (on occasion referred to as the next fertile territory for DA provincial advances), the ANC, in 2009, increased its vote total, yet suffered an 8 per cent decline in vote proportion. The ANC had

4 The NNP had again parted ways with the DA, after the merger soured. Yet a substantial proportion of NNP followers remained behind in the DA. The modestly sized remainder of the NNP formally merged into the ANC in the aftermath of Election 2004.

5 In 2010 the DA and ID had started to forge links, an initiative that was complicated by the absence of the floor-crossing mechanism. See Rossouw 2010.

6 For an overview of the DA's strategic approach to Election 2009, see Jolobe 2009.

anchored its high profile campaign on ANC provincial government delivery (Makatees 2009). Its relative vote losses were due more to Cope than to the DA.

Table 2
South Africa's four-election history of comparative opposition-versus-ANC performances

	ELECTIONS & RESULTS OF ALL PARTIES WINNING REPRESENTATION			
	1994	1999	2004	2009
Party	Per column: Vote percentage (%) / Number of National Assembly seats / Number of votes			
ANC	62.65% / 252 / 12 237 655	66.35% / 266 / 10 601 330	69.69% / 279 / 10 880 915	65.90% / 264 / 11 650 648
DP / DA	1.73% / 7 / 338 426	9.56% / 38 / 1 527 337	12.37% / 50 / 1 931 201	16.66% / 67 / 2 945 829
Cope	–	–	–	7.42% / 30 / 1 311 027
IFP	10.54% / 43 / 2 058 294	8.58% / 34 / 1 371 477	6.97% / 28 / 1 088 664	4.55% / 18 / 804 260
ID	–	–	1.73% / 7 / 269 765	0.92% / 4 / 162 915
UDM	–	3.42% / 14 / 546 790	2.28% / 9 / 355 717	0.85% / 4 / 149 680
FF / FF+	2.17% / 9 / 424 555	0.80% / 3 / 127 217	0.89% / 4 / 139 465	0.84% / 4 / 146 796
ACDP	0.45% / 2 / 88 104	1.43% / 6 / 228 975	1.60% / 7 / 250 272	0.81% / 3 / 142 658
UCDP	–	0.785% / 3 / 125 280	0.75% / 3 / 117 792	0.37% / 2 / 66 086
PAC	1.25% / 5 / 243 478	0.71% / 3 / 113 125	0.73% / 3 / 113 512	0.27% / 1 / 48 530
MF	0.07% / 0 / 13 433	0.30% / 1 / 48 277	0.35% / 2 / 55 267	0.25% / 1 / 43 474
Azapo	–	0.17% / 1 / 27 257	0.25% / 1 / 39 116	0.22% / 1 / 38 245

APC	–	–	–	0.20% / 1 / 35 867
NP/ NNP	20.39% / 82 / 3 983 690	6.87% / 28 / 1 098 215	1.65% / 7 / 257 824	–
FA	–	0.54% / 2 / 86 704	–	–
AEB	–	0.29% / 1 / 46 292	–	–
TOTAL	100% / 400 / 19 533 498	100% / 400 / 15 977 142	100% / 400 / 15 612 671	100% / 400 / 17 680 729
<p>Key to abbreviations: ANC, African National Congress; DP/DA, Democratic Party / Alliance; Cope, Congress of the People; IFP, Inkatha Freedom Party; ID, Independent Democrats; UDM, United Democratic Movement; FF/FF+, Freedom Front/Plus; ACDP, African Christian Democratic Party; UCDP, United Christian Democratic Party; PAC, Pan Africanist Congress; MF, Minority Front; Azapo, Azanian People's Organisation; APC, African People's Convention; N/ NP, New/National Party; FA, Federal Alliance; AEB, Afrikaner Eenheidsbeweging (Unity Movement)</p>				

Sources: Compiled by author, based on IEC 1994; Electoral Commission 1999, 2004, 2008, 2009

The DA's advances were also characterised by it feeding off other opposition parties rather than making inroads into the ANC's vote (Table 3). The main party political sources of the DA's 2009 national-level growth were, in declining order, the defunct NNP (which made its last electoral appearance in 2004), the ID, then the ACDP, closely followed by the ANC as only the fourth most-important source (Table 3). The DA's local level advances in municipal by-elections in 2010 followed, yet still with uncertainty as to whether they would have widespread local or provincial-national transfer value.

In contrast to the DP-DA, first the UDM, and subsequently Cope, was seen to have the potential to break through the white (multi-class) and coloured (mainly working-class) ceilings that were restraining the DP-DA. The UDM, ID and Cope were the three potential game-breakers of the elections of 1999, 2004 and 2009. Whereas none of the three had fulfilled the expectations that prevailed at the time of their respective births, it was Cope, more than its two counterparts, that demonstrated that it could pull support roughly proportionately across the 'racial groups' of South Africa and access the black-African working (and sub-working) class vote (Kimmie, Greben & Booysen 2010). In Election 2009 it was also only Cope that inflicted electoral damage on the ANC.

Emergence of the potential game-breakers

Three new opposition parties that could potentially 'break the game' of overwhelming ANC dominance, and hence South Africa's opposition party gridlock, stepped into the election arena in the course of the three national elections after 1994. They were the UDM in 1999, the ID in 2004, and Cope in 2009. Their game-breaking potential came either through the expectations of their holding the wand to split the ANC vote (UDM and Cope, albeit with a difference of scale), or by providing a struggle-anchored alternative party presence (ID, through its PAC origins). The scale of break-through, however, remained meek. The rest of the section considers these 'special' parties, against the background of general party political developments.

Election 1994 and beyond

South Africa's multiparty democracy began in 1994, with four main groupings of political parties contesting and winning representation (Booyesen 2009b). First, there were the parties linked to the liberation struggle (especially the ANC and PAC); second, parties representing the spectrum of white interests (ranging from nationalist in the form of the NP, to liberal in the DP); and, third, other racially defined tricameral and Bantustan parties. Fourth, there was also a range of small ethnically and religiously defined parties. Only a tiny fraction of these would win representation and survive into the next round of elections. Post-election transformation and realignment followed in all these groupings. Most of the Bantustan parties disappeared in the years following Election 1994. Others metamorphosed into post-apartheid parties. In 'white' party politics, the NP had built up a substantial coloured following, but nevertheless became eroded. Local government by-elections from the mid-1990s onwards indicated realignment away from the NP/NNP towards the DP.

Election 1999 and beyond

Opposition in Election 1999 was the confirmation of the decline of the (by then renamed) *New National Party* (NNP) and the ascent of the DP, and the emergence of ANC split-off, the UDM under former Bantustan leader-supportive-of-the-ANC-in-exile, Bantu Holomisa (also see ANC, 1997, 2001). The DP had captured an increased white base through its so-called fight-back campaign, often interpreted as reactionary (see Jolobe 2009). It simultaneously maintained and consolidated the support of the English liberal section of the ruling bloc, which had exercised its power primarily through business, capital and the media (see *Umrabulo* 2001). Election 1999 anointed the DP as the new official opposition.

The DP nevertheless remained tiny and the quest continued to find a game-breaker in opposition ranks. A faction that split off the NNP, under constitutional negotiator and previously ascendant NP leader, Roelf Meyer, joined forces with Holomisa to constitute the UDM. Hailed as the first post-apartheid non-racial party it won support off the ANC, especially in the Eastern Cape, but failed to establish a significant national presence. Secondary opposition shifts included the shift in conservative white-Afrikaner politics away from the separatist Volkstaat to securing white interests within the Republic of South Africa. This was illustrated in the decline of the Freedom Front and other far right-wing parties. The IFP started losing former enclaves of support beyond KwaZulu-Natal. In the absence of outright majorities in KwaZulu-Natal and the Western Cape the ANC established provincial coalition governments with the IFP (in KZN) and the NNP (in the Western Cape).

The rapid further collapse of the NNP from 1999 onwards then became the major stimulant of opposition party realignment. It dared not enter the 2000 local government elections under its own steam and hence leapt into a fusion arrangement with the DP. The alignment soon soured. The ANC sensed the opportunity to extract and capture a portion of the NNP vote from this opposition alliance. The DA split, yet retained the bulk of its NNP following and floor crossing resulted (Booyesen 2005). The phenomenon helped the ANC to establish close-to-full hegemony across the national and provincial legislative institutions. On the eve of Election 2009 the ANC, by virtue of floor crossing, had accumulated 74.25 per cent or 297 of the 400 National Assembly representatives. Floor crossing persisted until 2008 and was officially abandoned in early 2009.

Election 2004 and beyond

Floor crossing set the scene for several variations on opposition realignment. In Election 2004 it was a floor-crossing party, the ID, that fulfilled the role of new-blood opposition hope. Under Patricia de Lille the ID delivered fair performances in Election 2004, clearly with a core of support from the coloured voting blocs in the Western and Northern Cape provinces, but failed to assert itself nationally. Floor crossing remained the primary opposition party dynamic until the ANC's succession struggles took over the momentum.

Party political opposition shifted to the political margins as the ANC fought out its National General Council meeting of 2005, the Policy Conference of mid-2007 and the Polokwane Elective Conference of late-2007. ANC contestation for the marginalisation of Thabo Mbeki and the ascent of Jacob Zuma now effectively eclipsed party political opposition. Tripartite Alliance partners vied for control and influence, mobilising in favour of the ascendant Zuma faction (see Fikeni

2008). The next grand party political opposition moment came in 2008 when the Polokwane divisions advanced to the removal of Mbeki from the presidency of South Africa. The party that was to become known as Cope split off the ANC, with the Cope hopefuls believing that the roughly 40 per cent support for Mbeki at Polokwane could be converted into electoral support (Booyesen 2009d).

Election 2009 onwards

Opposition in Election 2009 was characterised by two main occurrences – the DA’s win over the ANC in the Western Cape provincial election (courtesy of a vote switch by some ‘coloured’ voting blocs, and higher turnout amongst conventional DA supporters), and Cope taking 7 per cent of the national vote (largely due to winning support from the ANC).

In the early democratic elections the Western Cape had been seen as an unliberated bastion of the *ancien régime*. Hence, it was significant for the ANC to have emerged as the largest single party in the 2004 vote tallies. While the ANC fell short of an outright majority it captured the province, with NNP aid. In the 2009 reversal the DA secured an outright provincial win. The DA’s Western Cape rise also propelled the party into its 5 per cent growth from 12 to 17 per cent of national electoral support (Table 1).

Expectations of Cope’s opposition potential (Booyesen 2009a) shrank consistently after its December 2008 launch. Cope declined from the impressionistic expectation of 40 per cent of ANC support (modelled on the Polokwane result) to its 7 per cent national performance in Election 2009. The 7 per cent result was, nevertheless, a substantial achievement, given that about 5 of these 7 percentage points had come off the ANC support base (Table 3). The 7 per cent was also enough to make Cope the third-biggest party in the National Assembly and official opposition in five of South Africa’s nine provinces – accomplishments that no other new opposition party had mustered in democratic South Africa.

Retreat of another nature faced Cope in the year after the election, when it was overwhelmed by a complex of organisational, policy-identity and leadership-factional problems. Insufficient funds,⁷ crumbling sponsorships in the wake of certainty that the ANC was not about to disintegrate, and accusations of mismanagement of its publicly allocated funds dislodged post-election Cope initiatives. As internecine leadership squabbles prevailed, the party faced organisational and financial collapse. In 2010 dual structures and dual leadership regularly took decisions by means of court rulings (see, eg, Shoba and Sapa 2010).

7 Public funding in South Africa is reserved for *represented* political parties (see EISA 2010).

One of the few escape routes for small opposition parties away from burdensome party political and representational responsibilities, the course of collaborative agreements with other opposition parties, slipped away. Collaborative initiatives had been pursued on and off from July 2009 onwards but in view of Cope's post-election disarray and seeming implosion it was left to first resolve its internal problems. Without Cope's presence in alliance talks there was little to pursue. Given its 2009 national and provincial results Cope would persist for at least its electoral term. The battle was on, however, for custody of its representation in the legislative institutions of the country.

Even though the Cope onslaught had been subdued the party affected the ANC more adversely than had been evident in the 65.9 per cent versus 7.42 per cent inter-party balance in the Election 2009 result. The five percentage points of support that Cope had won from the ANC support base (Kimmie, Greben & Booysen 2010; Table 3) represented a constituency of voters that had hitherto *not* dabbled with voting for opposition parties. The bulk of Cope's support came from urban and metropolitan communities that were economically marginalised and dissatisfied with ANC governance (Kimmie, Greben & Booysen 2010). Cope had gained this sought-after electoral 'commodity', but was uncertain what to do with it.

Cope's multi-level impact on the ANC

While the ANC had thwarted Cope's electoral challenge Cope had both a positive and an adverse impact on the ruling party, and in enduring ways. Cope was the party political effect of internal party-political fallout in the ANC and, in effect, externalised the ANC's internal problems, dragging them into the arena of liberal-democratic inter-party contestation. In its early pre-election days Cope was also an effective opposition party in that it pushed the ANC to take stock, implement corrective action, and put effort into reconnecting with the grassroots (Booyesen 2010).

The Cope experiment also inadvertently bolstered the ANC's future prospects in that Cope was the lesson for future dissidents of the way *not* to go. Individuals who split from the ANC made substantial personal sacrifices. Those who stayed with it mostly retained political mainstream status and superior career prospects. In addition, and consequent to the Cope project, the ANC could be better assured that the inclination to form future Copes would be reduced. It also helped that the ANC was clearly to remain the major custodian of career prospects and politico-economic patronage.

The Cope project, however, also sowed less favourable seeds in the ANC. Distrust within the ANC, along with internal contestation for leadership positions,

the prevalence of factions and intolerance of internal contestation, were enduring by-products of the Zuma succession struggle. Purges of real or suspected Cope sympathisers distracted and even paralysed the ANC in government.

Many whose sympathies were either with the new party or with the Mbeki agenda to suppress the rise of the Zuma ANC also remained inside the ANC (Booyesen 2009d). The Polokwane ANC elections furthermore resulted in disjunctures for many individuals who now enjoyed ANC seniority, yet had low status in government or the state bureaucracy. In the aftermath of Election 2009 the Zuma ANC – in response to Mbeki’s separation of party and state – had restated that the ANC, as majority party, rules, hence that the distances between party and state were artificial (also see Zuma 2010).

Opposition and electoral violence

Opposition parties achieved their 2009 levels of support in the context of ‘robust’ campaigning in which it was mostly (but not exclusively) they that were targeted by the ANC. The exception was in KwaZulu-Natal, where the IFP was the predominant perpetrator of electoral violence on the ANC. The three main forms of these conflicts in the early 2009 campaign period were violent, demeaning rhetoric; obstruction and intimidation; and outright violence.

Table 3
Party political origins of political parties’ 2009 election support

Parties	2009 Result %	Percentage point support obtained from								
		ANC	DA	IFP	UDM	ID	NNP	ACDP	FF+	UCDP
ANC	65.90	60.91	0.01	2.92	0.53	0.11	0.06	0.90	0.02	0.01
DA	16.60	0.61	12.28	0.01	0.10	0.96	1.33	0.62	0.34	0.03
Cope	7.41	4.61	0.98	0.02	0.59	0.41	0.15	0.00	0.00	0.19
IFP	4.55	0.00	0.00	4.26	0.05	0.03	0.03	0.00	0.04	0.02
ID	0.92	0.37	0.00	0.01	0.00	0.31	0.17	0.00	0.03	0.00
UDM	0.85	0.00	0.01	0.00	0.81	0.01	0.00	0.00	0.00	0.01
FF+	0.83	0.07	0.18	0.00	0.00	0.00	0.00	0.00	0.52	0.01
ACDP	0.81	0.26	0.17	0.01	0.02	0.06	0.03	0.20	0.00	0.01
UCDP	0.37	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.36

Notes: Percentages do not necessarily add up to the total in column 2, because support may also have come from more obscure parties that are not listed; the **figures in bold** indicate the parties’ proportion of vote retention – the figure may also be pushed down by growth in party support.

Source: Kimmie, Greben & Booyesen 2010 (trends based on data generated by Zaid Kimmie and Jan Greben)

The first two were relatively widespread (Booyesen 2009d), while Bam (2010) stressed that 'there was *a lot* of violence in this election'. In South Africa's early pre-election period, from 2008-9, this repertoire of party actions challenged several of the properties that Elklit & Svensson (1997) link to 'free and fair'.

The impact of the robust campaign actions lingered, turning the subsequent, *more* free and fair phase (the formal 2009 campaign period, from proclamation in early March onwards) into a terrain that had retained an intimidatory character, despite the era of untoward behaviour largely having passed in the final six weeks of campaigning. As the elections were formally promulgated and sanctioning of untoward party actions took hold, violence largely receded. Interventions helped turn the tide. In addition, the ANC had, by now, sufficiently attained the objectives of subduing Cope and could afford to move into a mode of higher political tolerance.

ANC vulnerabilities in Election 2009

Opposition party performances constitute the mirror image of the ANC's continuous and hegemonic strength in party politics in South Africa. As a result ANC vulnerabilities and lapses constitute potential opportunities for the growth of party political opposition. This section assesses the manifestation of ANC weaknesses and continuous strengths in Election 2009 in the context of lapses which offered the potential for opposition advances.

The ANC has been a party of undisputed electoral prowess. In four elections it overpowered all other established and new political parties, continuously emerging with national electoral majorities over 63 per cent, ranging up to 70 per cent. It dealt with a range of opposition party challenges, displacing the PAC in 1994 and overseeing its disappearance as a credible political party (also see Dubow 2000, p 107); defeating the NP in 1994 by a ratio of more than three to one, dwarfing the DP in 1999 and subsequently absorbing the NNP. It showed that new opposition parties such as the UDM, ID and Cope might once have captured popular imagination but were under-qualified to pose national-level electoral threats.

In 2009, while deflecting Cope, the ANC also accomplished its mission of establishing definitive ANC dominance in KwaZulu-Natal, the IFP's provincial heartland. The achievements were even more significant given that the ANC had overwhelmingly competed fairly and the electorate was in a position to exercise an 'uncoerced' electoral choice – despite also dishing out 'robust campaigning'. ANC dominance in such conditions meant that elections remained meaningful, despite guaranteed national-level victories for the party (also see Suttner 2004).

These achievements notwithstanding, Election 2009's national and provincial result trends revealed multiple vulnerabilities in the ANC armour – where in

preceding elections there had been far fewer. It also reveals some contradictions. The rest of the section considers the main contradictions and revealed vulnerabilities against the background reality of continuously commanding ANC national and provincial support levels. The contradictions nevertheless suggest that better prospects for greater party political competition might be budding. For opposition parties to realise such potential, however, they would have to counter their own weaknesses and simultaneously displace intra-alliance and civil society contestation as the mainstays of opposing the ANC.

Scope of the ANC's 2009 decline

In the context of the ANC's consistent 'electoral colossus' status all setbacks would be significant. These include its modest national-level decline from Election 2004 to Election 2009. Its overall level of national support of 65.90 per cent was 4 per cent lower than the 69.69 per cent of 2004. This still-formidable result followed the ANC's mobilisational and populist election campaign (see Drew 2009; Uys & Trehwela 2009).⁸ Yet, nationally, the party's losses were relatively contained, courtesy of its hugely improved performance in KwaZulu-Natal, which was largely due to the result in the metropolitan eThekweni (Francis 2009).

In contrast with the decreases in vote proportions in the other eight provinces, the populous KwaZulu-Natal delivered a 16 per cent rise in electoral support, giving the ANC a provincial increase of 904 693 votes – the backbone of its continuously credible national election performance.

The fact that the ANC's national-level percentage loss was contained through the outstanding performance in *one* province suggested a hitherto unknown fragility. Calculations show that had the party's performance in KwaZulu-Natal remained at its 2004 level, and had opposition parties roughly gained their 2009 KwaZulu-Natal proportions the ANC's national level of support would have been closer to 60 than to 65 per cent.

Below the surface of the ANC's national result there were several far lesser provincial trends. Credibly, in all but one of the provinces it emerged with commanding, although slightly dented, majorities. Its KwaZulu-Natal electoral support rose to levels that matched the wide (albeit, this time around, smaller) margins it had been attaining in other provinces, thus compensating for reduced performances in the other provinces. Close to one-fifth of the ANC's 2009 *national vote total* came from KwaZulu-Natal. The party managed to *increase its total number* of votes in four of the nine provinces (KwaZulu-Natal, Gauteng, Mpumalanga

⁸ The campaign was populist in mobilisational style, and played on charismatic leadership while nurturing expectations of a new start, which would be popularly anchored and entrusted to a new ANC regime. See Booysen 2009a.

and Northern Cape), with its two biggest provincial losses compared with 2004 being the Western Cape (down by approximately 303 000 votes) and Gauteng (down by 331 000 votes). This was in the context that from 2004 to 2009 the total number of registered voters in the country had increased by 2.5 million (Table 1) to 23.2 million.

In contrast with these still-credible ANC performances in relation to provincial vote totals, the party's *proportion of the provincial vote* decreased in all provinces except KwaZulu-Natal. This signalled space ceded to the opposition across a diverse front. The DA's outright majority in the Western Cape was indicative of the reality that the ANC had retreated from being the strongest party in all nine 2004 provincial elections.

The ANC hand behind the modest 2009 opposition showing

The ANC shed support in 2009 precisely at a time when continuous electoral omnipotence had become pivotal to the party. It was involved in an electoral holding operation (potentially of long duration) while trying to make government work to such an extent that instrumentalist electoral support could be guaranteed to take over when the liberation dividend finally ran dry. Election 2009 showed that while the ANC remained electorally close to hegemonic, its results harboured potentially disabling contradictions.

By most indications there is a hiatus between reduced assessments of the ANC as governing party and the electoral support it manages to mobilise. One of the remarkable ANC strengths (at least up to Election 2009) has been the 'two-worlds factor' – its ability to isolate elections from the between-election periods of protest and outspoken anti-ANC sentiment. There is popular discontent with the ANC and the ANC-in-government. Yet the party remained shielded through both the popular distinction between the election and between-elections modes of expression and a 'time-lag factor' that continued to protect it against more pronounced opposition party advances.

An assessment of the ANC's 2009 electoral declines reveals a series of contradictions that highlight the likelihood that the party – while the time-lag and two-worlds phenomena hold – could, in future, win impressive electoral majorities that are increasingly at variance with its reduced stature as organisation and government. The incongruities thus also signal the potential for associated longer-term slippages in ANC electoral endorsements.

Six contradictions in the ANC's electoral repertoire summarise implications for a future ascendance of party political opposition:

- The campaign dynamic – extraordinary campaign tactics to do damage

control and forestall bigger losses: The ANC's official electoral demeanour was largely judged to have been exemplary. Yet, in the pre-code-of-conduct period it was often seen to have pushed the boundaries of the acceptable (Booyesen 2009e; Piper 2005). The ANC also mobilised intensely and rallied supporters in a renewed campaign message for hope and delivery by the ANC government.

- Dual repertoire of protest and vote support – anti-government protest did not foreclose on pro-ANC voting: South Africans in large numbers showed that protest in the between-election periods was not synonymous with a withdrawal of electoral support from the ANC. Communities rallied behind the party despite previously having protested against it (Booyesen 2007; 2009a).
- Socio-economic contradiction – ANC support despite continuous governance shortcomings: The ANC, as former liberation movement and now party that had been in government for 15 years by the time of Election 2009, had had insufficient impact on the crucial scourges of inequality, poverty and unemployment. This did not precipitate pro-opposition voting on a greater scale than, perhaps, the Cope vote.
- Cope – lightning conductor that took votes, but helped reinvigorate the ANC: Cope was both the first new black-anchored opposition party of note and evidence of ANC internal fall-out spilling over onto inter-party terrain. The ANC's vote setbacks in six of the nine provinces were largely due to Cope inroads. Yet without the push of Cope the ANC would probably have been less successful in re-connecting with and reassuring its grassroots support that its governance project remained on track.
- The results contradiction – national credibility courtesy of the KwaZulu-Natal feat: In 2009 the ANC suffered a reasonably minor (4%) loss in overall percentage performance compared with 2004. Without the KwaZulu-Natal correction of the province's previously sub-provincial-standard ANC support levels, the national decline would have been far more substantial.
- Post-election dynamic – 'Great election of hope' versus modest aftermath: The ANC fought Election 2009 on the wings of organisational and popular hope that the Jacob Zuma administration would bring new intensity, urgency and, where necessary, change of direction in ANC policy and

governance. The first year of the Zuma administration brought, at best, modest evidence of a gradual new project.

The relative ANC feats in Election 2009 were, to some extent, the result of a semi-change of 'regime' that was manifested in the replacement of Mbeki with Zuma and the installation of a Zuma-linked administration. The rising Zuma administration had the benefit of having substantially (albeit mostly disingenuously) distanced itself from the Mbeki regime of the preceding decade. Although it would be confirmed in the aftermath of the elections that ANC policies and style of governance would only change modestly (and changes that were significant had overwhelmingly already started in the Mbeki era), the Zuma-Mbeki split affected the election in its totality. Hence, the Zuma ANC gained from claiming to be different, promising to be more connected and caring, and signalling that it epitomised the entrance of the real liberation movement into government. *Should* voters have taken these undertakings seriously, as more than party political election-speak, they might experience disappointments. And, *should* larger numbers of voters in future elections decide to penalise the ANC for lapses in performance, this factor *could* have an impact on ANC electoral results.

These contradictions combined with the results and specific opposition party contradictions to suggest that the ANC was increasingly negotiating a harsh world of factors that could be carving away at its ability to sustain itself in commanding electoral positions. What was less certain, however, was the time it would take the opposition to capitalise on ANC vulnerabilities – or for voters to become convinced that opposition parties would better serve their interests than a flawed and sometimes faltering ANC.

CONCLUSION

Election 2009 confirmed that opposition party performances in South Africa had not yet emerged from the gridlock of inability to push the ANC into substantive decline. As the bottom line the opposition parties remained unable to push the ANC substantially below the two-thirds mark. There was continuous movement on the opposition party front. The strongest of the established opposition parties, the DA, progressed – but in provincially and demographically-constrained ways. New opposition parties, and especially Cope, drew votes from the ANC base, but were vulnerable to ANC retaliation. Thus, for four elections in a row opposition parties failed in their mission to subvert or daunt the ANC.

Results suggested that the opposition parties had achieved the *containment* of the ANC – given the party's national four per cent decline, its (modest) retreat in eight of the nine provinces, and a range of contradictions that undergirded its

otherwise exceptional election performances. These changes potentially mapped the road for future opposition party progress. Yet, the *scope was small* and *momentum so weak* as to afford the ANC the opportunity to counter and recover.

The ANC's powerful election campaigns, in combination with extraordinary voter tolerance of its lapses both as organisation and as governing party, helped account for its continuous dominance in the party political arena. The liberation movement dividend was holding and ensuring credible status to the ANC while, instrumentally, the bulk of South Africa's active voters judged that the opposition parties would do no better. The ANC's continuous hold on state power further helped boost its image of 'the party that stays in command and has the ability to act on election promises'.

Opposition parties were constantly unable to break through the protective cordon around the ANC. The analysis identified the 'time-lag', 'two-worlds' and 'parallel opposition' phenomena as pivotal to the ANC's persistent ability to defeat the opposition electorally. Together the phenomena constitute a cordon that intervenes between opposition parties and standard opposition party campaigns to sway voters. This protective barrier was constituted through voters not yet substantially penalising the ANC electorally for sub-optimal performances as party and government ('time-lag'). Voters tended to have their say in assessing ANC performances – vociferously, even violently – in the periods between elections. During electoral periods, however, they united behind the ANC ('two worlds'). Vibrant internal policy debates within the ANC itself, and among the ANC and its alliance partners, often substituted for engagements between the governing and opposition parties ('parallel opposition'). The analysis pointed out that while the opposition parties – in terms of policy, leadership and organisational afflictions – were frequently the architects of their own electoral misfortunes, this cordon continued to be the stumbling block in the way of opposition parties making substantial electoral inroads.

The article considered opposition prospects in the context of the SACP and Cosatu competing with the opposition parties for 'real opposition' status. On many occasions it had been predicted that the breakup of the Tripartite Alliance was the requisite step towards the emergence of a new party political force. Cope briefly suggested that *its* trajectory was the future of opposition politics in South Africa. Then it effectively imploded. By mid-2010 eyes were trained once more on the alliance partners as the source of a future opposition party that could do battle with the ANC.

The dynamic on this 'alliance split potential' front had, however, only changed marginally compared with either the Mbeki times of acrimony or the 2009-10 period of fallout in the wake of alliance member ambition to be the centre of power in the times of the Zuma administration. Evident changes were linked to

the ANC being noticeably under the strain of urgently having to deliver better state governance while simultaneously eliminating maladministration and corruption in its own ranks and across the spheres of government.

This task had shadowed the ANC for at least the preceding decade, since its National General Council meeting of 2000. In indications of new alliance division lines both Cosatu and the SACP were increasingly expressing themselves on the issues of anti-corruption and denouncement of self-enrichment of ANC state employees. These new Cosatu-SACP stances had the potential to speak to various constituencies across the prevailing party political borders. Yet the question remained whether the two alliance partners might ever become *so alienated* from the ANC and its Youth League protégés that they would cast their power into an opposition party arena where this new-left would, in effect, cooperate with conventional opposition parties to defeat the ANC.

Judged by regular peacekeeping measures within the alliance, intra-alliance contestation was not going to venture into party politics. The usefulness specifically to opposition party politics of alliance positioning and dissent thus remained uncertain.

It was clear, therefore, that Election 2009 and its aftermath only brought ambiguous opposition party progress. The ANC's wide margin over its closest rival – it had 49 per cent more national level electoral support than the DA – indicates that the piecemeal opposition party victories were still far from threatening the ANC hegemon. The new and continuous opposition parties also did not offer triggers that could stimulate support-pulling realignments. Dissent and opposition from the ranks of the alliance bloc were powerful, yet did not indicate that a breaking of the ranks was in the offing. The core quest remained control over the ANC, rather than electoral challenges to it. This was the name of South Africa's opposition game, *circa* 2010.

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THE ROLE OF CIVIL SOCIETY IN ELECTIONS

The KwaZulu-Natal Democracy and Elections Forum – reducing conflict dynamics and promoting peace¹

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ABSTRACT

The role of civil society in elections often takes the form of support for the institutional processes of a democratic election as well as the more substantive development of a democratic electorate. Civil society does, however, have a role to play in reducing election-related conflict dynamics and promoting a peaceful electoral environment. This paper examines the role of the KwaZulu-Natal Democracy and Elections Forum (KZNDEF) in elections in KwaZulu-Natal. The paper examines the role played by the KZNDEF's five subcommittees in and their impact on the deepening of democracy, the reduction of conflict dynamics and the promotion of peace in KwaZulu-Natal, a province plagued with election-related violence.

INTRODUCTION

The role of civil society in elections often takes the form of support for the institutional processes of a democratic election as well as the more substantive development of a democratic electorate. Civil society does, however, have a role to play in reducing election-related conflict dynamics and promoting a peaceful electoral environment. This paper examines the role of the KwaZulu-Natal Democracy and Elections Forum (KZNDEF) in elections in KwaZulu-Natal,² a province plagued with election-related violence since the advent of democracy in 1994. The paper is guided by the proposition that civil society organisations have a significant role to play in strengthening the quality of democracy in general.

1 Acknowledgements to Dr Rama Naidu of the Democracy Development Programme and Dr Douglas Dziva of the KwaZulu-Natal Christian Council.

2 This article is based on interviews with representatives of the five subcommittees of the KZNDEF as well as on reports prepared for the 2009 elections by the subcommittees. It also draws on reports by the various subcommittees submitted for national/provincial as well as local government elections prior to 2009 and after 1994.

The paper is divided into three parts. The first considers the role of civil society in elections as a democratic process and also in terms of mitigating conflict and promoting peace. The second contextualises the KZNDEF within political violence and electoral processes in KwaZulu-Natal. The third part examines the impact of the KZNDEF in strengthening some of the institutional and substantive aspects of democratic elections, reducing conflict dynamics and promoting peace.

CIVIL SOCIETY, ELECTION-RELATED CONFLICT AND PEACE / CONFLICT RESOLUTION ORGANISATIONS

'Civil society', defined as 'the realm of organised social life that is open, voluntary, self generating, at least partially self supporting, autonomous from the state and bound by a legal order or set of shared rules' (Diamond 1999, p 221), is distinguished from 'society' in general on the basis that it is composed of citizens who act collectively in the public sphere to express their interests, to influence policy and to scrutinise and check the exercise of state power. Given this role, civil society is considered one of the paramount indicators of democratic consolidation (Linz & Stepan 1996) and is linked with developmental objectives given its ability to pool individual resources in order to improve infrastructure, institutions and the quality of life of communities (Diamond 1999).

In the context of elections and, specifically, election-based conflict, civil society has been recognised as having a significant role to play in promoting peace as it is less constrained by mandates, able to talk to several parties without losing credibility, and able to deal directly with the grassroots population (Orjuela 2003). Likewise, civil society has a recognised role to play with regard to election conflict dynamics. In an article entitled 'The predicament of elections in war-torn societies' Kristine Høglund, Anna Jarstad and Mimi Soderberg Kovacs (2009) develop a conceptual framework to identify various conflict-generating factors in the context of elections. They categorise these factors in three clusters: actors in the electoral process, institutions of elections, and election stakes.

The institutions of elections cluster is understood as being institutions relevant to the regulation and management of violence during electoral processes, including electoral management bodies, the police and the military. Høglund et al show the impact of this cluster on conflict dynamics because of the fact that it affects perceptions of elections as legitimate and because it can provide or limit the space and opportunities for conflict behaviour (Høglund, Jarstad & Kovacs 2009).

Within this cluster also appear what Benjamin Gidron, Stanley Nider Katz and Yeheskel Hasenfeld (2002, p 15) term 'peace / conflict resolution organisations (P / CROs)', which they define as 'citizens' voluntary / non-governmental organisations advocating peace / reconciliation / coexistence between the major contenders to the

conflict ... on the basis of mutual recognition and/or use of dispute resolution strategies as a means of addressing conflict.'

P/CROs are formally organised voluntary citizen organisations within civil society. They promote peace, reconciliation and coexistence as well as social justice and the development of democratic institutions. The methods they employ include mutual recognition of the rights of parties to the conflict and the utilisation of dispute resolution strategies such as negotiation and dialogue. According to Gidron, Katz & Hasenfeld (2002, p 16) P/CROs, operating within civil society, are able to represent citizens' interests by challenging the state's power by various means, such as providing alternative services that may compete with, supplant or supplement the services of the state and challenging state policies through advocacy and constituency mobilisation. Like non-governmental organisations (NGOs) in general, they are able to create social and cultural capital through the power of association and network building. 'Social capital' includes networks enabling political mobilisation and 'cultural capital', the institutionalisation of values and norms. An example of a South African P/CRO is the Institute for a Democratic Alternative for South Africa (Idasa),³ a non-profit organisation which, in 1987, before the transition to democracy, brought together Afrikaner politicians and key African National Congress (ANC) officials for discussions (Gidron, Katz & Hasenfeld 2002). Another example, after the transition to democracy, is the African Centre for the Constructive Resolution of Disputes (Accord),⁴ which was set up in 1994 to help deal with Inkatha Freedom Party (IFP) and ANC conflict in the province of KwaZulu-Natal. The KZNDEF, as will be discussed further below, also meets the definition of a P/CRO.

Such organisations could be classified as part of Adam Habib's 'first bloc' within South African civil society, comprising NGOs which enjoy a collaborative relationship with the state, often being formally contracted to assist in policy development and service delivery. This bloc contrasts with Habib's second and third blocs: community based organisations of a survivalist nature that enable poor and marginalised communities to survive the daily challenges of poverty and social movements of a more political nature established to mobilise the poor in order to challenge the state about social policy (Habib 2005).

POLITICAL AND ELECTION-RELATED VIOLENCE IN KWAZULU-NATAL

While the nature of elections has, itself, the potential to instigate violence, Høglund adds that the contextual nature of politics may be a factor contributing to election-

3 Now known as the 'Institute for Democracy in Africa', see www.idasa.org.za

4 See www.accord.org.za

based conflict. This relates specifically to existing patron-client relationships, prevailing levels of insecurity and the potential of parties to the conflict to be armed (Hoglund 2009). KwaZulu-Natal has, to varying degrees, featured all three of these conditions. The IFP, the ruling ANC's main rival in the province, has its roots in the Inkatha movement, which governed the KwaZulu homeland during the apartheid era.

One of the principal features of the Inkatha homeland government was that it controlled its constituencies by a mixture of intimidation and incentives (Mzala 1988). These patron-client relationships were seen to survive beyond the advent of the democratic transition in 1994 and are also linked with the levels of fear and intimidation experienced by voters in KwaZulu-Natal during the initial democratic elections.

A study conducted in 1994 records testimony from rural voters revealing that there were fears of reprisal by the IFP should the ANC win the provincial election – for this reason voters felt pressured to vote for the IFP (Schlemmer & Hirschfield 1994). The political violence in the province in the 1990s was further characterised by the fact that the conflicting parties were heavily armed. A 2002 study found that AK-47 rifles were supplied to ANC members and G3 rifles to IFP-supporting chiefs (Taylor 2002).

It is estimated that political violence in KwaZulu-Natal has claimed the lives of some 20 000 since 1984, with many of these fatalities occurring after the transition to democracy (Taylor 2002).

Political violence preceding the first democratic elections has been attributed to territorial battles between Inkatha and the United Democratic Front (UDF), fuelled by the apartheid state's security forces. Political violence in the post-democratic era has, however, been linked to lingering tensions between the IFP and the ANC (Taylor 2002). Following the advent of democratic elections these tensions have played out in the process of electoral competition for control of the province. In the 1994 election the IFP secured 50.32 per cent of the provincial vote, to the ANC's 32.33 per cent (Mottiar 2004). In the 1999 election provincial support for the IFP waned to 41.90 per cent while the ANC's grew to 39.38 per cent (Mottiar 2004). In the 2004 election ANC electoral support in KwaZulu-Natal (46.98%) overtook that of the IFP (36.82%) (Mottiar 2004), a gain that was consolidated in the 2009 election, with the ANC securing 62.95 per cent of the vote to the IFP's 22.40 per cent (Mottiar 2009d).

In the period leading up to the first democratic election of 1994 about 1 000 deaths were recorded in KwaZulu-Natal (Taylor 2002). The province was also described as demonstrating the 'most serious instance of political obstruction of free electioneering (where) within the boundaries of the KwaZulu homeland canvassing and voter education were impossible' (Lodge 1999, p 7). This was

evidenced by incidents in which ANC canvassers were gunned down by IFP supporters in traditional IFP strongholds such as Ulundi. The 1999 provincial election, however, was described as being 'freer and fairer than ever before' (Piper 1999), with ANC canvassers gaining access to various IFP strongholds and the results more readily accepted by all parties.

The Independent Electoral Commission (IEC) also recorded fewer complaints about 'no go' zones, political violence and intimidation – in 1994 it received 3 594 complaints from around the country and in 1999 the figure was reduced to 1 032 (Lodge 1999). Records reveal that in KwaZulu-Natal leading up to the 1999 election there were fewer than one-tenth of the politically motivated killings than there had been during a comparable period for the 1994 election (Lodge 1999).

The 2004 provincial election was characterised by even lower levels of political violence. However, despite the end of 'open election related warfare', there was still a continuation of violence and intimidation through attacks and assassinations in various rural areas of the province, with the purpose of creating a climate of fear and compliance (Piper 2004). The 2009 election was similarly free of significant levels of election-related violence even though there were once again warnings of 'low level' political intimidation and various reports of violence at rallies and between IFP and ANC supporters (Mottiar 2009a).

Elsewhere I have suggested that the decline in violence in the run-ups to the 1999 and 2004 elections coincided directly with the IFP's loss of support in the province, the implication being that election stakes have some bearing on levels of violence (Mottiar 2004). Other explanations for the decline in violence include a view that violence is rendered less fashionable as democracy matures (Ngwenya & Ndhlela 2004) and that people in KwaZulu-Natal are 'war weary' and not as easily stirred to violence as they once were (Mottiar 2004).

Table 1
Provincial legislature Results: KwaZulu-Natal 1994, 1999, 2004, 2009

Year	ANC			IFP		
	Votes	Percentage	Seats	Votes	Percentage	Seats
1994	1 181 118	32.32	26	1 844 070	50.32	41
1999	1 167 094	39.38	32	1 241 522	41.90	34
2004	1 287 823	46.98	38	1 009 267	36.82	30
2009	2 192 516	62.95	51	780 027	22.40	18

More convincingly, it is argued that the 'ethnically couched confrontational styles of the transition years' have given way to a more 'ideologically inclusive and cooperative politics' (Piper 1999) in the province, which has its basis in an understanding reached between the IFP and ANC in the run-up to the 1999 elections that the parties would cooperate in government whatever the outcome of the election. This agreement created a more enabling environment for free campaigning, reduced the advent of 'no go' areas and altered the nature of campaigns (Piper 1999). This may be linked to the reduction in election-related violence which continued in the run-ups to the 2004 and 2009 elections. Despite this, however, KwaZulu-Natal remains a province where the threat of election-related violence lingers and where political intimidation, 'no go' areas and campaign challenges endure, albeit at lower levels. It is in this context that the KZNDEF is constituted.

THE KWAZULU-NATAL DEMOCRACY AND ELECTIONS FORUM

The KZNDEF, a network of 17 civil society organisations most of which are part of the KwaZulu-Natal Community Based Organisation Coalition (COMBOCO), which represents some 300 organisations throughout the province, was formed in 1998 with the objective of ensuring a provincial electoral environment that would accommodate free and peaceful participation. The reason for its formation was the election-related violence, intimidation and political intolerance in KwaZulu-Natal. The forum has five subcommittees: democracy and voter education, violence monitoring, mediation and conflict resolution, election observation, and legal compliance and litigation.

The democracy and voter education subcommittee, managed by the Democracy Development Programme (DDP) is responsible for training in democracy and voter education in the run-up to elections. This training is carried out through community workshops, street theatre performances and radio broadcasts. The violence monitoring subcommittee, coordinated by the KwaZulu Regional Council of Churches (KRCC), manages violence monitoring through the recruiting, training and deployment of violence monitors throughout the province before, during and after elections. The mediation and conflict resolution subcommittee, led by the KwaZulu-Natal Christian Council (KZNCC), carries out various mediation and conflict resolution activities through workshops and the training of personnel to respond to situations that arise during elections. The election observation subcommittee, managed by COMBOCO, recruits, trains and deploys observers on election day and the legal compliance and litigation subcommittee, run by the Community Law and Rural Development Centre (CLRDC), monitors and observes law transgressors and conducts workshops on the Electoral Code of Conduct.

The democracy and voter education subcommittee – deepening democracy

The democracy and voter education subcommittee, through its voter and democracy education workshops, facilitates the deepening of a culture of democracy and democratic citizenship in KwaZulu-Natal. It also supports the Electoral Commission (IEC) in its drive to expand civic education, with specific respect to elections. The subcommittee further plays something of a ‘watchdog’ role over the IEC with regard to its commitments to voters (Naidu interview).

In November 2008 the IEC reported that KwaZulu-Natal had the lowest percentage of voter registration among the provinces. It identified 2.2-million unregistered voters (Mottiar 2009a). Between August 2008 and April 2009 the subcommittee conducted more than 300 workshops in the province, reaching an estimated 9 000 people in both rural and urban areas. Those reached included churchgoers, trained at local churches, and rural women and youth, trained at local community centres and school halls. The workshops were carried out by trained facilitators and focused on the procedural aspects as well as some of the more substantive elements of democracy in South Africa including the responsibility to register and vote (KZNDEF 2009a). The workshops were in line with the IEC’s Civic and Voter Education Programme (IEC 2009), which aims to maximise citizen participation in electoral processes and democracy in general.

The subject matter of the workshops included definitions of democracy, systems of democracy including concepts such as the separation of powers, the three spheres of government, the Chapter Nine institutions, the Constitution, the rule of law and the Bill of Rights. There was also a focus on the electoral process, which covered the proportional representation system, voter registration, the voting process and voter rights and responsibilities, the Electoral Code of Conduct and the obligations of competing political parties.

The workshops also dealt with the concepts of human rights and equality and with the right and obligation of democratic citizens to participate in elections through both political parties and civil society organisations. Government accountability and transparency was also stressed, shifting the burden of election-related processes in a province where, for many years, voters had felt intimidated by authorities.

With specific regard to elections the workshops covered issues of free and fair elections, detailing how intimidation, threats and corruption impede a fair process. Workshops also stressed the idea of multiparty elections and the need for tolerance of differing opinions and acceptance of the outcome of the elections (Democracy Development Programme training manual). In a sense, the education about elections and electoral processes, stressing, as it did the undesirability of political intimidation and intolerance, the right to hold government and political

parties accountable and the need to exercise tolerance in the context of democratic multipartyism, was geared for the KwaZulu-Natal electorate.

It was also noted that the subcommittee workshops carried out in the run-ups to prior elections in the province had dealt mainly with voting as a civic right and the way the voting process works. Those held before the 2009 elections, however, placed greater emphasis on making informed choices and on ways to engage constructively with local level politicians during the campaigning and electioneering phases of the election (Naidu interview). This is a clear indication that voters in KwaZulu-Natal are familiar with elections as a democratic process and are now beginning to engage with democratic citizenship through elections in a substantive way.

The specific methods employed by the subcommittee bear mention as they have an impact on the reach and range of the provincial electorate. Apart from the formal workshops in targeted rural and urban areas, democracy and voter education was also carried out through a radio drama initiative broadcast on seven community radio stations in the province and reaching an estimated 800 000 listeners. The radio dramas used the voices of local artists and various characterisations to disseminate the democracy and voter education message. The serialised drama slots were followed by a listener call-in session during which in-studio representatives of the DDP and of the provincial IEC were available to answer election-related questions from the general public.

Another method employed by the subcommittee in its democracy and voter education programme was street theatre, involving a local drama group which performed work related to election issues in public spaces in the Durban area such as taxi ranks, churches and public squares. Ten such performances took place and all recorded a sound interaction with members of the public as well as a discussion session immediately following the performance. This method also allowed for the distribution of flyers and pamphlets detailing election-related issues in both English and IsiZulu (KZNFDEF 2009a).

The subcommittee's democracy and voter education programme is therefore fairly well established and has been developed in such a way as to increase its reach and accessibility. It has also clearly been of an evolutionary nature, responding to the needs of the provincial electorate who, familiar with the basic voting process, are now showing signs of deeper engagement with the concept of elections and democratic citizenship.

The programme, therefore, supports the IEC's drive for an active electorate but, despite the collaborative approach, the subcommittee also plays something of a 'watchdog' role in relation to the IEC. A good example of this is the way in which a representative from every IEC voter education office is invited to attend the subcommittee's workshops and to answer any concerns expressed by those

attending. In this way a forum is created to air the challenges of provincial voters and communicate them directly to the electoral management body.

The violence monitoring subcommittee and the election observation subcommittee – reducing conflict dynamics

The violence monitoring and election observation subcommittees have some bearing on conflict dynamics in the province at election time as they can be seen as a way of making an impact on perceptions of elections as legitimate as well as limiting the space and opportunities for conflict behaviour.

The violence monitoring subcommittee's main focus is to monitor traditional 'hot spots' and communicate relevant information to the IEC and to the police. The subcommittee plays an important role, therefore, as an early warning mechanism, highlighting areas and incidents of violence and attempting to enable the correct institutions to mitigate such violence before it escalates.

The visibility of violence monitors also went some way to curtailing incidents of violence. This was especially relevant in the run-up to the 2009 provincial election, when there were reports of ANC youth league members provoking IFP supporters, who warned that they would retaliate (*Daily News* 12 February 2009), while ANC party leaders accused IFP leaders of denying them the right to campaign in areas around Ulundi, Nongoma, Macambini and Estcourt (Oliphant 2009). There were also reports that the IFP had defied rally limitation bans, holding meetings in close proximity to ANC meetings and vice versa (*Mercury* 5 February 2009). The province deployed some 23 000 police officers on election day, with special security provision for political events and rallies, claiming that 'stabilising operations and physical deployments in problematic areas' were in place (Wicks 2009).

The subcommittee recruited, trained and deployed 20 monitors to violent 'hot spots' in the province. These monitors were active before, during and after the elections. In the period before the elections the monitors detailed potential flashpoints among provincial voters. These included incidents of tampering with campaign posters and of threats and intimidation. Monitors also liaised closely with political parties in relation to rallies and campaigning. Apart from providing a good sense of electoral-related activity, this enabled political parties to monitor the implementation and observation of the Electoral Code of Conduct.

Monitors also targeted areas and institutions such as provincial universities, to observe the nature of political activity. Their choice of targets stemmed from the specialised knowledge they gained by being deployed at ground level in advance of elections. During elections, monitors focused on the voting and counting processes, interviewing voters, IEC staff and political parties to glean

a sense of the way all parties felt about the freeness and fairness of the process. Monitors also attended where there were disputes, for example, when an electoral officer was accused of stuffing a ballot box with pre-marked ballot papers. In the period after the elections monitors continued working in the field to assess the level of acceptance of the results and any activities that may have been planned to undermine the results. They also monitored various victory celebrations in case of possible eruptions of violence (KZNDEF 2009a).

The value of local civil society organisation deploying violence monitors is that the monitors are familiar with local terrain and the organisation is familiar with provincial dynamics. The subcommittee, for example, considers violence monitoring in KwaZulu-Natal in the specific context of municipal demarcation disputes such as the Matatiele protests, the role of traditional leaders and their uncertain authority, inter- and intra-party violence and incidents of murder, strikes and protests by labour unions, the abuse and intimidation of farm workers such as in the Richmond area and taxi violence (KZNDEF 2006a). It therefore has an authoritative understanding of conflict dynamics in the province as well as the way violent 'flashes' may be projected into the elections process.

The way the subcommittee uses the information gathered by its monitors is relevant in establishing its impact. It has a formal relationship with the IEC, by whom it is accredited. This relationship takes the form of regular briefing sessions to share information and also strategies for monitoring. The subcommittee also has a formal relationship with the police and networks and communicates with various police stations in the province.

Examples gleaned from the 2006 local government elections indicate a successful working relationship between the subcommittee and other election management bodies. For instance, there was an incident in Mkhambathini municipality on election day, when IFP members were intimidating voters who they believed were ANC supporters. This led to a scuffle. Monitors immediately reported the incident to the police, who arrived and resolved the conflict before any significant violence occurred. Likewise, in the Richmond municipality, monitors received reports that farmers were forcing farm labourers to vote for the Democratic Alliance (DA). The subcommittee formally communicated this allegation to the IEC (KZNDEF 2006a).

Members of the subcommittee argue that by virtue of being a local civil society organisation they enjoy significant levels of trust from and familiarity with the provincial electorate (Buthlezi interview). The subcommittee seeks to be proactive in violence and conflict monitoring by ensuring that adequate policing and security structures are in place, particularly in trouble spots and 'no go' areas. The strategic deployment of monitors at political campaigns, rallies and marches also serves as a visible presence, acting as a deterrent to possible violent activities.

The election observation subcommittee aims to observe the process of voting and counting on election day on behalf of civil society in KwaZulu-Natal. There were also 355 international observers and 5 000 national observers during the 2009 provincial elections (Van Jaarsveld 2009a), representing the Election Monitoring Network, the African Alliance for Peace, the Southern African Development Community, the African Union Observer Mission and the Electoral Institute of Southern Africa Observer Mission.

The neutrality of a civil society observer mission such as the KZNDEF subcommittee, however, as well as the legitimacy of one entrenched in civil society in the province goes some way to rendering its findings and recommendations authoritative as well as legitimising the elections in the province in general. Van Jaarsveld (2009d), for example, argues that from a recipient perspective international observers are sometimes seen to be 'meddling' in domestic affairs and attempting to impose Westerncentric solutions. Furthermore, the short-term 'project orientated' nature of outside observer missions is also problematic, posing as it does risks of a lack of understanding and engagement with locals.

The subcommittee's observer mission during the 2009 elections comprised 550 observers recruited from civil society organisations across the province, trained in election observation and deployed to the 4 191 voting stations there. Known violence 'hot spots' were prioritised. The mission observed the voting process, voting behaviour, party campaigning on election day, levels of police and security presence and the counting process (KZNDEF 2009a).

The observer mission remained in contact with an 'operation centre' set up by the subcommittee throughout election day and the 'operation centre' communicated all relevant observer mission reports to IEC offices or to the police. Incidents of violence, intimidation and dispute were also communicated to other relevant KZNDEF subcommittees. An election observation subcommittee representative maintains that, apart from its use in channelling information, the observer mission is perceived by voters in the province to be legitimate as its members are drawn from local civil society organisations whose development based work is well known.

The observer mission is also perceived as neutral as it is removed from local political and policing structures. For this reason voters on election day may well feel a sense of security in that the election is being 'watched' by a local, neutral, legitimate body, which deters the inclination as well as limiting the space to disturb the voting process (Msomi interview).

Both the violence monitoring and the election observation subcommittees have an impact on conflict dynamics in the province since they contribute to the perception of elections as being legitimate by virtue of being part of an accepted civil society sector. They also limit the space and opportunity for conflict behaviour

both because they are visible and because they are able to pinpoint incidents of potential conflict and communicate with the relevant bodies to mitigate such incidents before they translate into full-blown conflict.

The mediation and conflict resolution subcommittee and the legal compliance and litigation subcommittee – promoting peace

The mediation and conflict resolution subcommittee and the legal compliance and litigation subcommittee play a fairly significant role in the promotion of peace during election periods in the province as they are able to convene various neutral stakeholders while also being able to target legitimately and represent the grassroots population, drawing them more fully into the process.

The mediation and conflict resolution subcommittee is structured to enable stakeholders at all levels to be represented and convened. It also provides a neutral and legitimate avenue for mediating and resolving potential conflict as well as providing a platform for peace building.

The subcommittee, comprised of 80 mediators, is structured on two levels. The first, designed to operate at a local level, is made up of mediators recruited from civil society organisations in the province and represents women, the youth and community members. The second, designed to operate at a more elite level, is made up of eminent members of church, social and business communities in the province. The first level targets conflicts such as altercations during campaigning or the destruction of campaign material by competing parties. The second level convenes and mediates among political parties and representatives of traditional leaders with regard to issues such as intimidation, permission to hold rallies and 'no go' areas (Dziva interview).

Mediators are generally expected to intervene and mediate in cases where the Electoral Code of Conduct is violated. Mediators at both levels are recruited with regard to their previous experience in mediation and conflict resolution and their familiarity with electoral processes. They are also required to be neutral and therefore may not hold rank in a political party or be perceived as aligned with any particular political party or independent candidate.

The most serious incident of an election-related dispute in KwaZulu-Natal during the 2009 election occurred in Wembezi Township outside Estcourt, where ANC and IFP supporters clashed (Mbanjwa 2009). Among some of the issues dealt with by the mediators in the 2009 and in previous provincial as well as local elections were: disputes between election candidates, reports of intimidation and obstructing parties' rights to campaign freely, disputes over vandalised campaign materials, disputes related to campaigning, disputes related to voter registration and disputes relating to the recruitment of electoral personnel by the IEC.

The subcommittee's neutrality is obviously of great value in such circumstances as the disputes span various election stakeholders from political parties to the electoral management body and ordinary voters. Examples from the 2006 local government elections illustrate how mediation at high as well as low levels has proven effective. The first example is that of election campaign poster defacing. Local level mediators discovered that the perpetrator was a local ten-year-old. Through links with the community and the family this situation was successfully resolved.

The other example involved post-election conflict/intimidation aimed at some newly elected political councillors in Shobashobane, Estcourt and KwaMaguda. High-level mediators remained involved in these cases well after the elections, which indicates the sustainability of the peace-building process with regard to the acceptance of the election results and a tolerance for competing political party agendas (KZNDEF 2006b).

The legal compliance and litigation subcommittee provides an accessible way to bring political parties, electoral management bodies and provincial voters together in order to outline the process of elections, the challenges faced by all stakeholders and mechanisms of overcoming them or seeking recourse. The subcommittee therefore provides a forum for all election stakeholders to consider peaceful ways to overcome election-related challenges or frustrations. Bringing stakeholders together in a common space towards a common goal legitimises peace as opposed to conflict and binds those present to further this goal.

In the run-up to the 2009 elections the subcommittee held a number of workshops across the province, two of which were significantly intensive and were attended by up to 80 people. Among those who attended the workshops were voters from communities around the province, representatives of the IEC and the police, various political as well as traditional leaders and political parties. The purpose of the workshops was to provide information about the legislation governing elections in South Africa, including prohibited conduct and penalties for breaches of the Electoral Code of Conduct, and to educate those attending about the process for lodging complaints. The workshops also dealt with electoral responsibility, promoting political tolerance, and the acceptance of results (Mtshali interview).

The South African Electoral Act (1998) provides that parties have the right to lodge electoral complaints that are material to the final outcome of the election. In KwaZulu-Natal the IEC received 71 complaints during the 2009 elections, relating to the damaging of posters, the interruption of meetings and other acts of political intolerance (Van Jaarsveld 2009c). During those elections the subcommittee dealt with formal complaints about the defacing of posters and the inability of some parties to secure venues for political meetings.

In both instances the subcommittee liaised with the police and relevant municipality to ensure that equality in campaigning was promoted. Through its work the subcommittee has highlighted two issues that have had an impact on conflict dynamics in the province in the last sets of elections. The first is that of campaigning on election day by wearing political party clothing. While official party campaigning is prohibited on election day this does not extend to clothing worn by voters, or campaigners. Definitions of campaigning, therefore, need to be clarified in order that a free and fair electoral process is not hampered.

The second issue is that of authorisation of the use of public spaces for party campaigning/meetings. Venues under the mandate of various local councils or traditional leadership structures have been seen to be used and booked strategically (KZNDEF 2009a) which effectively limits open and free spaces for campaigning and association.

The highlighting of these issues, if channelled effectively and dealt with by the appropriate structures, would go some way to reducing two potential sources of conflict in the province and underscores the usefulness of a civil society oversight role.

The mediation and conflict resolution subcommittee and the legal compliance and litigation subcommittee both contribute to the promotion of peace during election periods in KwaZulu-Natal. The fact that they consist of members of local civil society organisations who are well known to voters in the province gives them high levels of trust and legitimacy among stakeholders across the board – valuable qualities in a peace promoting or peace building process. Their neutral status also allows them to bring stakeholders together with a common purpose, reducing the terrain of differences that may cause conflict.

THE KZNDEF – A PEACE / CONFLICT-RESOLUTION ORGANISATION

The KZNDEF meets the criteria of a P/CRO in that it is a voluntary organisation that promotes peace through a recognition of the rights of all parties and through the use of conflict resolution strategies such as negotiation and dialogue. It also promotes the development of democratic institutions such as the electoral process through its democracy and voter education initiatives. In this sense it could be seen as a civil society organisation working at the local level to further the aim of peace via conflict resolution activities that will ultimately have an impact on facilitating grassroots community development through a respect for local values and expertise (O'Brien 2005). In terms of building 'cultural capital' the violence monitoring and election observation projects may go some way towards institutionalising positive norms of democratic behaviour and tolerance during elections. In terms of building 'social capital' to enable political mobilisation to

'challenge and change the forces that fuel and maintain conflicts and prevent peace' (Gidron, Katz & Hasenfeld 2002, p 17), however, the KZNDEF is less successful, probably because it is operating within a democratic arena in which institutions and processes of democracy are already in operation, but also because it probably sees itself as playing a more collaborative/supporting rather than adversarial role vis à vis the state.

CONCLUSION

While it is not possible to attribute lower levels of election-related conflict and higher levels of peace during elections in KwaZulu-Natal directly to the work of the KZNDEF it is possible to suggest that the forum has made significant progress in promoting a democratic spirited electorate more inclined towards peaceful rather than conflict-based elections.

Although there has been a reduction in election-related physical violence, 'no go' areas, significant intimidation and election-related complaints in the province there are still potential 'flashpoints'. The KZNDEF has built extensive capacity to respond to conflict and promote peace, including the establishment of a pool of election observers, monitors, mediators and skilled trainers. The forum also has a significant working relationship with electoral management and law enforcement bodies in the province, which enables it to balance its entrenched legitimacy as a civil society organisation representing the grass roots.

The specific functions of each of the KZNDEF's subcommittees also go some way towards alleviating some of the contextual political factors referred to above. The education initiatives and formal mediation and conflict resolution measures attempt to reverse the patron-client culture, while the violence monitoring and election observation aspects have an impact upon levels of fear and intimidation and the legal compliance and litigation work may reduce impunity and, certainly, perceptions of impunity.

The KZNDEF is, however, restricted by challenges of financing and capacity (KZNDEF 2009a) which affect the reach, function and level of follow through of its subcommittees. More research is required to understand the actual impact of the forum on the grassroots voters it sets out to represent. Its working relationship with the IEC and police service also requires further consideration. In the context of its role in elections as a civil society organisation it would be useful to investigate how neutral the KZNDEF really is, given its strategic relationships with both the IEC and police structures.

It would also be worthwhile examining its actual membership more closely in terms of how representative it is of the provincial grassroots. Furthermore, its ability to make an impact on institutional and policy development within the

ambit of election-based conflict in the province would prove a valuable study. What is clear, however, is that the KZNDEF currently bears a fair burden within the province of KwaZulu-Natal with respect to ensuring a responsible electorate and a free and fair election process.

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A NOTE ON THE NAMIBIAN NATIONAL ASSEMBLY ELECTIONS OF 2009

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ABSTRACT

This paper argues that the general elections of 2009 managed to consolidate the hold of the South West Africa People's Organisation (Swapo) on the body politic in Namibia. The expectation and perception that the formation of a new opposition party, by former members of the ruling party, would challenge the dominance of the ruling party has not materialised. What has transpired is that the Rally for Democracy and Progress has eroded the support of the Congress of Democrats (CoD) and has replaced it as the official opposition. This situation is a repetition of that in 2004, when the CoD, as a newly formed opposition party, displaced the Democratic Turnhalle Alliance (DTA) as the major opposition party. The pattern of electoral politics reveals that the formation of opposition parties does not necessarily translate into a loss for the ruling party. The incumbency advantage enjoyed by Swapo seems to explain this. Furthermore, this paper posits the theory that the institutional mechanisms put in place to ensure free and fair elections require fundamental changes. What is also critical for electoral politics to succeed and for democracy to be consolidated in Namibia is that the political playing field needs to be extended in terms of media coverage for opposition parties and the provision of adequate funding, without which these parties will be unable to function properly.

INTRODUCTION

Electoral democracy seems to be the edifice upon which democracy is built in Namibia. This has endowed competitive elections in the country with special significance. To be sure, in Namibia, the ruling party, the South West African People's Organisation (Swapo), has enjoyed broad-based public support,

ostensibly because it has been able to allow for the conduct of elections at regular intervals since the country attained independence in March 1990.

Namibia's fifth set of national polls, the national and presidential elections held from 27-28 November 2009 took place in the aftermath of the formation, in 2007, of yet another new opposition party, with credible leaders. The establishment of a new opposition party, The Rally for Democracy and Progress (RDP), followed the formation in the second half of the 1990s of the Congress of Democrats (COD), which, it was hoped, would challenge the dominance of the ruling party, Swapo, at the national level during the elections in 2004. To be sure, this perception was premised on the assumption that renewal in any democratic system normally takes place through elections (Adejumobi 2000). This paper will illustrate, however, that, as in preceding elections, the ruling party has been able to consolidate its hold on power.

This article posits that while effective electoral governance is crucial in securing credible elections, electoral democracy in Namibia, as illustrated by the national elections of 2009, is flawed in a number of respects. Towards that end, it contends that there is a serious need to look at the broad institutional framework of electoral governance in Namibia. To achieve the above-outlined objective, the paper looks at election administrative preparations, the campaigning process, the reporting of results, and the adjudication of electoral disputes in the country.

ELECTORAL ADMINISTRATIVE PREPARATIONS AND MANAGEMENT

Elections in Namibia are administered by an electoral commission and a directorate. The commission's constitution gives it a degree of administrative and political autonomy. The Electoral Commission of Namibia (ECN) was established by the Electoral Act, No 24 of 1992. Formed to replace an ad hoc election administration body created in 1989, the ECN is the highest independent electoral body and is only answerable to Parliament (UNDP 2000, p 42).

The ECN replaced the United Nations, which was not only responsible for the transition period between 1989 and 1990 but was also instrumental in the running of the 1989 elections, which culminated in the election of the Constituent Assembly (Bauer 1999, p 430). The commission was administered as part of the Prime Minister's Office from 1992 to 1998, but legal reform in 1998 ensured that it gained independence from the executive (Bauer 1999, p 430). The implications of these reforms are that the ECN now has full responsibility for the conduct of elections and that it is directly responsible to Parliament (UNDP 2000, p 42).

The ECN comprises a chairperson and four commissioners. A selection committee, which is appointed by the president, makes a short list of people suitable to be members of the ECN following a public announcement of the

vacancies and a call for application. The selection committee comprises a judge nominated by the chief justice, a nominee of the ombudsman and a lawyer nominated by the law society. The directorate is staffed by a director, a deputy, and more than 10 employees from the civil service. By contrast, the posts of electoral commissioners and director of elections under the 1998 reform are filled through public competition (UNDP 2000, p 204). The Electoral Act stipulates that members of the ECN may lose their positions because of incapacity or may be removed by the president for misconduct, with the approval of a resolution of the National Assembly. In general, in its recruitment, the directorate attempts to reflect the social composition of the population, and makes a special effort to employ unemployed literate people (Tötemeyer, Weehmhörner & Weiland 1996).

Article 4 (1) of the Electoral Act specifies the functions of the ECN pertaining to presidential, National Assembly, regional councils and local authority elections as controlling the:

- registration of voters;
- compilation and publication of the voters' roll;
- implementation of the code of conduct agreed upon by political parties;
- appointment of election officers;
- registration of political parties;
- supervision of elections;
- oversight of civic and voter education.

The Act provides that the commission shall consist of a judge or former judge of the Supreme Court or High Court, who shall be the chairperson of the commission; and four persons as the other members of the Commission.

Recent changes have resulted in alterations in the appointment of commissioners. For all future appointments the following procedure must be followed (Electoral Amendment Act 1998):

- The director invites applications for appointment to the commission by a notice in the *Gazette* and in two daily newspapers with a national circulation.
- A selection committee is assembled. Its members must include one staff member of the Supreme Court or of the High Court nominated by the Law Society of Namibia, one person from the staff of the ombudsman nominated by the ombudsman.
- The Supreme Court staff member serves as chairperson of the

selection committee and the lawyer as the deputy chairperson. The committee is appointed for one year.

- The director convenes a meeting of the selection committee, which selects from the applications between 10 and 20 candidates for interviews. If there are fewer than 10 applications the director may invite any person to apply.
- The interviews are held during a meeting of the selection committee, which must be open to the public. The director must publicise the interviews and details of the applications in the *Gazette* before the meeting.
- Qualifications and criteria for appointment to the commission are subject to determination by the Standing Committee on Privileges of Parliament.
- Registered voters may submit written objections to any application and may be called to the meeting to answer questions.
- Applicants who fail to attend the meeting, or who answer questions untruthfully, are disqualified.
- Within ten days of the interviews the selection committee must recommend eight applicants to the president, who chooses five of them.
- If the director fails to follow the proper procedure for convening the interviews the president may appoint the commission on the recommendation of the Standing Committee on Privileges of Parliament.

The incumbent 2009 commissioners were appointed by the president for a period of five years and may be reappointed by the president for a similar period. In 2009 the members of the ECN were: Mr Victor Tonchi (chairperson), Ms Notemba Tjipueja, Ms Rosa Shipiki-Kapolo, Mr Shafimana Ueitele and Mr Lazarus Shatipamba.

The day-to-day operation of the commission is executed by the directorate of elections, which is responsible for the administrative and clerical work involved in the performance of the functions of the commission. Its director is an appointed public servant.

Voters are registered in their local authority areas, if these have been proclaimed, and in their regional council constituencies. The card issued for regional council elections is also used for National Assembly and presidential elections. The Ministry of Home Affairs, which is responsible for submitting monthly a list of deaths, did not do so during the period preceding the 2009 elections. *The Namibian* (2 November 2009) revealed that in 2009, and partly due

to the failure of Home Affairs to submit the list, the voters' roll contained the names of a number of dead people.

Between 17 and 30 September 2009 a special 'supplementary registration' process took place. Initially, the ECN experienced problems in getting the 'supplementary registration' process under way because of the absence of voter registration material and printers for voter cards. The director of the ECN attributed this delay to a strike by customs workers in South Africa (*The Namibian* 21 September 2009). Such chaos in the voter registration process has implications for democratic politics in Namibia since election management bodies, like the ECN: '... are the principal instruments for organizing credible election processes, linking voters and governments in structured exchanges of support and policy, authority, and accountability' (Mozaffar 2002, p 90).

Notwithstanding these difficulties the supplementary registration process resulted in an increase in voter registration numbers by 300 000 people, although the increases were unevenly spread between and among regions (see Table 1). The increased numbers meant that the number of eligible voters rose to 1.3 million. Needless to say, this figure was disputed by opposition parties. After a data cleanup 150 000 names were removed from the voters' roll (IPPR 2009, p 2). Supplementary registration was encouraged through both print and electronic media and by means of posters and the voters' roll was available for inspection from 12-16 October 2009.

The ECN is also charged with the responsibility for allocating government money to political parties. In the period 2009 to 2012 political parties will receive more than N\$156-million. Currently 0,2 per cent of the total state revenue from the previous financial year is allocated to funding political parties. This amount is then divided among parties in the National Assembly based proportionately on the number of votes they received in the previous election. In 2008 Swapo, with 55 seats, received N\$12,5-million; the CoD, with five seats, received N\$1,1-million; the DTA, which won four seats, received N\$916 000; the National Unity Democratic Organisation (NUDO) and the United Democratic Front (UDF), with three seats each, received N\$687 000 and the Republican Party (RP) and the Monitor Action Group (MAG), with one seat each, received N\$229 000.

The current Electoral Act only requires parties to disclose foreign funding. In the event that a party refuses to disclose its foreign funding, the Electoral Commission of Namibia can cancel its registration. In addition, the party can be fined N\$12 000 and/or a prison sentence of three years may be imposed on the leaders of such parties (*The Namibian* 8 March 2010). Because of its dominance in political life Swapo receives the largest amount of funding from corporate entities. In addition, it owns a number of companies which provide funding and membership fees provide an additional source of income.

Funding and other issues have been the source of severe criticism of the functioning and impartiality of the ECN. In 2008, for instance, the commission fired its director, Philemon Kanime, and his deputy, Ananias Elago. The official reason was negligence relating to the withholding of information critical to the Omuthiya local elections. The move attracted severe criticism of Swapo from the RDP. The ECN was again criticised by opposition parties in June 2009, after six ballot boxes were discovered at the Windhoek Central police station, reinforcing the perception that the electoral body is not very effective in dealing with elections.

Civil society organisations in Namibia have criticised the electoral body for excluding them from consultations on the amendment to the Electoral Bill which was tabled in Parliament in July 2009. Among the proposals is that votes should be counted at polling stations. There are, however, several loopholes in the Amendment Bill. Firstly, it severely restricts the pre-election role of election observers, only allowing them to observe voting, the counting process and the announcement of the results. Secondly, the Bill does not provide for a Code of Conduct for political parties. Finally, it does not provide for a tribunal in the event of a dispute over results. This despite the fact that the amendments were proposed primarily to avoid court challenges and election recounts (Lebeau & Dima, 2005, p 4).

CAMPAIGNING

A critical component in the acceptance of the outcome of elections is the quality of the electoral contest. Campaigning in Namibia is guided by an electoral Code of Conduct, put in place in 1999 and prescribing the 'rules of campaigning'. Most notably, the Code of Conduct prohibits contestants from using language which may be construed as inciting violence in any respect.

With the exception of the South West African National Union (Swanu), which started its campaign in August 2008, serious campaigning only started in October 2009.

A preliminary observation about the 2009 election campaign is that the policy distinctions between the different parties offered limited insight into their popularity. For this reason the process was based on personalities rather than on issues. Election manifestos should provide the electorate with insights into the parties and their programmes. However, in the case of Namibia, the reliance on personalities, the recreation of the independence moment and, in some cases, ethnic affiliation seem to play a much more prominent role than election manifestos.

Not surprisingly, while they diverge in their approaches, two analysts, Links (2009) and Maletsky (2009) came to the same conclusion: that manifestos

play a minimal role in voters' choices. Du Pisani & Lindeke (2009, p 13) believe that election manifestos are redundant as electioneering tools because, for Swapo: 'Independence, peace, a functioning democracy, a mixed economy and reconciliation make for a powerful template of factors that constrain and close political space for opposition parties.'

One of the most contentious issues of the 2009 elections and the campaigning process relates to the national broadcaster, the Namibian Broadcasting Corporation (NBC). The role of the media during an election is critical because they serve as a conduit between those standing for political office and the general public. Media coverage of political party activity becomes, therefore, intimately related to a free and fair electoral process.

In Namibia, the Communication Commission Act decrees that 60 per cent of free public service campaign coverage on radio and television be divided proportionally according to party representation in the National Assembly. The Act further states that the remaining 40 per cent should be shared equally between all parties contesting the elections. However, as in 2004, opposition parties complained that the NBC's coverage was biased towards Swapo. As Table 1 illustrates, the NBC is regarded in Namibia as a reliable conveyer of news. More than 80 per cent of respondents believe the national broadcaster serves as an invaluable source of information.

Table 1
Public trust in the media (percentages of respondents)

	Never trust	Sometimes trust	Most times trust	Always trust	Have not heard enough	Totals
NBC	2	10	30	55	3	100
Newspapers	4	17	28	35	16	100

Source: Keulder (2002)

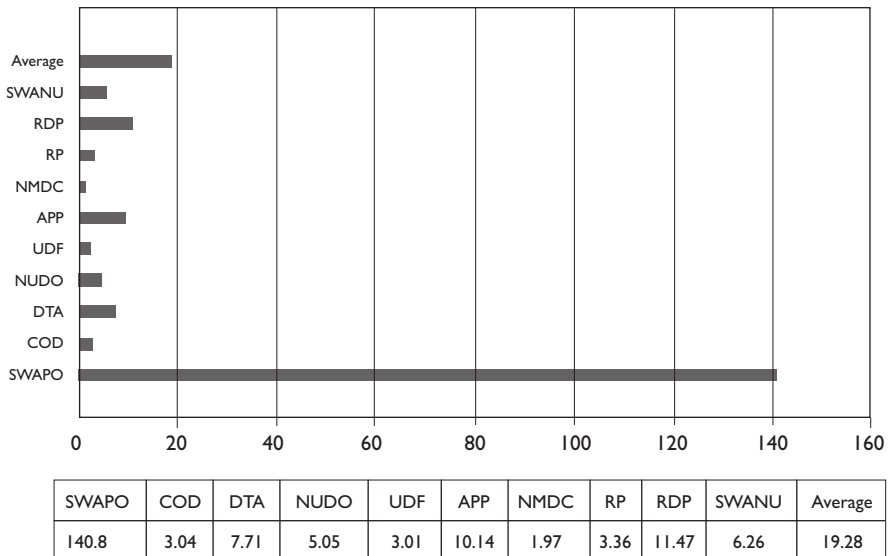
A study conducted by Blaauw & Van Rooyen (2009) suggests that there is evidence to support the views of the opposition. Figure 1 shows the amount of airtime political parties received during their 2009 election campaigns. Generally, the NBC allocated an average of 19.28 minutes. Closer scrutiny reveals that Swapo used 140.8 minutes. In contrast, its closest rival, the RDP only used 11.47 minutes, while the NMDC received the least coverage. The blurring of party and government roles, which, at times, intertwined, could be the reason why Swapo received more

coverage than other parties. Simply put, government ministers do, at times, use supposed government coverage time to convey Swapo’s message.

Ostensibly in response to this, and as a result of an application by opposition parties to the High Court, served on Friday 6 December 2009, the national broadcaster decided to cut the provision of free time to political parties (*The Namibian* 2 November 2009). This chain of events is reminiscent of a similar situation that unfolded in 2004, when the national broadcaster admitted that it had misled the public by claiming that the allocation of airtime on radio to political parties was guided by the Communications Act (*The Namibian* 27 October 2004).

The perceived bias of the NBC towards the ruling party also did not go unnoticed by electoral observers from the Southern African Development Community (SADC). While praising the coverage provided by the private media prior to the elections, the SADC observer team criticised the NBC for this bias (*The Namibian* 2 December 2009). The Pan-African Parliament (PAP) criticised the public broadcaster even more severely, accusing it of bias towards the ruling party and suggesting that state media in Namibia be separated from direct government control (*The Namibian* 3 December 2009).

Figure 1
Total time (in minutes) allocated by the NBC to political parties for electioneering from 19 October to 25 November 2009



Source: Blaauw & Van Rooyen 2009

As in 2004 television programmes and advertisements relating to the elections were prepared and broadcast on NBC TV and One Africa Television and, through the Twilight Broadcasting Company, on television sets in public places such as banks, post offices, municipal offices and in some government ministries and departments. Local independent newspapers such as *The Namibian*, *Republikein*, the *Windhoek Observer* and local magazines such as *The African* and the *Big Issue* also played a useful role in ensuring public awareness of the elections

Another significant point in the 2009 election campaign process was that the formation of the opposition RDP, as had the establishment of the CoD, relegated policy concerns to the sidelines. The level of political tolerance during the 2009 campaign became a focal point. While at a presidential level calls were made for a peaceful and non-provocative campaign, the build-up to the elections was marked by violence and intimidation, particularly of members of the RDP. Such violence and intimidation had been reported by the RDP since the start of 2009. Two incidents in particular indicate the level and degree of such violence and intimidation.

On 13 November 2009 there was a tense standoff between Swapo and RDP supporters in the Orwetoveni suburb at Otjiwarongo, which was defused by the police (*The Namibian* 13 November 2009). Prior to this the police confiscated eight pistols, a shotgun, nine knives, four machetes, a hammer, and an axe, among other weapons, from people going to a RDP rally at Outapi. Three people were arrested during the clashes in the town (*The Namibian* 8 November 2009). These incidents indicate that political tolerance in Namibia is low, a factor that must be addressed if the process of institutionalising electoral democracy is to take root.

THE RESULTS

Members of Namibia's legislature, the National Assembly, are elected by proportional representation, with each party nominating a list of candidates. There are 72 seats in the National Assembly and the president has the power to appoint up to six additional non-voting members. The seats are distributed according to a quota determined by dividing the total vote by the number of elected seats. The total number of votes received by each party is divided by the quota, to give them a preliminary share of the seats. Any seats left over are allocated according to the highest remainder method.

Table 2
Turnout for the 2009 elections

Region	Total 2004	Total 2009
Foreign Missions		
Caprivi	29 164	23 638
Erongo	64 784	63 189
Hardap	30 603	22 383
Karas	39 509	33 633
Khomas	140 145	198 035
Kunene	28 709	29 217
Ohangwena	89 993	102 430
Okavango	80 045	63 114
Omaheke	29 729	26 747
Omusati	96 408	104 880
Oshana	72 670	84 937
Oshikoto	68 882	73 596
Otjozondupa	57 558	51 335

Source: The Electoral Commission of Namibia 2005 and 2010.

Table 3
Voter registration 2004 and 2009

Region	Total 2004	Total 2009
Foreign Missions		
Caprivi	36 592	41 799
Erongo	73 686	92 171
Hardap	42 396	45 586
Karas	46 953	52 951
Khomas	159 415	198 035
Kunene	37 558	47 837
Ohangwena	102 226	126 133
Okavango	100 242	118 877
Omaheke	29 729	44 251
Omusati	109 408	133 256

Oshana	82 183	104 530
Oshikoto	77 019	93 640
Otjozondupa	72 322	82 736

Source: The Electoral Commission of Namibia 2005 and 2010.

Voter turnout in 2009 was less than that in 2004 – 18 126 00 fewer people voted. The turnout was significantly lower in regions like Hardap, Karas, Khomas and Okavango. However, in Ohangwena the number who voted increased from 89 933 in 2004 to 102 430 in 2009. The percentage poll was 68.64 compared to almost 85 per cent in 2004.

Table 4
National Assembly results 2009

Party	Votes	%	No of seats
South West Africa People's Organisation (Swapo)	602 580	74.29	54
Rally for Democracy and Progress (RDP)	90 556	11.16	8
Democratic Turnhalle Alliance of Namibia (DTA)	25 393	3.13	2
National Unity Democratic Organisation (NUDO)	24 422	3.01	2
United Democratic Front of Namibia (UDF)	19 489	2.40	2
All People's Party (APP)	10 795	1.33	1
Republican Party of Namibia (RP)	6 541	0.81	1
Congress of Democrats (CoD)	5 375	0.66	1
South West Africa National Union (Swanu)	4 989	0.62	1
Monitor Action Group (MAG)	4 718	0.58	0
Democratic Party of Namibia (DPN)	1 942	0.24	0
Namibia Democratic Movement for Change (DMC)	1 770	0.22	0
National Democratic Party (NDP)	1 187	0.15	0
Communist Party (CP)	810	0.10	0
Rejected Ballots	10 576	1,30	
Total	811 143	100	72

Source: The Electoral Commission of Namibia 2010

Two events that preceded the announcement of the results of the 2009 elections heightened expectations that Swapo would be returned with a reduced parliamentary majority. These were the establishment of the RDP by former prominent members of the ruling party and the fact that young people, known as the 'born frees', were eligible to vote for the first time. The latter was considered to be of critical importance because, unlike previous generations, the 'born frees' did not have the degree of attachment to the ruling party discernible amongst older voters (Afrobarometer 2009, p 1).

In the event, the formation of the RDP and its performance in the elections did not lead to a significant challenge to the ruling party. What did happen, however, is that the newly formed party became the official opposition, not only displacing the COD as the official and leading opposition party, but also managing to gain a sizeable number of voters who had previously voted for that party.

Swapo won 54 seats in 2009, as opposed to 55 in 2004, and, as in preceding elections, more than 60 per cent of its support came from the northern regions, Ohangwene, Omusati, Oshana and Oshikoto, which constitute the former Owamboland, from which, historically, the ruling party emanates.

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PRELUDE TO TANZANIA'S 2010 GENERAL ELECTIONS: REFLECTIONS AND INFLECTIONS¹

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ABSTRACT

Managing elections in transitional countries, of which Tanzania is one, is not an easy task. Poorly managed elections are sources of tension and conflicts. This article takes stock of the preparations for the 2010 general elections in Tanzania, drawing lessons from other elections held since the country reverted to competitive multiparty elections. Although the electoral machinery has been reviewed and adjusted to make it more efficacious there are a number of unresolved problems that may dent the forthcoming elections. These include the limitations of the first-past-the-post electoral system; the prohibition of independent candidature; the disallowing of voting in the diaspora; ambiguities in the registration requirements, especially in Zanzibar; ineffective voter education interventions; and the undesirable role of the shehas² (Zanzibar) and district and regional commissioners in electoral processes. The newly enacted legislation aimed at controlling the use of money and deterring corruption in Union elections is a good measure for ensuring fair play. However, the enforcement strategies and mechanisms are still weak. Enactment of the law is one thing, but its effective enforcement is another issue. This article examines the efficacy of political parties on the road to the 2010 elections and, in light of empirical and anecdotal data, reveals systemic and endemic weaknesses in opposition parties that pave the way for landslide victories for the ruling party and its president.

1 The author is grateful to the anonymous reviewer for critical but incisive and constructive feedback.

2 A sheha is a central government administrator appointed by the regional commissioner to oversee the implementation of central government laws, orders, policies and directives at grassroots level.

INTRODUCTION

Elections are a critical element in a democracy and for the attainment of democratic governance in a polity. They provide the means through which those aspiring to lead, and their political parties, are given a mandate to lead the government for a specific period of time. Elections are also processes through which the electorate expresses its diverse interests in and support for the parties and candidates. Elections are means by which leaders and sometimes public policies are chosen by the people simply because they involve a choice between candidates or a choice about whether or not a particular policy is to be followed. An election is a formal act of collective political decision-making. Moreover, elections are the major, if not the only formalised mechanisms through which individual citizens and political parties play an active role in politics. In a much wider sense, elections put governments in power and remove them from power. Therefore, elections are considered essential to the enhancement of democracy since they allow citizens to participate actively in politics and provide an opportunity to elect legitimate political leaders.

This article provides a preliminary formative analysis of the Tanzanian general elections, to be held on 31 October 2010. The analysis is largely informed by the current state of politics in Tanzania as well as the empirical findings of opinion polls conducted in the country. In order to situate the forthcoming elections in their proper context we draw on lessons of the past about the conduct of competitive elections in the country.

We are convinced that in order to understand the present and to be able to predict the future with some precision and accuracy we need historical facts. History is our prologue to the analysis of political events, including general elections.

Secondly, we explore and examine the legal framework and institutional arrangements that have been put in place to govern the management and conduct of the 2010 general elections. We are aware that elections are not carried out in a vacuum. They are governed by the electoral machinery, including legislation and electoral bodies created to facilitate the management of elections in a polity. They set the conditions under which elections are conducted and define the 'dos and don'ts' of the electoral process in order to prevent anarchy, taking into account that elections are not only fun events but are also 'clumsy instruments' (Powell 2000, p 6). In other words, we set out to answer the first fundamental question: 'How well is the government of Tanzania prepared to ensure the smooth running of the 2010 general elections as well as to attain a credible, free and fair election?'

Thirdly, we focus on the political behaviour of key participants in the electoral processes as the country approaches the elections. The key question to inform our

assessment is: 'To what extent and in what manner have the key actors, including political parties, repositioned themselves to enhance their competitive edge in the forthcoming elections.

Fourthly, we examine available and current indicators in order to enable us to give an informed opinion and make predictions about the 2010 general election results.

TANZANIA'S GENERAL ELECTIONS: HISTORICAL ANTECEDENTS

Elections are not a new phenomenon in Tanzania. The October 2010 general elections will be the country's tenth since the mainland (then Tanganyika) attained independence in 1961. At independence, both the Tanzanian mainland and Zanzibar had multiparty political systems with parliamentary sovereignty, largely autonomous civil society organisations and competitive elections. The first multiparty elections were held on the mainland a year after independence, in 1962. In Zanzibar multiparty elections were held before the January 1964 revolution.

The first-generation nationalist leaders opted for a monopolistic one-party system, abandoning political pluralism and the Westminster model of governance. In 1965, Tanzania became a *de jure* single-party country. The political leadership claimed that a multiparty system was divisive and undermined important nation-building efforts.

The Tanganyika African National Union (TANU) on the mainland and the Afro-Shiraz Party (ASP) in Zanzibar became the sole articulators and aggregators of interests. In 1977 the two parties merged to form a single party, Chama Cha Mapinduzi (CCM), whose supremacy was enshrined in the 1977 Constitution of the United Republic of Tanzania. All government functions, including the management of general elections, were carried out under the auspices of this party, which was the ultimate authority in the country, as was clearly stated in Articles 3 and 10 of the Constitution (TEMCO 2001).

ELECTIONS UNDER A ONE-PARTY SYSTEM: LESSONS OF EXPERIENCE

Four elements must be pointed out. Firstly, in 30 years (1965-1995) of conducting elections under the one-party system no general election was skipped in Tanzania. And despite the monopolistic nature of the electoral processes voters were given a chance to choose between two party-screened candidates for Parliament and for councils. As a result, the rate of elite circulation in Parliament as a result of voter choice was, in some cases, much higher than that in many well-established democracies (TEMCO 2001; Cliffe 1967; Othman, Bavu & Okema 1990; Mukandala & Othman 1985).

Secondly, precedents for peaceful leadership change at the national level were established under the one-party system, which meant that Tanzanians were used to such changes before the advent of multipartyism.³ Thirdly, a basis for national unity and political tranquillity had been built under the one-party system by controlling the rise of divisive forces in the polity. The national consensus under one-party rule provided a conduit for transition to competitive politics. Fourthly, there was anecdotal and empirical evidence that the one-party system in Tanzania enjoyed a reasonable level of legitimacy, even at the height of the campaigns for political pluralism (Baregu & Mushi 1994; URT 1991). This was an important asset for Tanzania, paving the way for peaceful political transition and a move towards plural politics.

There were many shortcomings that had adverse effects on general elections. The presidential elections were acutely undemocratic, offering no choice at all, being on the Yes/No system. The anti-democratic, monopolistic political culture penetrated all institutions, including civil society organisations (CSOs) and government machinery and institutions, including the public service. Even today the ruling CCM is somewhat unwilling to learn to share power with other political actors. During elections the party invests heavily to win all seats, leaving no space for opposing parties. There is a long way to go to change the monolithic and monopolistic orientation and political behaviour of the ruling party.

Thirdly, the one-party system led to the underdevelopment of politics and political institutions in Tanzania through the banning or controlling of previously autonomous CSOs and political organisations, including political parties. The political parties that had been created following the re-introduction of the multiparty system were inexperienced and under resourced, and had very little penetration into the public, especially at grassroots level. It is likely that it will take time to build viable competitive political parties in Tanzania. The one-party system undermined the basic human rights that are such an important ingredient in democracy-building and consolidation. Even today the Constitution does not permit independent candidates to stand in elections. This means that the new pluralist system inherited an erroneous constitution suited to a monolithic system (Luoga 1995).

Fourthly, there has not been a significant political transformation. Using the civic culture model developed by Almond & Verba (1963) one could argue convincingly that when Tanzania changed to a multiparty political system in 1992, the 'parochial-subject' political culture rather than the desirable 'participant

3 In 1972 Aboud Jumbe was peacefully installed as president of Zanzibar after the assassination of the incumbent, President Aman Abeid Karume. Ali Hassan Mwinyi replaced Jumbe, who was impeached by the CCM's National Executive Committee, and President Julius Nyerere was also peacefully replaced when he voluntarily decided to step aside.

political culture' was the dominant characteristic of the majority of Tanzanians. It seems plausible that 'parochial' and 'subject' cultures pave the way inadequately for the electorate to engage in general elections as informed and responsible citizens. In such a situation, elections are unlikely to enable citizens to influence and control policymakers.

COMPETITIVE ELECTIONS IN THE POLITICAL PLURALISM ERA

The 1995 general elections

The first competitive multiparty general elections were held in 1995, beginning with the election of the president of Zanzibar and members of the House of Representative. The Union elections came later. In Zanzibar there was stiff competition between the CCM candidate (Dr Salmin Amour) and the secretary general of the newly formed Civic United Front (CUF – Seif Sharif Hamad). Table 1 shows the votes each candidate obtained.

Table 1
1995 Presidential election results

Candidates	Party	Votes obtained	Percentage
CHEYO, John Momose	UDP	258 734	4.0
LIPUMBA, Ibrahim Haruna	CUF	419 873	6.4
MKAPA, Benjamin William	CCM	4 026 422	61.8
MREMA, Augustin Lyatonga	NCCR-Mageuzi	1 808 616	27.8
Total		6 513 645	100

Source: National Electoral Commission

UDP United Democratic Party; CUF Civic United Front; CCM Chama Cha Mapinduzi; NCCR-Mageuzi National Convention for Construction and Reform-Mageuzi

The official estimate of the number of voters was 11 047 478: 10 688 551 on the Mainland and 358 927 in Zanzibar. The number of registered voters was 8 855 127 (80.2 %), including 353 916 (95.8 %) in Zanzibar and 8 511 311 (79.6 %) on the Mainland. Thirteen parties nominated candidates for the parliamentary elections. The number of votes won by each party is shown in Table 2.

Table 2
1995 Parliamentary election results

Party	Votes obtained	Percentage	Number of seats
CCM	3 14 206	59.22	219
CHADEMA	396 825	6.16	28
CUF	323 432	5.02	4
NCCR-Mageuzi	1 406 343	21.83	19
NLD	26 666	0.41	0
NRA	60 707	0.94	0
PONA	18155	0.28	0
TADEA	76 636	1.19	0
TLP	27 963	0.43	0
TPP	15 335	0.24	0
UDP	213 547	3.32	4
UMD	41 257	0.64	0
UPDP	19 841	0.31	0
Total	6 440 913	100	274

Source: National Electoral Commission

CHADEMA Chama cha Demokrasia na Maendeleo; NLD National League for Democracy; NRA National Reconstruction Alliance; PONA Popular National Party; TADEA Tanzania Democratic Alliance; TLP Tanzania Labour Party; TPP Tanzania People's Party; UMD Union for Multiparty Democracy; UPDP United People's Democratic Party

The 'winner-takes-all' or 'first-past-the-post' system was not the best option for Tanzania's general elections. The need to introduce a proportional representation (PR) system was inescapable in order to enhance representation in Parliament.

The 1995 elections were beset with administrative and logistical problems, including a shortage of election materials, inadequate security for election materials, inadequate competence of election personnel, a lack of or inadequate voter education, administrative errors leading to the failure to vote, and the lack of a permanent voters' register.

Moreover, the ruling party, the CCM, was accused of misusing the advantages of incumbency, especially by using state instruments and resources. Unethical conduct, a lack of respect for election rules and undemocratic practices within the parties were all cited as stumbling blocks to the smooth running of the elections. Taking into account all these circumstances, a credible consortium of

local observers, the Tanzania Election Monitoring Committee (TEMCO) concluded that the 1995 general elections in Tanzania were 'free but not fair'.⁴

The 2000 general elections

Prior to the 2000 elections, some of the articles of the Constitution and sections of the Local Government Authorities (Elections) Act 1979 and the Elections Act 1985 were amended.

Firstly, the head of the National Electoral Commission was to be a judge of the Court of Appeal or the High Court. This enabled the institutions responsible for the management of elections to be controlled by people with impeccable integrity.

Secondly, the law barred employment for top public servants who sought political office, and banned members of the armed forces from becoming members of political parties.

Thirdly, the amendment enhanced the participation of women in politics by raising the number of special seats for women (previously fixed at 15 per cent) to reach 20-30 per cent of all other parliamentary seats.

The procurement of election materials and tendering processes were adversely affected by the fact that donors failed to honour their funding commitments and did not disperse the money on time. Table 3 shows the pledges/commitments and actual funds released by donors to the National Electoral Commission (NEC).

Table 3
Donors' financial pledges and actual disbursement of funds to the NEC

Donors	Pledges TSh	Actual amounts released (TSh)	Variations TSh
Donor Basket Group	3 200 000 000	3 140 668 800	-59 331 200
European Union	4 042 164 000	923 875 000	-3 118 289 000
USAID	87 808 000	29 763 100	-58 044 900
Government of Denmark	1 284 312 800	1 618 584 000	332 271 200
Government of Japan	48 480 000	48 80 000	0
Government of China	-	6 000 000	6 000 00
Total	8 662 764 800	5 767 370 900	2 797 383 900

Source: National Electoral Commission

4 TEMCO had six certificates for elections, as follows: 'Clean Free and Fair'; 'Qualified Free and Fair'; 'Free but not Fair'; 'Unfree and Unfair'; 'Totally Mismanaged' and 'Aborted'.

During the 2000 elections the law did not assign the responsibility for conducting civic education to any institution. Civic education, including voter education, was provided voluntarily by CSOs, using donor funds. Both civic and voter education were underfunded and failed to comply with the cardinal principle of facilitating learning for adults. Donors refused to finance education through publicly owned media. The result of all these factors was that voter education came late and was inadequate.

In Zanzibar several severe problems undermined the electoral process. For example, much of the Zanzibar Urban West region did not vote because of a lack of voting materials. Consequently, the Zanzibar Electoral Commission (ZEC) cancelled elections in all 16 constituencies in the region. The ZEC also stopped the vote counting process in Pemba and parts of Unguja. The tendency of the ZEC to make decisions unilaterally suggested a serious lack of political prudence. In Pemba, ballot boxes were forcibly seized by police against the will of party agents and sent to places that were inaccessible. Election observers and monitors reported incidents of the use by the state of excessive force. For example, it was reported that:

These CUF supporters – men and women, young and old – were beaten up most mercilessly and handed in a manner which, to an observer, would suggest that the state instruments of law and order were carrying out vengeance on them rather than performing ordinary arrests.⁵

Moreover, throughout the electoral process, and especially during the campaign period, opposition parties complained about state organs that, in their eyes, consistently acted in favour of the ruling party, while disrupting the political activities of opposing parties. Furthermore, the voter registration process was dominated by charges and counter charges that some who were not entitled to vote were being registered while others, who were entitled to vote, were denied registration. The ZEC refused or failed to release an authoritative figure of eligible voters for the Isles, suggesting that the registration process was neither transparent nor competent.

In the presidential elections the CUF, the major opposition party in the Isles, refused to recognise the victory of the CCM or the presidency of Amani Karume. Opposing parties boycotted the rescheduled elections in 16 constituencies of the Urban West Region, arguing that fresh elections should be held in all of Zanzibar. The situation culminated in violence in January 2001, resulting in 20 riot-related

5 See, eg, TEMCO 2001, pp 248-51

deaths. The electoral process in Zanzibar was marred by grave irregularities, to the extent that TEMCO considered the elections to have been aborted. It reported:

The abortion was in the making from the beginning of the registration, was carried through to the campaigns marked by Police harassment, and culminated on 29th October, 2000, in the shambles of the 16 constituencies of the Urban West region, and the illegal halt to the counting of votes in the other constituencies.

TEMCO 2001, p 199

To reiterate, there was acute disregard for the legislation governing elections and acceptable conventional parameters of free and fair elections. The ZEC flouted its own laws.

The 2005 general elections

The 1995 and 2000 general elections provided useful lessons for the National Electoral Commission, the government and other stakeholders involved in organising the 2005 elections. The shortcomings had to be avoided. The quest for more effective management of elections was compelling and triggered the need for the amendment of several pieces of legislation governing the conduct of elections in Tanzania.⁶ The amendments largely took into account the recommendations of the NEC on almost all the steps of the electoral process. Thirty-three amendments to the electoral laws were effected in time to facilitate the smooth running of the 2005 elections. This showed the commitment of the government and the political leadership to addressing the problems that were experienced in 1995 and 2000, as well as to the principles of free and fair elections.

It is imperative to note that the law does not yet empower the NEC to register all eligible voters in Zanzibar. The commission is required to use the voters' register prepared by the ZEC, thus the NEC does not have the names of voters all over the country in the permanent national voters' register (PNVR), which contains the records of voters in all constituencies and wards on the Mainland.

The cost of establishing the PNVR was TSh30-billion, given to the NEC by the government of Tanzania and by donors, who contributed US\$9.53-million. The total spent on the 2005 general elections was TSh62.53-billion, of which the government gave the NEC TSh58.7-billion and donors TSh3.53-billion.⁷

6 These were the Elections Act, 1985 (Act 1 of 1985) and the Local Authorities (Elections) Act, 1979 (Act 4 of 1979).

7 See NEC Report on the 2005 Presidential, Parliamentary and Councillors' Elections, pp 14-15. The exchange rate of the US\$ to the TSh is US\$1=TSh 1,155.884.

The NEC registered 15 919 749 (7 800 677 male and 8 119 072 female) voters of 16 578 466 estimated voters, equivalent to 96.03 per cent of the target (NEC 2006, p 36). Moreover, 15 744 voters were registered in Zanzibar⁸ and the ZEC registered 507 164. Ten of the 18 political parties nominated candidates for the presidential and vice-presidential elections, a contrast with the 1995 and 2000 elections when only four parties had nominated presidential candidates. One presidential candidate was female and three women were nominated to stand as running mates – a step towards redressing the gender imbalance in Tanzania's electoral politics.

The 2005 general elections were distinguished from previous elections by a wider choice, both within the ruling party and across the other parties. Most of the opposition parties fielded candidates who had stood in previous elections, including Freeman Mbowe of CHADEMA, Augustine Mrema of the TLP, John Cheyo of the UDP and Ibrahim Lipumba of CUF for the union presidency, and Seif Sharif Hamad of CUF in Zanzibar. Table 4 shows the presidential election results for each political party.

Table 4
2005 Presidential election results

Candidates	Party	Votes obtained	Percentage
Jakaya Mrisho Kikwete	CCM	9 123 952	80.28
Prof Ibrahim Haruna Lipumba	CUF	1 327 125	11.68
Feeman Aikaeli Mbowe	CHADEMA	668 756	5.88
Augustine Lyatonga Mrema	TLP	84 901	0.75
Edmund Sengondo Mvungi	NCCR-MAGEUZI	55 819	0.49
Mchungaji Christopher Mtikila	DP	31 083	0.27
Dr Emmanuel John Makaidi	NLD	21 574	0.19
Anna Claudia Senkoro	PPT-MAENDELEO	18 783	0.17
Prof Leonard Kanangwe Shayo	MAKINI	17 070	0.15
Paul Henry Kyara	SAU	16 414	0.14
Total		11 365 477	100

Source: National Electoral Commission

PPT-MAENDELEO Progressive Party of Tanzania-Maendeleo; SAU Sauti ya Umma

⁸ These voters were qualified to vote for the president of the United Republic of Tanzania only.

As the statistical data in Table 4 show, the candidate for the ruling CCM achieved a landslide victory. Opposition parties won a total of 2 241 525 votes, equivalent to 19.72 per cent of valid votes. The performance of the parties in the opposition camp was somewhat dismal, taking into account that they had been in politics for about 13 years, giving rise to questions about their efficacy in preparing their supporters and members for elections.

Table 5
2005 Parliamentary election results

Political Party	Number of candidates	Votes obtained	Percentage	No of seats won
CCM	232	7 579 897	69.66	206
CHADEMA	144	888 133	8.16	5
CHAUSTA	61	38 085	0.35	0
CUF	213	1 542 254	14.22	19
DP	45	11 876	0.11	0
FORD	11	1 685	0.01	0
JAHAZI ASILIA	55	21 042	0.19	0
MAKINI	16	2 102	0.02	0
NCCR-MAGEUZI	71	339 452	2.2	0
NLD	29	6 054	0.06	0
NRA	27	3 459	0.03	0
PPT-MAENDELEO	16	13 532	0.12	0
SAU	52	6 085	0.06	0
TADEA	34	6 845	0.06	0
TLP	115	306 219	2.81	1
UDP	38	155 887	1.43	1
UMD	21	1 510	0.01	0
UPDP	42	5 456	0.05	0
Total	1 222	10 829 513	100	232

Source: National Electoral Commission
CHAUSTA Chama cha Haki na Usitawi

As shown in Table 5, the incumbent party won the parliamentary elections, acquiring 88.79 per cent of the constituency seats against a total of 11.21 per cent (26 seats) for the opposition. Thirteen parties did not win a seat. The CCM won 69.66 per cent of the total votes in the parliamentary election, but obtained 88.79 percent of all constituency seats in Parliament. This suggests the need to consider electoral reform in order to replace the winner-takes-all system with PR. Moreover, a one-party dominated legislature does not accord well with the imperatives of pluralist politics, and particularly a multiparty political system.

Unlike the previous elections, the 2005 elections were observed and monitored by 16 groups, including three local observer groups and 13 foreign observer groups. The observers were satisfied with the competence of the NEC in the management of the elections. Most election officials, parties, candidates and voters enforced and complied with the electoral rules and peace reigned during campaign meetings. Only minimal and non-intentional election management discrepancies were noted, and election officials resolved most of these. In contrast with the previous elections state instruments of law and order (the police) and state media dealt with all parties fairly and more equitably (TEMCO 2006, p 176).

The above pluses were accompanied by a few minuses. Firstly, the CCM was accused of spending state resources for its own campaign, contrary to the law, and it used its incumbency unfairly. Secondly, resource inequalities among the parties made the election a race among unequals. Thirdly, candidature in Tanzania is legally tied to membership of and sponsorship by a political party. Independent candidature is not allowed. This restriction has been debated since the country reverted to a multiparty political system in 1992 and it continues to be debated. Fourthly, the nomination of candidates by some political parties, excluding, to a great extent, the CCM, CHADEMA and CUF was not conducted competitively and transparently. The smaller and newer parties resorted to a system of 'hand-picking' candidates, constraining the chances of poor aspirants. Fifthly, the legalisation of the house-to-house campaigns and offering of 'traditional hospitality', locally known as 'Takrima', paved the way for corruption. Illiteracy limited the voters' capacity to exercise free choice at a large number of polling stations, more so in Zanzibar than on the mainland. The rate of spoilt votes was relatively high, at 5.4 per cent, and primarily due to illiteracy and poor voter education.

In the light of the above TEMCO awarded the 2005 general elections a 'Clean Certificate of Free and Fair Elections'. The observers concluded that 'the observed shortcomings were insignificant and could not alter the election results' (TEMCO 2006, p 177), making the 2005 general elections broadly credible and legitimate.

In Zanzibar, the ZEC estimated that it would register 548 124 voters but only managed to register 499 007 – 91 per cent of the target. Six parties, namely the CCM, CUF, Democratic Party (DP), JAHAZI Asilia, NRA and SAU nominated

candidates for the presidential elections, compared with only two parties in the 1995 and 2000 elections. A total of 451 229 valid votes (97.91%) were cast in the presidential election, while 9 619 votes (2.09 %) were spoiled.

Election observers reported that ZEC personnel were more competent in managing the elections than they had been in 1995 and 2000. The ZEC and a few CSOs facilitated voter education programmes and the media and political parties contributed to civic and voter education. The CCM-CUF 'Muafaka'⁹ of October 2001 helped bring consensus on the electoral rules in Zanzibar, and led to important changes in the Zanzibar Constitution and electoral law.

There were changes in the composition of the ZEC; the residency rule enabled the preparation of the permanent voter register, which was used for the first time in 2005. The opposition parties, especially the CUF, were more satisfied with the electoral rules and arrangements for the 2005 elections. All stages of the elections in Zanzibar were heavily policed, much more so than those on the Mainland. This was because Zanzibar was known to be highly conflict-prone during elections (REDET-TEMCO 2006, p 177). Voter registration was significant and the number of candidates standing in Zanzibar was higher in 2005 than it was in 1995 and 2000.

However, there were still shortcomings in the 2005 elections. Firstly, as in 1995 and 2000, in 2005 state media in Zanzibar continued to give more attention to the electoral activities of the ruling party than to those of opposition parties. The regional and district commissioners and the shehas were partisan in favour of the ruling party, mobilising voters on behalf of the CCM, facilitating the campaigns of CCM candidates and, in most cases, using state resources, leading to violations of election procedures.

There were significant inequalities in the resources available to the various political parties. Only the CCM and CUF enjoyed state subsidies, other parties did not have sufficient resources to run their electoral machinery effectively. The legal prohibition of independent candidates was a major constraint that infringed the political rights of individuals; incidents of intimidation were reported and opposition parties were denied access to grounds claimed to belong to the CCM. Gender imbalance remained high – of the six people who contested the Zanzibari presidential election only one was a woman. A lack of transparency in tallying presidential votes, which was done behind closed doors at the ZEC offices, increased mistrust and suspicion that the presidential election results may have been manipulated. The two CUF commissioners on the electoral body rejected the results, which gave Amani Karume the victory, on the grounds that they had not been involved in the vote tallying process.

9 'Muafaka' is a Kiswahili concept/word denoting agreement or consensus.

The major opposition party, the CUF, did not concede defeat and, consequently, did not recognise the victory of the CCM candidate. This resulted in a political impasse in the Isles until, in November, President Amani Karume (CCM) and Secretary General Seif Sharif Hamadi (CUF) reached consensus, popularly known as 'Maridhiano'. Generally, the trend in elections in Zanzibar may be summarised as follows:

Zanzibar has historically been a difficult place to get election results which can be judged reliable and legitimate by stakeholders particularly defeated parties. No major party has conceded defeat since 1957. In this kind of political ecology, the above shortcomings will create doubts and suspicion ...'

REDET-TEMCO 2006, p 127

In light of the past, we are now in a position to examine the October 2010 general elections. It is to this that we now turn.

PRELIMINARY ASSESSMENT OF THE 2010 GENERAL ELECTIONS

Both the NEC and the ZEC have embarked on preparations for the 2010 general elections. The two commissions have registered new voters and have updated the PNV. According to the NEC only 19 670 631 of the targeted 22 210 187 (about 88.6%) eligible voters will be able to vote in the election. Initially there were 21 210 187 registered voters, but 1 539 556 (about 7.2%) have been struck off the register for various reasons, including death.¹⁰ NEC deleted 243 631 who died between 2005 and 2010; it disqualified 214 125 who registered more than once, while 765 236 were removed from the register because of contradicting transfer information; forms for 290 002 were not found and another 15 873 did not meet the criteria for registration. It is incomprehensible to disenfranchise eligible voters on the grounds of 'missing forms'. In Zanzibar 44 125 Zanzibaris are eligible to vote in the Union elections only (NEC 2010). A total of 55 000 polling stations will be created, compared to 47 000 in 2005. On average, each polling station will cater for 385 voters.

By May the ZEC had registered 407 669 voters compared to 499 007 registered in 2005.¹¹ The ZEC's director of elections argued that opportunities to cheat had been eliminated in the voter registration process, an argument that generated

¹⁰ The statistical information was released to members of the press by the NEC's Director of Elections, Mr Rajabu Kiravu, on 16 August 2010. See also *The Citizen*, Tuesday 17 August 2010, p 1.

¹¹ This is the official figure released by the Zanzibar Electoral Commission (ZEC). The figure is available at: referendum.zec.go.tz/ResultsManagement/PublicReports/ResultsReports.aspx

more heat than light. It is expected that the number of voters will increase to match population growth. There has been no event in Zanzibar to cause negative population growth or a decelerated population growth rate. The variation in voter registration numbers seems to suggest that in previous elections the cheating windows were left open, either by default or by design.

The CUF has already raised concerns about the voter registration and voter register updating processes. The party claims that about 15 000 Zanzibaris who are eligible voters (in constituencies which have already collected statistical data) have not been recorded in the permanent voter register and are likely to be disenfranchised (*Mwananchi* 10 May 2010, p 2). This allegation is too critical to be ignored, taking into account the volatile nature of electoral politics in the Isles. The Revolutionary Government of Zanzibar, and particularly the ZEC, have a duty to ensure that legally qualified people are registered. The ZEC should facilitate the registration of voters who experienced difficulties and delays in obtaining their Zanzibar identification cards, a prerequisite for being registered to vote.

Election timetables

The NEC's nomination day was 19 August and campaigns are scheduled to begin on 20 August and end on 30 October. The ZEC set 10-30 August as the period for the nomination of presidential candidates, 15-30 August for the nomination of House of Representatives candidates and 10 September-30 October for campaigns.

The election management bodies have definite election plans and a timely release of the election timetables enables political parties and key players, including election observers, to plan for their roles and activities in the elections.

THE LEGAL FRAMEWORK

Electoral law

Elections are governed by an acceptable legal framework and their legitimacy, freeness, and fairness hinges on fair laws. The Government of the United Republic of Tanzania, on the advice of the NEC, has reviewed the legal framework governing the conduct of general elections in the country. Two laws have been passed by Parliament – the Electoral Laws (Miscellaneous Amendments) Act, 2009, which includes changes to both the Elections Act, 1985 and the Local Government (Elections) Act, 1979; and the Election Expenses Act, 2010. The Electoral Laws (Miscellaneous Amendments) Act provides, among a range of

technical amendments, for updating the PNVR twice between general elections and for the nomination of women for special seats. It also establishes a code of conduct for political parties as a statutory instrument. In 2008 the Zanzibar Electoral Commission issued regulations for updating the PNVR prior to the elections.

Election Expenses Act, 2010

The Election Expenses Act was passed by the National Assembly of the United Republic of Tanzania on 11 February 2010 and accepted by the president on 17 April 2010. The law aims to regulate and control the use of funds and curb illegal practices in the electoral process, including nomination, campaigning and voting, specifically in regard to gift giving and donations. Tanzania becomes the first country in Africa to have this kind of legislation.

It has been reported that 'in 2005, allegations of corruption in elections were widespread, with allegations that the funds scooped from the Bank of Tanzania's (BoT) External Payment Account (EPA) were spent on elections by one political party' (*Daily News*, 4 May 2010, p 9). According to a recent report, the local government elections held in October 2009 were also marred by corruption and vote buying (LHRC 2010). We do not have the authority to dispute the findings; however, generalisation exaggerates the magnitude of the problem.

Provisions in the new Election Expenses legislation

The Election Expenses legislation, *inter alia*, defines the powers of the registrar of political parties in the enforcement of the law, including the dos and don'ts, as shown in Table 6.

Table 6
Provisions in the Election Expenses Act, 2010

Provision	Legislative prerequisites
Section 4	Confers on the registrar of political parties the power to supervise and administer election expenses
Section 5-(1)	Empowers the registrar to examine the financial records of a candidate or political party and to demand information related to election expenses of a political party or candidate
Section 8-(1)	Obliges each political party to conduct and fund its election campaign by utilising its own funds from the sources stipulated in the Political Parties Act

Section 9-(1)	Requires candidates to disclose at least seven days before the nomination day the amount of funds they have in their possession and expect to receive and spend on the elections
Section 9-(2)	Obliges every political party which participates in any election to disclose to the registrar of political parties within 30 days after the nomination day all funds which it intends to use as election expenses and to use for its candidates as election expenses
Section 10-(1)	Mandates the minister responsible for political parties to prescribe the maximum amount of election expenses depending on the difference in the size of electoral constituency, categories of candidates, population and communication infrastructure. The minister is also empowered to vary the amount of election expenses to be used by political parties during election campaigns
Section 1-(1)	Compels candidates or political party to report to the registrar the funds used in excess of the prescribed limit, giving reasons for the use of excess funds
Section 11-(2)	Requires each political party to ensure that all donations received in the form of money are deposited in the special account opened by the party for election expenses and election expenses shall be paid from that account
Section 11-(4)	Requires political parties to disclose voluntary donations received from any individual or organisation, in and outside the United Republic of Tanzania
Section 12-(1)	Stringently restricts foreign funding for election expenses
Section 13-(1)	Compels every candidate, political party, non-governmental organisation, faith based organisation and community based organisation that participates in election activities to keep records of funds, names and the postal, physical and electronic addresses of donors
Section 15-(1)	Compels non-governmental organisations, faith based organisations and community based organisations to disclose sources and the amount of funds to be used for advocacy or public awareness for the furtherance of election campaigns
Section 16	Requires all expenses and payments made in respect of elections to be vouched, billed and validly receipted
Section 18-(3-4) Section 19-(4)	Requires mandatory auditing of accounts and submission of audited accounts to the registrar of political parties
Section 21-(1)(a-g) Section 22	Prohibits unfair conducts, including corruption and any inducement whatsoever of voters
Section 23-(1)	Illegalises or criminalises unconscionable funding, including payment or the provision of food or drinks or the entertainment of voters
Section 28-(1)	Gives presidential candidates the right to utilise the government broadcasting service and television during the election campaign

Despite the good intentions of the law, it contains some provisions that have been at the centre of criticism. The Act vests in the registrar of political parties, who is a political appointee, excessive power in election matters, thus making the registrar the 'alpha and omega' in the implementation of the law. She/he is player, referee, and judge. The law appears to permit the registrar to usurp the powers of the electoral commission and the judiciary, a potential source of controversy, confusion, and chaos during the elections. The office of the registrar does not have the technical capacity and resources required to ensure effective enforcement of the new law in the entire United Republic of Tanzania.

The criteria to be used by the minister responsible for political parties to set a ceiling on the amount of money to be spent by parties and candidates is a further source of controversy, taking into account the instability of Tanzania's currency.

The prohibition on receiving money from within or outside the country 90 days before the general elections is another serious area of contention.

Sceptics believe the Act, like many other pieces of legislation, will be just another paper tiger.

In Zanzibar there has been no effort to amend the existing principal election law. It seems the elections in the Isles will be held under the existing law, which is the Elections Act No 11, 1984. However, the electoral regulations have been amended subject to approval by the relevant authority. The proposed amendments include new provisions relating to the inspection of the permanent voter register; the Code of Conduct for Local and International Observers and the Code of Conduct for Political Parties. The ZEC announced in May that fees will be reduced from TSh3-million to TSh2-million for presidential candidates and TSh200 000 for candidates for the House of Representatives. Nomination fees for people aspiring to become councillors have also been reduced, from TSh50 000 to TSh30 000. This will make it easier for members of smaller parties and candidates with limited budgets to exercise their right to stand as candidates (ESP 2010, p 1).

Financial resources

Elections are at the heart of democracy, but they are expensive undertakings, particularly for poor countries such as Tanzania. The smooth running of the electoral process presupposes the availability of adequate funds. For the 2010 elections the National Electoral Commission has budgeted TSh64-billion (about US\$47.1-million) that the Government of the United Republic of Tanzania must make available to the commission, while the government has approved TSh60.2-billion (NEC 2010), about 97.2 per cent of the NEC's total budget. Development partners (donors) have also pledged to finance the elections. Table 7 shows the pledges and status of the development partners' financial commitments.

Table 7
Development partners' financial commitments and status

Contributors to Basket Fund	Pledged/signed	Pledged/signed (USD)	Disbursed (USD)	Status
Canada	CAD \$1 000 000	\$919 117	\$983 284	Signed
Denmark	DKK5 000 000	\$995 778	\$995 778	Signed
EC	Euro2 700 000	\$3 620 759	0	Signed
Finland	Euro2 000 000	\$2 839 409	\$2 839 409	Signed
Netherlands	Euro1 000 000	\$1 219 512	0	Pledged
Norway	USD1 000 000	\$1 000 000	0	Pledged
Sweden	SEK43 000 000	\$6 151 645	\$6 151 645	Signed
Switzerland	USD 1000000	\$ 1000000	\$ 1000000	Signed
UNDP	USD1 000 000	\$1 000 000	\$1 000 000	Signed
UK /DFID	GB£6 000 000	\$9 222 256	\$6 148 171	£4m Signed £2m Pledged
Total		\$27 968 469	\$19 118 287	

Source: Lehner 2010

In terms of financing the 2010 elections it seems that if all pledges are honoured and government disburses the amount required by the NEC the problem of under funding will be circumvented.

Voter education

The amended election legislation vests in the NEC the authority to provide and regulate voter education. The NEC has prepared a strategic plan and guidelines for those interested in providing voter education (Kiravu 2010, p 7). In spite of these efforts both the NEC and the government lack a comprehensive civic education strategy of which voter education is a part. A piecemeal approach is not appropriate.

While it is a good idea to extend voter education during the election season it would be better to ensure that a sustainable strategy for civic education is in place. We do not have evidence yet to demonstrate that the NEC's strategy for

facilitating voter education for the 2010 elections will be significantly different from that in 2005. Educators must be aware of the learning needs of voters and appropriate methods of facilitating voter education learning packages and have a sound knowledge of voter psychology and behaviour.

Drawing on the experience of 2005 it seems that most providers of voter education in Tanzania, including the CSOs, do not have the skills to facilitate meaningful learning. Unfortunately, donors are reluctant to finance government institutions, which do have the required expertise and experience. The electoral management bodies, the NEC and the ZEC, do not have the capacity necessary to supervise and regulate voter educators. Moreover, political parties in the country are devoting scant attention either to civic education or to voter education for their members and supporters. An inadequately informed electorate is unlikely to make rational and educated choices.

Unresolved electoral issues

Five major issues remain unresolved as Tanzania prepares for the elections. The first is the prohibition on independent candidates, a law that is, by all standards, obnoxious and that undermines democratic practice. In the Tanzanian system a candidate belongs more to his/her party than to the voters (REDET-TEMCO 2006, p 124). This anomaly not only infringes the individual's political and civic rights, it also limits and narrows the choices of the electorate. Progressive segments of society, including academics and human rights activists, have called for independent candidates to be permitted, but support from political parties and government is relatively weak. The issue is currently before the Court of Appeal, whose verdict, should it declare the ban unconstitutional, may have serious consequences for the preparations for the 2010 elections.

The second issue is conflicting interpretations of the voter registration laws in Zanzibar. The law states that a person will be considered a resident eligible to register to vote in a constituency if she/he has a permanent residence in the area or has been employed there for three years. In the registration process the interpretation of the requirement of residency has been very controversial. In many areas the narrow view of residence in a location for three years as a condition for registration has purposely been privileged over other conditions. The CUF has frequently complained that the CCM has used it as a means of disenfranchising CUF supporters (REDET-TEMCO 2006, p 25). The qualification leaves room for abuse and manipulation. Zanzibar is preparing for the 2010 elections without revisiting this issue.

Thirdly, neither the electoral laws of the Union nor those of Zanzibar provide for Tanzanians living outside the country to vote. Both the NEC and the ZEC,

as well as other key players, are silent about the need to extend voting rights to expatriate Tanzanians. This exclusion, too, conflicts with the cardinal principles of democracy and is another issue that is not being tackled in the run-up to the elections.

The fourth problem is that the country enters the 2010 election season without clear boundaries between the statutory responsibilities and political obligations of the regional commissioners (RCs), district commissioners (DCs) and shehas (in Zanzibar). Holders of these positions are politicised public servants appointed by the presidents on the basis of demonstrated loyalty to the ruling party. As such they are cadres and staunch supporters of the ruling party. They cannot refrain from acting in a partisan way during elections. Experience shows that they mobilise voters on behalf of the ruling party and facilitate the campaigns of the ruling party using state resources, including vehicles and security personnel. In 2005 they even intervened very directly in registration and campaign processes. Tanzania enters the 2010 general election season with this systemic problem that should have been addressed to the satisfaction of all stakeholders in order to have a levelled political terrain for the elections.

The fifth unresolved issue is the number of preferential seats for women. The government's commitment is to attain a 50-50 gender representation in Parliament. In the current Parliament 92 of 307 members (about 30%) are women. Taking into account the historical facts, including limited access to educational opportunities as well as under representation in decision-making, the need to attain gender balance is inescapable if democratic governance is to be realised in Tanzania. The 'fast track' approach to gender balance – suddenly increasing special seats for women from 30 to 50 per cent – is not the best strategy for the country or for democracy. Experience has shown that elite women in urban settings will get more seats than poor rural women. Gradual and deliberate strategies are required to empower women through competitive elections in constituencies.

READINESS OF POLITICAL PARTIES FOR THE ELECTIONS

Political parties need to make the necessary preparations in order to win the confidence and trust of the electorate. They are expected to recruit candidates for various positions, prepare election manifestos, deliver civic and voter education, prepare their supporters and members to participate in the electoral process, and canvass votes using legally acceptable means.

Anecdotal evidence reveals concerted and serious efforts on the part of the ruling party, the CCM, to prepare for the forthcoming elections. The party has initiated fundraising projects and has a comprehensive budget – it plans to spend about TSh50-billion on the election. More people are publicly declaring their

intention of standing on CCM tickets than are expressing their intention to contest elections under the auspices of opposition parties. However, the preparations of opposition parties generally seem to lack serious vigour. Anecdotal evidence reveals that most opposition political parties in Tanzania have weak organisational and leadership capacity and are short on both human and financial resources.

ELECTION INDICATORS: WHO GETS WHAT?

Opinion polls

Opinion polls carried out by two independent organisations, SYNOVATE (whose poll was carried out in November 2009) and Research and Education for Democracy in Tanzania (REDET – whose poll was carried out in March 2010)¹² show that the CCM still has a significant lead over the opposition parties.

Table 8
Poll results
N (the number of targeted respondents)=2600

Parties	President	MPs	Councillors
CCM	1 997 (77.2%)	1 756 (68.0%)	1 759 (68.2%)
CUF	237 (9.2%)	263 (10.2%)	273 (10.6%)
CHADEMA	109 (4.2%)	221 (8.6%)	198 (7.7%)
TLP	4 (0.2%)	5(0.2%)	5 (0.2%)
NCCR-MAGEUZI	4 (0.2%)	7 (0.3%)	5(0.2%)
CCJ	1 (0%)	2 (0.1%)	2 (0.1%)
UDP	1 (0%)	1 (0%)	1 (0%)
SAU	0 (0%)	0 (0%)	0 (0%)
JHAZI ASILIA	1 (0%)	3 (0.1%)	3 (0.1%)
CHAUSTA	1 (0%)	1 (0%)	1 (0%)
DEMOKRASIA MAKINI	1 (0%)	-	-
FORD	1 (0%)	-	-
HESITANT / UNDECIDED	224 (8.7%)	315 (12.2%)	328 (12.7%)
Total	2 586(100%)	2 581 (100%)	2 581 (100%)

Source: REDET 2010

FORD Forum for the Restoration of Democracy; CCJ Chama cha Jamii

¹² REDET is the most credible and professional political research organisation in Tanzania. Its opinion polls and predictions have, on all occasions, proved reliable in relation to the election results.

The unpopularity of opposition parties among voters is a phenomenon in Tanzania – the CCM, with its long history, including having fought for independence and having led the country since independence in 1961, has not lost its lead in the opinion polls or in general elections since the advent of multiparty elections in 1995. Both young and old members of the electorate may have acquired what the voting theorists/behaviourists refer to as ‘party identification’ behaviour, revealing that:

When an election comes along, there is an interaction between a voter’s long-term identification and various short-term influences, such as current political issues, campaign events, the personalities of leaders or candidates ... that it is the long-term factors which are usually decisive. Indeed a person’s party identification will influence how he or she interprets and evaluates issues, party leaders and so on.

Campbell, Converse, Miller & Stokes 1960, cited in Denver 2007, p 21

It is interesting to note that the party identification syndrome prevails and characterises the behaviour of an increasing proportion of Tanzania’s electorate. The voters’ traditional loyalties to a great extent explain their voting decisions and the percentage of votes garnered by political parties in general elections and, indeed, in opinion polls.

One of REDET’s questions required respondents to divulge the name of the person they would vote for in the presidential election if it were held in March 2010. About 67 per cent of respondents intended to vote for the incumbent, President Jakaya Mrisho Kikwete, who is also chairman of the CCM. About 7 per cent of respondents named Professor Ibrahim Lipumba, chairman of the CUF, with Freeman Mbowe, the leader of CHADEMA, trailing with about 3 per cent.

In this regard we concur with the Economist Intelligence Unit (2010, p 4), which reports:

As the incumbent president, Jakaya Kikwete is eligible to serve another five-year term; the Economist Intelligence Unit still believes the most likely outcome is that the CCM will choose him as its candidate. Moreover, opinion polls show that Mr Kikwete is a strong favourite to win. This reflects the fact that he is a dynamic politician by Tanzanian standards and remains popular with the electorate. Even though we believe the most likely outcome to be Mr. Kikwete’s unopposed nomination as the CCM candidate, there is a slim possibility that he will face a challenge for the nomination from within the party, which has been split by an internal rift since late 2009. Mr Kikwete is currently

trying to tread a balance between the two factions, but if he is unable to placate them both he may face a rival for the CCM candidacy, although he should still prevail.

This implies that Mr Kikwete's personal popularity and the superior resources of the CCM will give them a considerable political advantage in the elections.

Regarding the parliamentary elections, about 39 per cent of respondents intended to vote for their current members of Parliament. However, about 61 per cent revealed that they did not intend to vote for the current legislator, implying that if elections were held in March 2010 about 61 per cent of the current members of Parliament were likely to lose their seats (REDET 2010, p 10). Support for the CCM in the polls was at higher levels than that for all the opposition parties whose support has, in fact, declined, showing that they have made no significant headway in winning voter confidence.

The local government elections held in November 2009 put the CCM in a strong position. The ruling party won 91.71 per cent compared to CUF's 3.94 per cent, CHADEMA's 2.76 per cent, the UDP's 0.43 per cent and the NCCR-M's 0.32 per cent. Eight other opposition parties obtained fewer than 50 seats each of a total of 284 499 seats (PMO-RALG 2010). Taking these results into account as well as the views of voters expressed in the REDET opinion poll held in March 2010, and if the political climate remains as it is, we are in a position to predict with confidence that the CCM will win the 2010 elections on the mainland.

The concurrent elections in Zanzibar will be a closer-run contest. Whoever wins the presidency will probably find his role constrained by the requirement to work within the framework of a government of national unity (GNU) consisting of the CCM and the CUF. There is already strong support for this idea within the CUF and it seems to be growing within CCM as potentially the best way to end the long-running political tensions on the islands, which exploded into violence during the 2000 and 2005 elections. A referendum scheduled for July 2010 in Zanzibar was intended to determine whether or not the a GNU would be accepted.

CONCLUSION: TYING IT ALL TOGETHER

Elections are not a strange political phenomenon in Tanzania. The country has held them since the dawn of her independence in the context of both one-party dictatorships and competitive multiparty political systems. There was stiff competition in 1995 between the incumbent party and the opposition; free but not fair Union elections in 2000 and an aborted election in Zanzibar. In 2005 there was a considerable improvement in the management of both the Union and Zanzibari

elections, leading both international and local observers to conclude that despite a few isolated hitches the elections had been free and fair.

Significant improvements have been made by the electoral management bodies since the last general elections in order to ensure that there are appropriate legal and institutional frameworks to facilitate the smooth conduct of elections. However, a number of significant issues remain unresolved. The electoral system in its entirety needs significant reform.

The CCM and the incumbent, President Kikwete, are still popular with the electorate. Moreover, the CCM's 'tradition' is to let the incumbent president serve two terms. Opposition parties generally lack seriousness in their preparations for the elections. Their effort and strategies to recruit 'winning' candidates are somewhat weak and non-strategic, suggesting that there will be a one-party dominated legislature and a landslide victory for the CCM's presidential candidate. This is not healthy for democracy in a multiparty political dispensation. The popularity of opposition parties in the country (apart from the CUF in Pemba) has plummeted. They need to change the way they are carrying out their political work if they are to win the confidence and trust of the electorate and must enhance their image if they are to attract more members, supporters and voters.

Little has been done in Zanzibar to create the mutually acceptable legal and institutional frameworks required for free and fair elections. The legislation governing voter registration, the role of regional and district commissioners and shehas in the electoral process, and the independence of the Zanzibar Electoral Commission are but some of the critical issues contested particularly by the CUF and which have not been resolved to the satisfaction of all election stakeholders. The mistrust between the major social forces represented by the CCM and CUF, if not objectively addressed, may dent the 2010 elections, as they have done in previous years.

Political dialogue between the president of the Revolutionary Government of Zanzibar and the secretary-general of the CUF has not only opened a new chapter in the political history of Zanzibar but also paves the way for peaceful elections there. The dialogue is perhaps the best way of ending the long-running political tensions and conflict on the islands.

A recent law enacted by the Zanzibar House of Representatives empowers the ZEC to hold a referendum on the proposal to introduce a GNU in the Isles. The unfolding events and the referendum, held on 31 July, have changed the dynamics of the political environment and have created an enabling atmosphere for peaceful, free and fair elections. Taking into account that the CUF supports a GNU, and anecdotal evidence reveals that a significant number of moderate CCM members and leaders endorse the initiative, it seems the majority of Zanzibaris will vote for such a government. The concurrent elections in Zanzibar will, by and large, be a

close-run contest, much as they have been in the past. If a GNU is approved in the referendum, whoever wins the presidency will probably find his role constrained by the requirement to work within the framework of such a government.

In general, the current political climate, particularly the new development in Zanzibar referred to as 'maridhiano' (consensus), as well as the preparations by the election management bodies, the NEC and ZEC, suggest that grounds conducive to peaceful, free and fair elections are being cultivated and nurtured for the smooth running of the 2010 general elections in Tanzania.

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REVIEW

Compendium of Elections in Southern Africa, 1989-2009

D Kadima and S Booysen (eds)

Johannesburg: EISA 2009

Under the codes of conduct agreed by the Southern African Development Community (SADC) certain political norms and standards should be observed and the following principles must lie at the heart of any electoral system: broad representation of diverse political interests and population groups, inclusiveness and the political participation of key actors, political accountability of parliamentarians to the voters, and a transparent and legitimate election process and outcome. Any analysis of elections in Africa in recent years must be placed within the wider debate about democracy and its application. Yet, prior to 2003 there were few 'codified sets of agreed-upon election principles' (p 4).

More than 200 elections took place on the African continent between 1989 and 2009 and 53 of those were in Southern Africa countries; some for the first time. The dynamics of those early elections were important, as democracy needed to develop at a local level, particularly in authoritarian or transitional states where the general population had little interaction with national political processes or leaders. Results were mixed, as demonstrated by this excellent, detailed study of 14 countries (the author of each chapter follows in brackets): Angola (Miguel de Brito), Botswana (Victor Shale), Democratic Republic of Congo (Denis Kadima and Dieudonné Tshiyoyo), Lesotho (Belinda Musanhu), Madagascar (Lucien Toulou), Malawi (Catherine Musuva), Mauritius (Roukaya Kasenally), Mozambique (Zefanias Matsimbe), Namibia (Lesley Blaauw and Sydney Letsholo), South Africa (Susan Booysen and Grant Masterson), Swaziland (Deane Stuart), Tanzania/Zanzibar (Grant Masterson), Zambia (Iloa Tip, James Gadin and Maureen Moloji) and Zimbabwe (Susan Booysen and Lucien Toulou).

The *Compendium of Elections in Southern Africa, 1989-2009* provides considerable material and insights into electoral processes and the ways in which they can be subverted. In the sorry tale of Zimbabwe, for example, the power-sharing arrangement is 'unlikely to end decades of electoral manipulation' unless it considers 'the prospect of a substantial constitutional revision and long-awaited electoral reforms' (p 656), while, in relation to Angola, concerns are expressed about the dominant party, the MPLA, and 'its access to resources and the government's machinery, and the predominant role of the pro-government state-owned media' (p 54).

The Electoral Institute of Southern Africa – now the Electoral Institute for the Sustainability of Democracy in Africa (EISA), publisher of the *Compendium*, has been, and still is, an especially important organisation within the region. Denis Kadima, EISA's executive director, rightly claims that the organisation's privileged position results from it 'having been there' over the years, conducting observer missions and grassroots examinations. But it does not merely analyse the conduct of elections, it takes a broader and necessary view of the wider political environment, namely: the rule of law, the independence of the judiciary, the viability of political parties, the degree of institutionalisation of the party system, media freedom and freedom of expression, among other issues.

In their fascinating chapter on South Africa Booysen and Masterson examine in detail the impact of parliamentary floor crossing in 2005 and 2007 (a dubious and concerning procedure that took place under Thabo Mbeki's watch), revealing that the ANC increased its seats from the 279 it won in the 2004 elections to 293 in 2005. By 2007 this figure had increased to 297, giving it a massive '74.25 per cent of representation in the National Assembly' (p 443). The practice was finally outlawed in 2009.

The political party has often been seen as the weakest link in African democratisation, often lacking a constituency, political programme and financial transparency. Internal party democracy is often unknown and some opposition parties actually disband between elections. At times, dominant chiefdoms control the political sphere to such an extent that there are calls for the boycotting of elections. In Swaziland, for example, from 1998 onwards, trade unions, political parties and other elements within civil service called for such a boycott. Equally, the registration of voters can be problematic, with difficulties in obtaining national registration cards together with the strange presence of 'ghost voters' – those members of the electorate long since deceased.

Acceptance of the legitimate outcome of an election is critical in democratising states but on occasion political leaders and parties enter the electoral process with the expectation that they alone will win. Inevitably, the 'winner-takes-all' approach to elections excludes many and has given rise to calls for a greater emphasis to be placed on negotiation with other political groups / NGOs / stakeholders, as well as respect for and appropriate engagement with voters.

The *Compendium* acknowledges the difficulties and the many negative electoral occurrences, together with emerging international unease about the conduct of some elections in Africa, but makes the case that despite this 'there has usually been remarkable progress in the quality of elections in most Southern African countries' (p 8).

Dr Heather Deegan
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