



Electoral Systems, Constitutionalism and Conflict Management in Southern Africa

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Abstract

Since the onset of the democratisation process in Southern Africa in the 1990s, democracy discourses in both academic and policy-making circles have become more robust and invigorated. Although much of the attention has been largely on elections and their value to democracy, this article attempts to broaden both the theoretical and factual terrain of this interesting epistemological exchange among intellectuals and policy makers on democratisation in Southern Africa. It does this by attempting to discover the possible linkages between elections, electoral systems, constitutionalism and conflict management and show precisely how these phenomena then either enhance or undermine democratic governance. If, indeed, the theoretical and

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practical interface between these phenomena adds value to the nurturing and consolidation of democratic governance, then how best should the Southern African Development Community (SADC) states make sure that there are no reversals on the democratic governance project? In a word, how do the states ensure sustainability of the process? Conversely, if in theory and practice the interface among these phenomena seems to undermine democratic governance, then a critical question becomes that of exactly how the SADC states then need to embark on some political reforms to address and redress identified policy gaps for democratic governance. This article thus argues strongly that for democratic governance and constitutionalism to be nurtured and consolidated, SADC states need to undergo deliberate electoral system reforms. Such reform process should also aim at achieving peace and stability by ensuring constructive management of both violent and non-violent conflicts. With the benefit of hindsight, it is abundantly evident that elections in the SADC region have triggered various types of conflict, thus undermining in the process constitutionalism and constitutional rule. Arguably, the electoral reform process could act as an anchor for stable constitutional governance a key for constructive management of both violent and non-violent conflicts in the SADC region.

Introduction

That democratic governance is one of the current key development challenges facing the world in general and Southern Africa in particular brooks no controversy (Huntington 1991, Bratton & Van de Walle 1997, Ake 1996, Hyslop 1999, Ake 2000, UNDP 2002). Although the entire world has witnessed impressive progress towards democratic governance following the collapse of the ideological bipolarity of the Cold War era on a global scale and the demise of apartheid in Southern Africa specifically, enormous challenges for the nurturing and consolidation of democracy still persist. It is thus gratifying to recognise that even within the United Nations circles the issue of democratic governance is currently being made a focal policy issue with a view to influence member states to reform their political systems. It is therefore befitting that the 2002 Human Development Report of the United Nations Development Programme (UNDP) focuses its spotlight on democratic governance and human development under an appropriate theme 'Deepening

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Democracy in a Fragmented World'. In this important and timely publication, the UNDP (2002:51) aptly observes that

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

The world-wide transformation towards democratisation and commitment to democratic rule by governments and other critical policy actors has not left Africa in general and Southern Africa in particular untouched. Hyslop (1999:1) reminds us that

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

This phenomenal development, which the renowned American political scientist, Samuel Huntington (1991), prefers to term the Third Wave, has expressed itself through commitments by African governments to embrace democratic rule through various continental and regional initiatives. It was, indeed, in recognition of the momentous and epochal progress towards democratic rule in the Southern African region that the Southern African Political Economy Series (SAPES) Trust undertook a project in collaboration with the SADC Secretariat and the UNDP Regional Office, which culminated in the production of the 1998 SADC Regional Human Development Report entitled 'Governance and Human Development'. This important regional initiative was the first attempt by SADC states to produce regional human development reports and the SAPES Trust produced a second report entitled 'Challenges and Opportunities for Regional Integration' in 2000. This author was involved in both initiatives, which raised the issues of democratic governance as critical

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for sustainable human development in the region. In recognition of evident and commendable progress made in the region towards democratic governance, the 1998 Regional Human Development Report observes that the aspirations of the peoples of Southern Africa include:

- Broad participation in the process of governance and development;
- Meeting of basic material needs now that political independence has been attained;
- Consolidation of political freedom and human rights;
- Transparent electoral processes which are both free and fair at central and local government levels;
- Participation in the design and implementation of local and national programmes to ensure that their concerns and interests are taken on board;
- Representation in consultative forums to work out strategic visions for countries and to negotiate social accords or social contracts between the main players – government, business, labour and other civil society organisations – to underpin economic and social progress; and
- Good governance characterised by accountability and transparency in the upholding of the rule of law, the management of public finances, and pragmatic economic policies which ensure equitable growth and sustainable human development (SAPES/UNDP/SADC 1998:5-6).

At the continental level, the newly established African Union (AU), which was formally launched in Durban, South Africa, in July 2002, has openly committed member states to democratic governance which will be monitored from time to time through the African Peer Review Mechanism (Cilliers, 2002). Inextricably linked to this is the New Partnership for Africa's Development (NEPAD) – a continental socio-economic and political revival plan pioneered by Presidents Thabo Mbeki (South Africa), Olusegun Obasanjo (Nigeria), Abdoulaye Wade (Senegal) and Abdelaziz Bouteflika (Algeria) – which was unanimously adopted by the Organisation of African Unity (OAU) Summit in Lusaka, Zambia in 2001 and further embraced wholesale by the AU Summit in South Africa in 2002 (NEPAD 2001, Matlosa 2002, Hope 2002; Anyang' Nyong'o et al 2002). The NEPAD initiative unequivocally states that the key pre-requisites for sustainable development in Africa revolve around four initiatives as follows:

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- Peace and security initiative
- Democracy and political governance initiative;
- Economic Management and corporate governance initiative; and
- Sub-regional and regional development initiatives (NEPAD 2001).

This perspective is also shared by the United Nations Economic Commission for Africa (UNECA) based in Addis Ababa, Ethiopia, which has initiated various country studies covering almost all African states and aimed at monitoring progress towards democratic governance in the continent with the ultimate purpose of producing the first-ever continental report on governance in Africa. This report will come in handy for both the AU peer review process and the fourth African Development Forum (ADF IV) to be held under the auspices of UNECA, focusing on governance in Africa.

At the regional level, Southern African states made impressive strides towards democratic governance since the early 1990s. Zambia (1991) and Lesotho (1993) led the way through their epoch-making elections, which in the case of the former witnessed the displacement of a *de jure* one party system by a multi-party system and in the case of the latter the dislodging of a military junta by a democratic order (SAPES/UNDP/SADC 1998). A renowned democracy expert and a policy analyst for the Kellogg Foundation, Dr. Gloria Somolekae (2002:187), appropriately captures this transformation as follows:

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

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

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

It is behind this continental and regional backdrop that we are better positioned to appreciate strides made thus far by SADC member states towards democratic governance and to identify key challenges that still bedevil their political systems. Like various other parts of the world, the Southern Africa region is undergoing a profound political transformation. The era of authoritarianism of either civilian or military variety, which marked the region's political landscape during the 1960s, 1970s and 1980s, has been eclipsed by an era of political liberalisation, which has ushered in multi-party competition. However, whether political liberalisation is synonymous with democratic governance suitable for the SADC region still remains a moot point (see Matlosa 2003a). The political liberalisation underway in the region is fundamentally steeped in and steered towards the western-type liberal democracy in a majority of the states and has indeed become part of the political conditionality of aid by western multilateral and bilateral donors as well as the powerful international financial institutions such as the World Bank and the International Monetary Fund (IMF) upon whom these states so overwhelmingly depend for economic survival.

This raises quite a number of critical questions as to the form and content of democratic changes in the SADC region. Who drives the democratisation process in Southern Africa? Is liberal democracy an appropriate democratic model for the region, which is in accord with the dominant political culture in most SADC member states? If not, does the region need to steer its political system towards a social democratic model as suggested by a renowned Nigerian social scientist, the late Claude Ake (1996, 2000)? Who determines the form and substances of the democratic process? Who sets the rules for the current political change in the region? What is the role responsibility between internal forces and external actors in the process of democratisation? Do electoral systems add any value to the democratisation process and constitutionalism? Anyway, does the region need to hold regular elections for democracy and constitutional rule to be nurtured and consolidated? What are direct and indirect linkages between electoral systems and conflict in the region? Do regional states have to undergo electoral system reforms to achieve

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various objectives for democratic consolidation, especially constructive conflict management?

These are complex questions, each of which could require a separate article for a comprehensive discussion. However, for the purpose of the present discussion we will not attempt to exhaust the questions as such, but rather provide a snapshot of the main policy issues revolving mainly around elections, the electoral systems, constitutionalism and conflict management in the SADC region as a whole. We do this mindful and cognisant of the urgency of these issues, given the fact that a considerable number (five out of fourteen) of the SADC member states will hold parliamentary elections in 2004. It is thus imperative that this important debate on elections, electoral systems, constitutionalism and conflict management, which the Electoral Institute of Southern Africa (EISA) and the SAPES Trust have, to a considerable degree, begun, be continued, sustained and deepened further.

This article aims to discover possible linkages and interface between electoral systems, democratisation and conflict management, by blending theory and practice in terms of the current development in the SADC region. The discussion follows the following pattern: the next section, following these prefatory remarks, attempts to discover the interface between constitutionalism and elections for democratic governance. Section three presents an analytic discussion of the essence of electoral systems to democratic governance in Southern Africa. Section four provides a comparative analysis of various electoral systems globally and throughout the SADC region in particular. In this regard, we focus the spotlight on the more dominant electoral systems in the region, namely the constituency electoral system or what is commonly known as the first-past-the-post (FPTP) system, and the proportional representation (PR) system. Section five interrogates the possible linkages between elections/electoral systems and conflict/conflict management. The sixth section focuses the debate on efforts towards electoral systems reform in the SADC region with a view not only to deepen democratic governance and constitutionalism, but also to ensure peace and stability through constructive management of conflicts. This section is divided into two sub-sections, one outlining the Lesotho electoral system reform process and another drawing lessons from the Mauritius electoral reform efforts. The final and concluding section wraps up the discussion by summing up the key assumptions and observations made in the paper. This section, in the main, presents a rather thought-provoking (and maybe controversial too) proposal that SADC states

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should deliberately transform their electoral systems towards some form of the mixed member proportionality (MMP) system along the path followed recently by Lesotho and currently underway in Mauritius. The most compelling rationale for this proposal is that the adoption of a common electoral model for the region would deepen regional integration on the political arena, which is also a crucial determinant for economic integration (See SAPES/UNDP/SADC 1998, SAPES/UNDP/SADC 2000, Mandaza & Nabudere 2002). Furthermore, a more harmonised electoral system on a regional scale would also be helpful for the regional states to monitor and peer review each other in terms of progress (or lack thereof) towards democratisation in line with the SADC Treaty signed in Windhoek, Namibia, in 1992.

Constitutionalism and Elections

An interesting debate on constitutionalism and democracy in Africa as a whole and Southern Africa in particular has been underway since the recent past, which is somewhat linked to the political transition of the 1990s in the region (Shivji 1991, Oloka-Onyango 2001, Hyden & Venter 2001). This debate is marked by, among others, a controversy regarding the conceptualisation and definition of what exactly constitutes constitutionalism. Oloka-Onyango (2001:2) captures this controversy fairly poignantly and is thus worth quoting *in extenso*:

For many scholars, politicians and activists, the notion of constitutionalism is one that produces numerous and oftentimes conflicting responses. For some, especially the more positivist or legally minded – constitutionalism simply represents a concern with the instrumentalities of governance. These range from the constitution itself and other legally constructed documents that have been created to support it, the structures and institutions that are established under their framework. They outline ...the ‘power map’ of the particular state and the formal relationships between the governed and those who govern them. Others adopt a more nuanced and embracing view, considering constitutionalism within the much broader context of the social, economic, political, gendered and cultural milieu wherein those instrumentalities operate. *A nicely worded or eloquently phrased document means nothing if the*

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context in which it is supposed to operate is harsh and hostile – a context in which you may have a ‘constitution without constitutionalism’ (emphasis mine).

Thus, constitutionalism denotes a much more profound political process that transcends a simple adoption of a constitution by a given country. It essentially entails the existence of a political culture in a given country that translates the constitution into a living and lived experience by both the government and the governed. In a nutshell, therefore ‘constitutionalism is concerned about all the various dimensions of statecraft and governance – from the seemingly mundane, to the great and vexing issues of political and economic management in a world that has increasingly become smaller’ (Oloka Onyango 2001:3).

Although all the SADC countries have adopted constitutions of different types, the degree of constitutionalism obviously differs from one country to another. This explains, in part, the differences among the SADC states in terms of democratic governance and political stability. Constitutionalism is crucial for democratic governance in more ways than one. It ensures legitimacy of the state and acceptability or credibility of a regime’s moral title to rule. Furthermore, constitutionalism ensures the necessary confidence of the electorate in the state and government, thus adding value to political stability and the constructive management of conflicts. The linkage, or interface if you wish, between constitutionalism and elections is fairly strong for the two processes are critical for democratic governance.

Elections are governed by the constitution of a given country. The constitution thus forms a firm foundation for elections as a fair and legitimate method of selecting and replacing governments. In a word, ballots rather than bullets form a credible constitutional instrument for governance and regime change (Matlosa 2001). Besides the constitution, elections are also governed by electoral laws specifically meant to regulate the entire process from beginning to end by detailing accepted behaviour and actions of stakeholders during the pre-election period, the election or polling day and the post-election period. These rules and regulations may be reinforced by a code of conduct for political parties and other key actors during the elections. The main players that are supposed to ensure constitutionalism in the electoral process are the Electoral Management Bodies (EMBs), the government, political parties and civil society organisations. Lack of constitutionalism can severely destabilise the interrelationship among these key actors and thus undermine the value of elections to democratic governance. It is widely accepted

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that elections are a crucial, *albeit* not the only, ingredient of democratic transformation. The value of an election to a democracy is either enhanced or reduced depending on the nature of an electoral model/system being used. Whereas an election is basically a *process* of choosing leaders, an electoral system is a *method* or instrument of expressing that choice and translating votes into parliamentary seats.

As the region made strides in its transition from war and violent conflict towards peace and reconciliation in the 1990s, yet another transformation was underway: the transformation from mono-party, one-person and military rule towards political pluralism and multi-party democratic governance. Among various other key ingredients of this transformation are the holding of regular elections and electoral systems that undergird the electoral process itself. All regional states have embraced the practice of regular multi-party elections bar three, namely (a) Angola, (b) the Democratic Republic of the Congo (DRC) and (c) Swaziland. Whereas Angola and the DRC have been engulfed in protracted violent conflicts that undermined their democratic governance, Swaziland is still reeling under a ruthless dynastic regime that does not allow any space for democratic culture and practice.

While Botswana and Mauritius have managed to institutionalise regular multi-party elections predicated upon a liberal democratic model since their political independence, a majority of the SADC member states embraced multi-party elections since the 1990s. With Zambia and Lesotho leading the democratic wave in the SADC region as noted earlier, a majority of SADC member states including Tanzania, Malawi and Zimbabwe adopted multi-partyism and jettisoned *de jure* one-party rule. In countries like Namibia (1989), Mozambique (1994) and South Africa (1994) elections played a more profound role as they acted as conflict resolution instruments much as they ensured peace, reconciliation, democracy and stability. In Lesotho (1993), the election acted as a midwife for the birth of civilian rule marked by a fragile democracy following a military interregnum of about eight years. One of the major setbacks since the on-set of the democratisation process in the SADC region was the aborted election in Angola (1992), which failed to resolve the protracted violent conflict. However, following the death of the UNITA leader, Jonas Savimbi, early in 2002, prospects for peace, reconciliation and stability in Angola are much brighter and possibly elections could be held in 2004. Table 1 (see page 21) provides a snapshot of the electoral process in the SADC region since the recent past.

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Table 1: SADC Elections Calendar

| Country | Date of Last Parliamentary Election | Date of Next Parliamentary Election | Nature of Legislature | Size of Legislature | Ruling Party |
|--------------|-------------------------------------|-------------------------------------|-----------------------|---------------------|--------------|
| Angola | 1992 | 2005 | Unicameral | 220 | MPLA |
| Botswana | 1999 | 2004 | Bicameral | 47 | BDP |
| DRC | 1993 | 2005 | Dissolved | 210 | Trans. Gvt |
| Lesotho | 2002 | 2007 | Bicameral | 120 | LCD |
| Malawi | 2004 | 2009 | Unicameral | 177 | UDF |
| Mauritius | 2000 | 2005 | Unicameral | 70 | MMM & MSM |
| Mozambique | 1999 | 2004 | Unicameral | 250 | FRELIMO |
| Namibia | 1999 | 2004 | Bicameral | 104 | SWAPO |
| Seychelles | 1998 | 2003 | Unicameral | 35 | SPPP |
| South Africa | 2004 | 2009 | Bicameral | 400 | ANC |
| Swaziland | 1998 | 2003 | Bicameral | 65 | Exec.Monarch |
| Tanzania | 2000 | 2005 | Unicameral | 231 | CCM |
| Zambia | 2001 | 2006 | Unicameral | 159 | MMD |
| Zimbabwe | 2000 | 2005 | Unicameral | 150 | ZANU-PF |

Source: SAPES Trust Data Bank

| | |
|---------|---|
| MPLA | Movement for the Popular Liberation of Angola |
| BDP | Botswana Democratic Party |
| LCD | Lesotho Congress for Democracy |
| UDF | United Democratic Front |
| MMM | Mauritian Militant Movement |
| MSM | Militant Socialist Movement |
| FRELIMO | Front for the Liberation of Mozambique |
| SWAPO | South West Africa People's Organisation |
| SPPP | Seychelles Peoples' Progressive Party |
| ANC | African National Congress |
| CCM | Chama Cha Mapinduzi |
| MMD | Movement for Multi-Party Democracy |
| ZANU-PF | Zimbabwe African National Union Popular Front |

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

- they provide a routine mechanism for recruiting and selecting individuals to occupy seats in representative institutions;
- they provide periodic opportunities to review the government's record, assess its mandate, and replace it with an alternative;
- they accord the elected government domestic and international legitimacy as well as moral title to rule; and
- they also act as agents of political socialisation and political integration, providing a unifying focus for the country (Jackson & Jackson 1997:366).

Elections take place on the basis of certain accepted procedures, rules and modalities that are peculiar to individual countries in Southern Africa. It is a combination of the legal and the institutional framework for elections. The legal and institutional set-up is commonly referred to as the *administrative system* of elections. The management and administration of elections is commonly the responsibility of the election management bodies as depicted in table 2 (see page 23).

The administrative framework is combined with the procedures, rules and regulations that govern the manner in which voters exercise their choice and legislators occupy their seats in parliament. A combination of these procedures, rules and regulations is commonly referred to as the *electoral system*. Although this paper does touch on the administrative machinery for elections where appropriate, it focuses primarily on the electoral system. The choice of an electoral system is crucial for the credibility of the electoral process, the acceptability of the election outcome and, of course, the legitimacy of rule itself. To be sure, the credibility of the process, the acceptability of the outcome and internal and international legitimacy of the rulers are all important ingredients for political stability in any given country. Whereas elections simply accord the electorate a right to choose their representatives in the legislature, the electoral system sets specific systemic rules, which determine 'who votes and how votes are counted' (Jackson & Jackson 1997:371). An electoral system, thus, determines the manner and pattern in which votes are matched with the allocation of seats in parliament. An electoral

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Table 2: Electoral Management Bodies (EMBs) in the SADC Region

| Country | Nature of EMB | Nature of Appointment | Tenure |
|--------------|----------------------------------|---|--|
| Angola | – | – | – |
| Botswana | Independent Electoral Commission | Nominated by an all-party Conference | No term limit |
| DRC | Independent Electoral Body | Transitional Government | 2 years |
| Lesotho | Independent Electoral Commission | Estab. by the Constitution & appointed by the King | 3 years |
| Malawi | Independent Electoral Commission | Estab. by the Electoral Commission Act & appointed by the President | Term ends 30 days after election results |
| Mauritius | Electoral Supervisory Commission | Estab. by the Constitution | 5 years |
| Mozambique | National Electoral Commission | Estab. by the electoral law | Term ends 120 days after elections |
| Namibia | National Electoral Commission | Estab. by the Constitution & appointed by the President | 5 years |
| Seychelles | One Commissioner | Estab. by the Constitution & appointed by the President | 7 years |
| South Africa | Independent Electoral Commission | Estab. by the Constitution & appointed by the President | 7 years |
| Swaziland | Electoral Committee | Appointed by the King | – |
| Tanzania | National Electoral Commission | Estab. by the Constitution & appointed by the President | 5 years |
| Zambia | Independent Electoral Commission | Estab. by the Constitution & appointed by the President | 7 years |
| Zimbabwe | Electoral Supervisory Commission | Estab. by the Electoral Act & appointed by the President | – |

Source: Electoral Institute of Southern Africa

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system is therefore, 'a method of converting votes cast by electors into seats in a legislature. Electoral systems thus are practical instruments through which notions such as consent and representation are translated into reality' (Asmal & De Ville 1994:2).

The Essence of Electoral Systems for Democracy in Southern Africa

An electoral system refers to a method that a given country adopts for choosing national leaders. It encompasses procedures, rules and regulations for the electorate to exercise their right to vote and determines how elected Members of Parliament (MPs) occupy their allocated seats in the legislature. Procedures, rules and regulations governing elections are commonly defined by both national constitutions and specific electoral laws. The administrative obligations and management of elections are the responsibility of specific public institutions (see table 2) tasked for that either as government departments (as in Zimbabwe) or as independent electoral commissions (as in South Africa). There are many electoral systems throughout the entire world and there is little consensus as to which is best for democratic governance and political stability. Each country adopts an electoral system that best suits its own political traditions, culture, history and party systems. As Jackson and Jackson (1997:371) aptly observe, 'each political system offers certain benefits and disadvantages in terms of the representation of different groups in society'.

There exist on a global scale four main types of electoral systems, namely single-member plurality (SMP), single-member majoritarian (SMM) and proportional representation (PR) and the mixed members proportionality (MMP) with multiple variations within and permutations amongst them. The essence of each of these systems is summed up in table 3 (see page 25) highlighting their distinctiveness in terms of constituency representation and party representation.

The political history of Southern Africa and the concomitant political culture have had an overbearing imprint and impact on the nature of electoral systems that individual states have adopted since the independence period. A majority of the Southern African states were under the British colonial rule and upon independence they adopted the Westminster constitution and political arrangement that go with it. It should then be noted that very few

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Table 3: Types of Electoral Systems and Representation

| Electoral System | Constituency Representation | Party Representation |
|---|---|---|
| Single-Member Plurality | <ul style="list-style-type: none"> • Maintains traditional link between representative and constituents • Representatives often elected on a minority of total votes (Wasted vote thesis) | <ul style="list-style-type: none"> • Distortion of votes/seats ratio • Minor parties disadvantaged unless support is regionally concentrated • Discourages multiplication of parties; tendency to two-party system; one party; dominant party system |
| Single-Member Majoritarian (a) Alternative Vote (b) Second Ballot | <ul style="list-style-type: none"> • Both maintain traditional link between representative and constituents • In both cases Representatives usually elected by a majority | <ul style="list-style-type: none"> • Distortion of votes/seats ratio • 'Wasted vote' thesis does not apply; small parties survive even if unsuccessful • Tendency toward multi-party system |
| Proportional Representation (a) Party List (b) Single Transferable Vote | <ul style="list-style-type: none"> • Individual representatives usually owe election more to party than to voters • Representatives forced to compete for 'first preference' votes | <ul style="list-style-type: none"> • Approximate congruence between vote shares and seat allocations • Minor parties usually gain 'fair' representation; easy entry for new parties • Tendency toward multi-party systems |
| Mixed Plurality/Proportional Representation = Mixed Member Proportionality | <ul style="list-style-type: none"> • Maintains traditional link between representative and constituents | <ul style="list-style-type: none"> • Approximate congruence between vote shares and seat allocation • Minor parties usually gain 'fair' representation |

Source: Jackson & Jackson 1997

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Southern African states have thus far taken a deliberate effort to adopt an electoral system of their own choice involving internal popular consultations. These include South Africa, Namibia and recently Lesotho. The rest of the SADC member states operate electoral systems that are part of the legacy of the inherited political and constitutional arrangements left behind by the departing colonialists in the 1960s. Consequently, the British SMP or the FPTP electoral system has become a dominant political feature of elections in the SADC region given that Britain was indeed a dominant colonial power in the region. Table 4 (see page 27) vividly illustrates different electoral models used in the SADC region.

It is worth noting that the electoral systems that Southern African states have adopted are not a product of public debate and broadly based internal political consensus. The stark reality is that electoral systems in the region were 'generally hardly ever debated and carefully chosen on the basis of consensus among political players and the population at large' (Molutsi 1999:9-10). Independent Southern African states have simply inherited these systems from the colonial rulers together with other constitutional frameworks (Matlosa 1999). It is not surprising therefore, that out of 14 SADC states, eight operate the FPTP system, given that Britain was a dominant colonial power in the region. Only four member-states of SADC, namely Mozambique, Namibia and South Africa have adopted the PR, while three others operate some hybrid of the FPTP and PR combined together. These are Lesotho, Mauritius, and Seychelles. Distinctions between the FPTP and PR as dominant electoral systems in Southern Africa are worth considering. It is to these that the next section focuses our attention.

The First-Past-the-Post and List-Proportional Representation Electoral Systems: A Comparative Perspective

The First-Past-the-Post System (FPTP)

The FPTP or SMP system is the simplest of the electoral systems in the world. It is also the commonly used electoral model drawing from the traditions of liberal democracy in the United Kingdom, the United States of America and Canada. Of all 52 states in Africa, 18, mostly former British colonies, use the FPTP electoral system. In the Southern African region this system is used by Botswana, the DRC, Lesotho, Malawi, Tanzania, Swaziland, Zambia and Zimbabwe.

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Table 4: Electoral System, Size of Legislature & Nature of Representation

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

Source: SAPES Trust Data Bank

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

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This usually results in intra-party squabbles, faction fighting and at times even a rupture of parties into fragmented splinter groups (witness this problem in Lesotho, 1998, and Zimbabwe, 2000). Disgruntled party faithfuls have had to stand as independent candidates while in some instances parties have made a ruling that they will not place candidates because the disagreements had not been resolved even by the courts of law. Third, this electoral system allows for independent candidates to contest elections in their own right. Fourth, the winner of an election contest in any constituency may secure a simple plurality of votes and not necessarily the majority of votes and this leads to winners by minority votes both at the constituency level as well as the national level. Both the candidates and parties that endorse candidates do not need absolute majority of votes to form a government. This situation leads to the all-pervasive problem of 'wasted votes' whereby a considerable proportion of votes does not form part of the calculation for the election outcome. There is no more vivid demonstration of a minority government brought about by the FPTP system in recent history than the 2001 parliamentary election in Zambia. Table 5 (see page 29) depicts a situation in which the ruling Movement for Multi-party Democracy (MMD) won the election on a paltry 44 per cent. Surely if a government wins an election on less than 50 per cent of total valid votes, this simply becomes a pyrrhic victory and amounts to disenfranchisement and wasted votes.

For instance, Lesotho's 1998 election and Botswana's 1999 election outcomes ignored the choice of almost 40 per cent and 46 per cent respectively due to this system. Furthermore, this situation has undermined legitimacy of governments in the region leading to major conflicts as the Lesotho case clearly demonstrates. The 1965 pre-independence election in Lesotho delivered a marginal victory for the Basutoland National Party (BNP), which won the election race on a minority vote of about 42 per cent of the total valid votes. It was no wonder that the BNP government suffered a severe legitimacy crisis afterwards. Hence the party was defeated by the opposition Basutoland Congress Party (BCP) in the subsequent election of 1970 in which the BCP won 50 per cent of the total valid votes. However, the ruling party annulled the election, declared a state of emergency and institutionalised authoritarian rule between 1970 and 1986 when it was dislodged from power by the military.

Fifth, given the very nature of this system, it tends to unduly advantage dominant parties either leading to a one-party/dominant party system or a two-party system (duopoly). In the case of the dominant party scenario, witness for instance how the Botswana Democratic Party (BDP) has managed to stamp

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Table 5: Zambia Parliamentary Election Results, 2001

| Party | Seats | % |
|--|------------|------------|
| Agenda for Zambia (AZ) | 0 | 0 |
| Forum for Democracy and Development (FDD) | 13 | 9.1 |
| Heritage Party (HP) | 4 | 2.8 |
| Movement for Multi-party Democracy (MMD) | 62 | 43.7 |
| National Christian Coalition (NCC) | 0 | 0 |
| National Leadership for Development (NLD) | 0 | 0 |
| Patriotic Front (PF) | 1 | 0.7 |
| Social Democratic Party (SDP) | 0 | 0 |
| United Party for National Development (UPND) | 47 | 33.1 |
| United National Independence Party (UNIP) | 12 | 8.5 |
| Zambia Alliance for Progress (ZAP) | 0 | 0 |
| Zambia Republican Party (ZRP) | 2 | 1.4 |
| Independents | 1 | 0.7 |
| Total | 142 | 100 |

Source: Electoral Institute of Southern Africa

its political hegemony through this system in Botswana, yet the country has not been subjected to major political conflicts. Table 6 (see page 30) illustrates the election results in Botswana between 1965 and 1999. Three important observations are worth noting from these data. The first is that since the first election to date, the BDP has entrenched its political hegemony over the Botswana polity through some form of a de facto one-party system. The second is that representation of parties in the Botswana national assembly is certainly not broadly inclusive and this also undermines oppositional politics. The third is that the unfettered political hegemony of the ruling BDP and the marginalisation of opposition parties tend to trigger a feeling of bitterness on the part of opposition politicians, and lack of confidence in the system which in the case of Lesotho has also resulted in overt violent conflicts.

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Table 6: Botswana Parliamentary Election Results, 1965–1999

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

Source: Molomo 2000

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

Despite the fact that the FPTP electoral system in Botswana has not really led to open violent political conflicts, it has ensured and entrenched the dominant party system in a way that excludes and marginalises other key actors in the political system. In this manner the foundations of Botswana’s world-acclaimed liberal democracy still remain shaky. This explains in part Molomo’s recent critique of Botswana’s electoral model. In his own words ‘there are growing concerns in Botswana that while the FPTP electoral system has consolidated electoral competition in the country, it has in many respects denied the electorate the chance to shape their political future... Democracy is...’. about ensuring that electoral outcomes reflect the will of the people. The FPTP electoral system has fared poorly in this regard’ (Molomo 2000:109).

It is on the basis of the deficiencies of the FPTP that observers, including Molomo himself, have raised profound arguments for Botswana to reform its electoral system. According to Molomo (2000:118), ‘what is desirable is the formulation of an electoral model that provides for an effective link between MPs and their Constituencies and also one that allocates seats

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in proportion to the popular vote'. His suggestion for an ideal alternative electoral model is the adoption of the MMP electoral system akin to the one that Lesotho has just adopted. For Botswana, this could mean that the current 40 constituencies are retained and contested on the basis of the FPTP to retain the accountability element, then the proportionality element could be addressed by introduction of say 20 more seats 'allocated on the basis of the party poll of the popular vote. This system would address both issues of linking MPs to particular constituencies and constituting a representative Parliament' (Molomo 2000:118).

Exactly the same way as in Botswana, the FPTP system has ensured a de facto one-party system in Lesotho as table 7 (see page 32) clearly depicts. More importantly though, is the fact that unlike in Botswana where the one party hegemony has been sustained and reproduced under conditions of political stability, in Lesotho the reverse has been the case until the electoral reform of 2002. The difference between Lesotho and Botswana in terms of political stability, despite a common electoral system, surely has to do with other factors, principally (a) resource endowment, (b) political culture and (c) institutionalisation of governance. All three factors have stood Botswana in good stead and nurtured its liberal democracy, which today is widely acclaimed globally. In the case of Lesotho, lack of resources, political intolerance and personalisation of governance have reinforced violent conflicts.

Table 7 (see page 32) demonstrates how the FPTP system can also lead to a one-party parliament (particularly the 1993 elections outcome), disenfranchising a considerable number of voters with adverse effects for democratisation and political stability. Although the conflicts that engulfed Lesotho after the 1993 and 1998 elections emanated from a multiplicity of factors, the electoral system had its share of this instability, hence the government and the interim political authority have agreed on the reform of the electoral model towards the MMP system. This author contributed directly to the debate around Lesotho's electoral reform and was one of the proponents for the adoption of the MMP.

Although the FPTP system is conventionally regarded as critical for ensuring political stability of the political system because it does not lend itself to coalition governments, in other countries it has helped accentuate already existing conflicts as in Lesotho in 1993 and 1998 and in Tanzania in 2000. It is interesting though to note that the same system has not triggered major political conflicts in Botswana for instance. The most interesting

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Table 7: Election Results in Lesotho, 1965–2002

| Year | Main Parties | No. of Votes | % Votes | No. of Seats |
|-------------------------------------|---------------------|---------------------|----------------|---------------------|
| 1965 | BNP | 108 162 | 41.6 | 31 |
| | BCP | 103 050 | 39.7 | 25 |
| | MFP | 42 837 | 16.5 | 4 |
| | Total | 259 825 | 100.0 | 60 |
| 1970 election annulled | BCP | 152 907 | 49.8 | 36 |
| | BNP | 120 686 | 42.2 | 23 |
| | MFP | 7 650 | 7.3 | 1 |
| | Total | 285 257 | 100.0 | 60 |
| 1993 | BCP | 398 355 | 74.7 | 65 |
| | BNP | 120 686 | 22.6 | 0 |
| | MFP | 7 650 | 1.4 | 0 |
| | Total | 532 978 | 100.0 | 65 |
| 1998 | LCD | 355 049 | 60.7 | 79 |
| | BNP | 143 073 | 24.5 | 1 |
| | BCP | 61 793 | 10.5 | 0 |
| | MFP | 7 460 | 1.3 | 0 |
| | Total | 582 740 | 100.0 | 80 |
| 2002 | LCD | 304 316 | 54.8 | 77 |
| | BNP | 124 234 | 22.4 | 21 |
| | BAC | 16 095 | 2.9 | 3 |
| | BCP | 14 584 | 2.7 | 3 |
| | LPC | 32 046 | 5.8 | 5 |
| | NIP | 30 346 | 5.5 | 5 |
| | LWP | 7 788 | 1.4 | 1 |
| | MFP | 6 890 | 1.2 | 1 |
| | PFD | 6 330 | 1.1 | 1 |
| | NPP | 3 985 | 0.7 | 1 |
| | Total | 554 386 | 100.0 | 118 |

Source: Matlosa 2003b

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Table 8: Zimbabwe Parliamentary Election Results, 2000

| Party/Representation | Seats | % |
|---|------------|------------|
| Zimbabwe African National Union Popular Front (ZANU-PF) | 62 | 51.7 |
| Movement for Democratic Change (MDC) | 57 | 47.5 |
| ZANU-Ndonga | 1 | 0.8 |
| Non-constituency Parliament Members | 12 | – |
| Provincial Governors | 8 | – |
| Chiefs | 10 | – |
| Total | 150 | 100 |

Source: Electoral Institute of Southern Africa

outcome of this system so far in the region is the ushering in of a possible two-party (duopoly) system scenario in the recent general election in Zimbabwe (see table 8).

Of the total 120 elected parliamentary seats, the ruling ZANU-PF won a simple majority of 62 seats (about 49 per cent of the total valid votes) while the main opposition, the Movement for Democratic Change (MDC), secured 57 seats (about 46 per cent of the total valid votes). ZANU-Ndonga came third with only one seat and less than 1 per cent of the total valid votes. Only time will tell whether Zimbabwe will evolve into a two-party (duopoly) system as this outcome seems to suggest. It is worth noting, though, that since the 2000 election, a lot of by-elections have been held in both urban and rural constituencies, which the ZANU-PF has won, thereby reducing the MDC seats to about 52 – a development that has prospects of giving the former a two-third majority in the legislature and thus vesting it with power to amend the constitution on its own. The challenge for the ZANU-PF as a dominant and hegemonic party is to play a politics of accommodation that allows room for divergent opinions – even those highly critical of its own policies within the framework of multi-partyism. On the part of the MDC, the major challenge is to prove itself beyond the election that it is a viable, vibrant and sustainable opposition party able to engage the dominant party constructively within the framework of politics of consensus. Both parties will play a crucial role to either make or break the seemingly emergent two-party (duopoly) system in

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Zimbabwe from which the region could learn significant lessons. Prospects for a vibrant two-party system in Zimbabwe, however, look rather remote, given the profound political polarisation of the country's social fabric.

Sixth, the FPTP is also known for its marginalisation of smaller parties as it entrenches the hegemony of either one or two dominant parties. This feature has implications for the inclusivity and representivity of the legislature in its law-making and decision-making functions. It is generally accepted that the more inclusive and more representative the governance system, the more legitimacy will a government draw from the electorate. It is, in part, due to this system that opposition parties are generally weak, ineffective and fragmented in the countries using the FPTP reinforcing either the one-party or dominant party situations. Equally important here is the critique that the FPTP does not increase gender equality and women's participation in the political process (Molokomme 2000). Table 11 (see page 38) vividly demonstrates this stark reality.

List-Proportional Representation (PR) System

The PR system is relatively more complex than the FPTP. It draws its inspiration from the traditions of social democracies and the number of countries that have adopted this system include, inter alia, Denmark and Sweden. Although the system has multiple variants, the commonly used one is the party-list. In Southern Africa, only Mozambique, Namibia and South Africa use the party list variant of PR.

The PR has a number of tenets and features with implications for the election outcome, democratisation and political stability. First, the whole country is considered as one single constituency for the election, hence there is no need for the delimitation of election boundaries. Rather than being a constituency-based system, it is rather an opinion-based electoral system. Put simply, voters' choices are not restricted and determined by geographically confined electoral zones, but are driven by their opinions/inclinations regarding ideologies and manifestos of contesting parties.

Second, candidates do not contest elections as individuals, but as party candidates appearing on a prepared list. This explains why in the Southern African context the PR system does not provide room for independent candidates to contest an election unlike in the case of the FPTP. Voters also do not elect individuals but political parties. The party list of candidates is 'usually equivalent to the number of seats to be filled' (Asmal & De Ville 1994:6). As Jackson and Jackson (1999:373) observe, 'essentially, ... in all

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party list systems the election is primarily to ensure that the legislature reflects the relative popularity of the parties: individual candidates are a secondary concern'.

This links to the third feature namely that after the election, members of parliament are accountable to the party rather than to voters. Hence, the PR is usually criticised for its inability to ensure the accountability of the MP to the electorate, while subjecting him/her to the dictates of the party leadership. The winner is determined by a calculation of the total proportion of votes of each party relative to the overall valid votes cast. Using a threshold for qualification of parties to enter parliament (e.g. 0.5 per cent in South Africa), qualifying parties are allotted parliamentary seats in equal proportion to their electoral strengths.

Fourthly, unlike the FPTP, the PR is reputed for encouraging more inclusive and fairly representative mechanisms of governance. The PR lends itself easily to coalition governments. Whereas coalition governments could be a recipe for political instability, if well managed, coalition governments, or what are also referred to as governments of national unity, could prove useful in building politics of consensus and compromise as the Mozambican and South African experiences clearly show. The inclusivity of the Mozambican electoral system can be demonstrated by the nature of the election outcomes in 1999 as table 9 (see page 36) illustrates.

In this way, the PR system has been found to be extremely useful as a conflict resolution mechanism especially for countries emerging from violent conflicts such as Mozambique, Namibia and South Africa (Matlosa 2001).

Witness for instance the enormous contribution of the inclusive and broadly representative PR system which first helped in the South African political transition to usher in a government of national unity following the 1994 election, and subsequently to nurture and consolidate peace, reconciliation and political stability through the second successful 1999 election. Although, of course, various other factors are at play in terms of South Africa's stable democracy, no doubt the PR has its own share of the remarkable progress that South Africa has made thus far in the management of the most protracted armed conflict in Africa and in deepening its democratic governance. Table 10 (see page 37) illustrates vividly the inclusivity and representivity of the PR system in South Africa by depicting the outcome of the 1999 election.

As a conflict resolution mechanism, this system could also serve countries like Angola and the DRC well in order to entrench peace and security at least

Table 9: Mozambique’s Election Results, 1999

| Presidential Election | | | |
|---|------------------------|-------------------------|-----------------------------|
| Party | Candidate | Total Votes Won | % of Total Votes Won |
| Front for the Liberation of Mozambique (FRELIMO) | Chissano | 2 338 333 | 52.3 |
| National Resistance Movement of Mozambique (RENAMO) | Dhlakama | 2 133 655 | 47.7 |
| Total | | 4 471 988 | 100.0 |
| Parliamentary Election | | | |
| Party/Coalition | Total Votes Won | % of Total Votes | Parliamentary Seats |
| FRELIMO | 2 005 703 | 48.53 | 133 |
| RENAMO | 1 603 811 | 38.81 | 117 |
| OTHER | 532 789 | 12.66 | – |
| Total | 4 132 303 | 100.0 | 250 |

Source: SAPES Trust Data Bank

as part of the political settlement of the war. This suggests that before the PR system could contribute positively to a constructive management of a conflict, a solid peace agreement to which all belligerent parties adhere to must be in place (Matlosa 2001). Furthermore, the system is considered conducive for enhancing gender equality in politics and increased participation of women (Molokomme 2000). In a recent study, Molokomme discovered that although PR by itself is not a sufficient guarantee for increased women’s participation in the legislature and cabinet, it was surely a catalyst for that. Table 11 (see page 38) depicts women’s participation in parliament in the SADC region and according to this table surely those countries using the PR electoral system are doing much better than those using the FPTP.

SADC states signed the declaration on Gender and Development during the 1997 summit in Blantyre, Malawi. The summit committed member states to equal gender representation in all key organs responsible for decision

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Table 10: South Africa's Election Results, 2004

| Party | Total Votes Won | % of Total Valid Votes | Parliamentary Seats |
|------------------------------------|-------------------|------------------------|---------------------|
| African Christian Democratic Party | 250 272 | 1.6 | 6 |
| African National Congress | 10 878 251 | 69.68 | 279 |
| Azanian People's Organisation | 41 776 | 0.27 | 2 |
| Christian Democratic Party | 17 619 | 0.11 | 0 |
| Democratic Alliance | 1 931 201 | 12.37 | 50 |
| Independent Democrats | 269 765 | 1.73 | 7 |
| Inkatha Freedom Party | 1 088 664 | 6.97 | 28 |
| Keep it Straight and Simple | 6 514 | 0.04 | 0 |
| Minority Front | 55 267 | 0.35 | 2 |
| Nasionale Aksie | 15 804 | 0.1 | 2 |
| New National Party | 257 824 | 1.65 | 7 |
| New Labour Party | 13 318 | 0.09 | 0 |
| Pan-Africanist Congress of Azania | 113 512 | 0.73 | 3 |
| Peace and Justice Party | 15 187 | 0.1 | 0 |
| The Employment Movement of SA | 10 446 | 0.07 | 0 |
| The Organisation Party | 7 531 | 0.05 | 0 |
| The Socialist Party of Azania | 14 853 | 0.1 | 0 |
| United Christian Democratic Party | 117 7892 | 0.75 | 3 |
| United Democratic Movement | 355 717 | 2.28 | 9 |
| United Front | 11 889 | 0.08 | 0 |
| Vryheidsfront/Freedom Front Plus | 139 465 | 0.89 | 4 |
| Total | 15 612 667 | 100.0 | 400 |

Source: www.elections.org.za

Table 11: Women in Parliament in the SADC Region

| Country | Election | Seats | Women | % Women | Electoral System |
|----------------|-----------------|--------------|--------------|----------------|-------------------------|
| Angola | 1992 | 224 | 34 | 15 | FPTP |
| Botswana | 1999 | 47 | 8 | 18 | FPTP |
| DRC | 1970 | 210 | - | - | FPTP |
| Lesotho | 2002 | 120 | 10 | 12 | Mixed |
| Malawi | 1999 | 193 | 16 | 8 | FPTP |
| Mauritius | 1995 | 65 | 5 | 8 | Mixed |
| Mozambique | 1999 | 250 | 71 | 28 | PR |
| Namibia | 1999 | 99 | 19 | 19 | PR |
| Seychelles | 1998 | 33 | 8 | 24 | Mixed |
| South Africa | 2004 | 400 | 157 | 40 | PR |
| Swaziland | 1998 | 95 | 7 | 7 | FPTP |
| Tanzania | 1995 | 275 | 45 | 16 | FPTP |
| Zambia | 1996 | 150 | 16 | 10 | FPTP |
| Zimbabwe | 2000 | 150 | 13 | 9 | FPTP |

Source: Molokomme 2000

making by the State by the year 2005. In this regard, member states committed themselves to immediately achieve at least 30 per cent representation of women in decision-making structures. It is within this context that table 11 must be understood. It is clear from the table that the top four countries in terms of high women representation in Parliament are South Africa, Mozambique, Seychelles and Namibia. Three of these operate the PR system, while one operates a mixed system. The bottom four countries in terms of women representation in Parliament are Swaziland, Malawi, Mauritius and Lesotho. It is instructive that three of these operate the FPTP system, while one operates a mixed system. A plausible argument can be made that the PR is surely a better system for the enhancement of gender equality in the

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legislature. The MMP is the next best system for this purpose too, whilst the FPTP is the worst case scenario for increased women's participation in the legislature. Furthermore, it is abundantly evident today that the PR system is more useful for constructive management of conflicts especially for countries emanating from protracted violent wars. The FPTP system has been identified as one of the various factors behind different types of both violent and non-violent conflicts in countries such as Lesotho, Zambia and Zimbabwe, although it has not necessarily triggered conflicts of such magnitude in Botswana. It is to the interface between elections and conflict that the next section now turns.

Elections and Conflict Management

One of the major challenges and threats to the on-going democratisation process in Southern Africa relates to the conflicts of various forms that mark the region's political landscape, especially violent conflicts (Ohlson & Stedman, 1994, Adedeji 1999, Matlosa 2000). Conflict is part and parcel of social change in all societies and as such it is not necessarily a negative phenomenon, but conflicts become destructive and counter-productive once they escalate into violence and belligerents resort to violent means of resolving them. It could be argued, therefore, that the major problem facing the region is not so much that there are conflicts (overt and covert, violent and non-violent) everywhere, but rather that no effective regional mechanisms have been built for constructive management of the conflicts.

Ohlson and Stedman (1994:228) observe that 'domestic conflict resolution in Southern Africa generally occurs on an ad hoc basis, in response to crises. Southern Africa's countries, with the exception of Botswana, lack the basic institutions for resolving conflict steadily and preventing conflict from turning violent'. Whereas during the cold war and apartheid the Southern Africa region was engulfed in violent inter-state conflicts mainly propelled by ideological polarisation, the current era is marked by the prevalence of resource-based intra-state conflicts. Our analysis of the root causes of conflict and instability in Southern Africa is influenced more by structuralist perspectives. At the heart of major wars in the region, according to structuralist theorists, lies what can be termed a Triangle of Conflict comprising (a) contestation over state power, (b) distribution of resources and (c) cleavages based on ideology and social identity. It is within this framework of the Triangle of Conflict that various scholars (Ohlson & Stedman, 1994;

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Ohlson, 1993) have identified the following profile/classification of conflicts that have engulfed Southern Africa:

- Conflicts associated with war termination and reconciliation (Namibia, South Africa, Mozambique and Angola);
- Conflicts over distribution (Angola, Zimbabwe and DRC);
- Conflicts over political participation (Lesotho, Botswana, Tanzania, Zambia, Malawi, Mozambique, Zimbabwe);
- Conflicts over identity and societal insecurity (in most SADC states, especially former settler colonies);
- Armed Conflicts over control of government or territory (Angola and DRC).

These various types of conflicts are not mutually exclusive from each other but are inextricably intertwined. As Ohlson (1993:247) points out, 'they feed into each other in complex webs of interdependence specific to each state. In their various manifestations all of them also have one thing in common: they concern legitimacy or, more specifically, the loss of popular legitimacy by state apparatuses due to the unwillingness or inability of government to meet expectations of citizens. They all illustrate the tendency towards a weakening of the state relative to other actors'.

The most costly and complex of these violent conflicts have engulfed two resource-rich SADC member states, namely Angola and the DRC, with dire consequences for democratisation and political stability, although prospects for peace and security in both look fairly bright lately. Sporadic violent conflicts have also occurred in Lesotho, Zimbabwe and Tanzania, linked to their recent elections. In the case of Lesotho, South Africa and Botswana intervened militarily to quell the violent conflict in 1998. Zimbabwe, Angola and Namibia have undertaken a joint military intervention in support of the Kabila government in the DRC war since 1998. The external military intervention in both Lesotho and the DRC has provoked debate around modalities and mechanisms for security co-operation in the region (Landsberg 2002). This debate has brought to the spotlight the crisis that has beset the SADC Organ for Politics, Defence and Security as a supranational structure for collective management of conflicts and promotion of democratic rule during the period 1996-2001.

There is no gainsaying that presently the Southern African region is confronted with a daunting task of nurturing and consolidating the new-found democratic governance as well as institutionalising a culture of peace and

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constructive management of both violent and non-violent conflicts. No doubt, elections are bound to play a critical role to either contain or fan conflicts of various types in the SADC region. In the words of Kumar (1998:7):

Post-conflict elections are supposed to transform a violent conflict into a non-violent one: *ballots take the place of bullets*. They are expected to enable the former warring parties to pursue their conflicting ideologies and programmes in a peaceful fashion. Elections give all factions an opportunity to present their agendas to the citizens, debate with their opponents, and mobilize public opinion to capture political power. Like other elements of democratic system, *elections contribute to the institutionalization of a conflict resolution mechanism* in the body politic (emphasis mine).

As has already been argued earlier, a majority of states operating the PR electoral system have held elections under a political condition marked by stability while those that have adopted the FPTP have experienced considerable instability. Generally, therefore the PR lends itself easily to political stability by and large, whereas, with few exceptions such as Botswana, the FPTP system does have its (un)fair share of contribution to most violent and non-violent conflicts that have beset some SADC member states such as Lesotho (Matlosa 2001, Elklit 2002). It is thus in order that the next section turns the spotlight on the challenges for electoral system reform in the SADC region with an explicit aim to nurture and consolidate democratic governance, deepen constitutionalism and ensure constructive management of the region's multivariate conflicts.

Toward Electoral System Reform: Which Way SADC?

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

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addressing election-related conflicts and war by, among other things, reforming their electoral systems accordingly.

A majority of SADC states has embraced the principle of regular multi-party elections. The dominant electoral systems used in the region are the FPTP and PR. These electoral systems differ fundamentally in terms of their essence and features as well as their impact on election outcomes and political stability needed for democratic governance. We have argued that elections and electoral systems are crucial, but not the only, ingredients for political stability and democratic governance in Southern Africa. Generally, the PR is more conducive to stability and broad representation in the process of governance than the FPTP. However, despite its multivariate defects and deficiencies, the FPTP is also reputed for enhancing the accountability of the MP to the electorate.

A reform process aimed at the adoption of an admixture of the FPTP and PR systems could stand the SADC region in good stead in terms of nurturing and consolidating democratic governance. The recent electoral system reform process in both Lesotho and Mauritius could help the region with lessons of experience in introducing the MMP as a preferred electoral model. This model is used mainly in Germany and New Zealand.

Some Lessons from the Lesotho Electoral Reform Process

Lesotho used this electoral model during the 2002 elections for the first time (see Elklit 2002). Its main tenets are as follows:

- Constituency-based seats are retained – constituency vote;
- Party-based seats are introduced – party vote;
- The total of constituency-based and party-based seats make up the legislature;
- A specific formula is developed to regulate entry into parliament and the calculation of seats (e.g. in New Zealand two conditions apply namely that (a) a party must cross the threshold of at least 5 per cent of party votes and (b) it must win at least one constituency seat). In Lesotho, the entry threshold is determined by each party's quota of total valid votes cast.
- Voting may take place on the basis of either two ballot papers or a single ballot paper. The latter is used in New Zealand and could prove convenient and cost-effective for the SADC region. Lesotho uses a

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rather cumbersome system of a double ballot which has a great potential of bureaucratising the voting process and is also costly financially.

Although I am making a strong recommendation that SADC states deliberately steer their electoral systems towards the MMP, it should be noted that this system is rather complex. This is so because it actually combines two systems into one. In fact, the most difficult aspect of this system has to do with a formula for entry of MPS into the legislative and allocation of seats. Consider for example table 12 (see page 44) which illustrates the allocation of seats on the basis of the MMP to opposition parties. Since the ruling LCD had captured 77 out of 78 contested seats, it did not qualify for compensatory seats within the MMP framework.

The allocation of seats on the basis of the MMP follows the following steps:

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

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

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Table 12: Allocation of Seats on the Basis of the New MMP System

| Party Name | Total Party Votes (valid votes) | Constituencies Won by Party | Party's Allocation of Compensatory Seats | Total No. of seats | % Party Votes (valid votes) | % Seats Won (constituency seats + compensatory seats) |
|---|--|------------------------------------|---|---------------------------|------------------------------------|--|
| Basotho National Party | 124 234 | 0 | 21 | 21 | 22.4 | 17.8 |
| Basutoland African Congress | 16 095 | 0 | 3 | 3 | 2.9 | 2.5 |
| Basutoland Congress Party | 14 584 | 0 | 3 | 3 | 2.6 | 2.5 |
| Christian Democracy Party | 1 919 | 0 | 0 | 0 | 0.3 | 0.0 |
| Khoeetsa ea Sechaba/ Popular Front For Democracy | 6 330 | 0 | 1 | 1 | 1.1 | 0.8 |
| Kopanang Basotho Party | 1 155 | 0 | 0 | 0 | 0.2 | 0.0 |
| Lesotho Congress For Democracy | 304 316 | 77 | 0 | 77 | 54.9 | 65.3 |
| Lesotho Peoples' Congress | 32 046 | 1 | 4 | 5 | 5.8 | 4.2 |
| Lesotho Workers Party | 7 788 | 0 | 1 | 1 | 1.4 | 0.8 |
| Marematlou Freedom Party | 6 890 | 0 | 1 | 1 | 1.2 | 0.8 |
| National Independent Party | 30 346 | 0 | 5 | 5 | 5.5 | 4.2 |
| National Progressive Party | 3 985 | 0 | 1 | 1 | 0.7 | 0.8 |
| New Lesotho's Freedom Party | 1 671 | 0 | 0 | 0 | 0.3 | 0.0 |
| Sefate Democratic Union | 1 584 | 0 | 0 | 0 | 0.3 | 0.0 |
| Social Democracy Party | 542 | 0 | 0 | 0 | 0.1 | 0.0 |
| United Party | 901 | 0 | 0 | 0 | 0.2 | 0.0 |
| Independents | 0 | 0 | 0 | 0 | 0.0 | 0.0 |
| Total | 554 386 | 78 | 40 | 118 | 100 | 100 |

Source: Independent Electoral Commission, Lesotho 2002

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

Some Lessons from Mauritius' Electoral Reform Process

As in the Lesotho case, Mauritius has also embarked upon a deliberate process of electoral system reform. It is interesting to note that whereas the electoral system reform in Lesotho was informed and driven more by the desire to reverse an age-old pervasive phenomenon of political instability, in the case of Mauritius the main driving motive was to entrench an already mature and relatively stable multi-party democracy. In the entire SADC region, the two main relatively mature and stable liberal democracies are surely Botswana and Mauritius. Among many internationally acclaimed attributes of the Mauritian democracy, is the holding of regular elections and hence installation of legitimate and credible government. Mauritius has thus been renowned for its constitutionally entrenched democratic tradition of regular elections since its independence in 1968. Since its independence, Mauritius has operated fundamentally a British-style FPTP electoral system. In contrast to the Lesotho FPTP, the Mauritian FPTP was improved by introduction of a compensatory mechanism known as the Best Loser System (BLS), which was an attempt to improve on the deficit of FPTP in relation to broader representation and inclusivity of the system and extend broader participation to parties in the national assembly. Despite the compensation factor introduced by the BLS, Mauritius has not been satisfied with the FPTP system in terms of value added to its democratic governance. Consequently, following protracted debate in the country, recently the government engaged a high-powered commission on 'Constitutional and Electoral Reform'. This Commission, which undertook its noble assignment during the latter part of 2001, completed its task on the 24 January 2002. The Commission comprised the following:

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- Justice Albie Sachs (South Africa) – Chairperson;
- Mr. B.B. Tandon (India) – Member; and
- Mr. R. Alnee (Mauritius) – Member.

Among many of the Terms of Reference (TORs) of the Sachs Commission (as it is now commonly referred to) were the following:

- To make proposals regarding representation in parliament on a proportional basis within the context of existing electoral system;
- To make proposals for the prohibition of communal or religious political parties.

Much the same way as we have argued in the case of Lesotho, the Sachs Commission was also unswerving in its critique of the FPTP system in that the system unduly rewards dominant ruling parties to the disadvantage of relatively smaller opposition parties. The Commission had been provided an enormous amount of evidence in this regard by a number of deponents. It is thus with no consternation that the Commission observed as follows:

... there was unanimity that the first-past-the-post system in the three-member constituency frequently produced results which were grossly disproportionate to the share of votes obtained by different parties. At times although obtaining a substantial vote, the opposition was either completely or nearly completely eliminated. Thus, in 1982 and 1995 the result was 60-0, while in 1991 and the year 2000, the presence of the opposition barely reached symbolic levels (Sachs et al 2002:13).

The most recent election held in Mauritius on the 11th of September 2000 still demonstrates the inadequacies of the FPTP. The election outcome witnessed the MSM-MMM alliance claiming state power on a paltry 51.7 per cent of total valid votes and grabbing all the 60 parliamentary seats. Although this disequilibrium is compensated for by the BLS the negative effect of the FPTP system on Mauritius' flourishing democracy still remains. Thus despite the BLS mechanism, the FPTP system still has a number of deficiencies which prompted the government in Mauritius to engage a Commission specifically to introduce a PR component pretty much towards the MMP. In its task of injecting a PR mechanism in what is essentially a FPTP System, the Sachs Commission took into account the following guiding principles:

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- fairness;
- stability;
- simplicity;
- familiarity;
- impact on national harmony and social progress (Sachs et al 2002:6).

After exploring critically several options provided by numerous deponents, the Sachs Commission proposed the adoption of an MMP System in which a proportion of Members of Parliament will be elected on the basis of the FPTP and other parliamentary seats occupied on the basis of a compensatory list PR System. The threshold for party candidates to claim seats under the PR has been set at 10 per cent of the total national vote. This was meant precisely to preserve the system of strong, broadly representative parties and to prevent the emergence of a multitude of communally-based or single-issued parties which would fragment the nation and promote governmental instability (Sachs et al 2002:19). The introduction of the MMP system in Mauritius is a positive political development for the country in that the FPTP system has generally been retained for purposes of accountability, but the PR component has been introduced in place of the BLS. The introduction of the MMP system will strengthen Mauritius' democracy in more ways than one by:

- enabling leading figures who could not contest election through the FPTP route to enter Parliament;
- facilitating greater participation of women in Parliament and government structures as a whole;
- opening awareness for disadvantaged social groups to participate in the governance process;
- eliminating possibilities for sectarian communal and religious based parties; and
- establishing mechanisms that subsume the BLS and embrace its underlying affirmative action (Sachs et al 2002:25).

The actual workings of the new MMP system for Mauritius are as follows:

- 62 seats in the national assembly with 20 constituency seats each returning three members and Rodrigues two members;
- Introduction of a further 30 parliamentary seats contested on the basis of a list PR system;

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- Establishment of a 10 per cent threshold for parties contesting the 30 PR seats to claim seats in the national assembly;
- Election candidates would not be allowed to contest on both FPTP and PR tickets at the same time;
- Participation of women in governance should be ensured through a requirement that in each bloc of three candidates nominated for the FPTP seats at least one be a woman and that every third candidate on the list PR system be a woman (Zebra PR).

Although the Mauritian government has in principle endorsed the recommendations of the 2002 Sachs Commission, implementation of the proposed electoral system reforms is yet to be effected. It is anticipated that the new MMP system will be put into effect during the next general election scheduled for 2004.

Conclusion

There is no doubt that Southern African states have made tremendous strides towards democratic governance and constitutionalism since the early 1990s in earnest. There is also no gainsaying that since the collapse of the Cold War on a global scale and the demise of apartheid in South Africa, the conflict landscape in Southern Africa has changed radically (Baregu & Landsberg 2003). Major violent inter-state conflicts have been resolved by political means, although pockets of violent intra-state conflicts still persist. However, it is only fair to conclude that progress made in the arena of democratic and constitutional governance married with progress in the area of peace and security augur well for the region's democratisation project and institutional mechanisms for constructive management of conflicts. Thus, it is no exaggeration to posit that prospects for democratic governance in the SADC region are fairly bright. The 2002 UNDP Human Development Report conceives of democratic governance as encompassing the following basic tenets:

- Respect for people's human rights and fundamental freedoms, thus allowing them to leave with dignity;
- Allowing people to have a say in decisions that affect their lives;
- Allowing people to hold decision-makers accountable;

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- Inclusive and fair rules, institutions and practices govern social interactions;
- Institutionalising gender equality in public and private spheres of life and decision-making;
- People are free from discrimination based on race, ethnicity, class, gender or any other attribute;
- The needs of future generations are reflected in current policies;
- Economic and social policies are responsive to people's needs and aspirations; and
- Economic and social policies aim at eradicating poverty and expanding the choices that all people have in their lives (UNDP 2002:51).

Judging by the above basic tenets, it is clearly evident that democratic governance in the SADC region still needs to be nurtured and consolidated through deliberate reforms of both the political systems and electoral systems. As regards the reform of the political system, it is desirable that SADC member-states consider adopting social democracy rather than liberal democracy. The western-type liberal democracy is only adequate in sustaining formal democracy and certainly not enough for consolidation of substantive democracy in Africa as a whole and Southern Africa in particular. Africa needs to move beyond liberal democracy towards social democracy, which Claude Ake (1996:132) defined as:

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

This systemic reform has to dovetail neatly with policy reforms around electoral systems which most of the SADC states inherited from the departing colonial administration in the 1960s as part and parcel of the trappings of the western liberal democracy as it were. This process of electoral reform is precisely in accord with the SADC Treaty of 1992, which, among other things,

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commits member states to evolve common political values, systems and institutions in order to achieve stability, peace and security. Furthermore, NEPAD identifies democracy, political governance, peace and security as crucial pre-requisites for sustainable development. Pursuant to the 1992 SADC Treaty and the 2001 NEPAD, Southern African States should reform their electoral systems with a view to deepen democratic governance. In order to evolve common political values, systems and institutions, SADC states are therefore urged to consider adoption of the MMP electoral system. Although individual states should initiate the reform process, institutions such as the United Nations (UN), through the UNDP, the AU, through the UNECA, and SADC should assist this process to its logical conclusion.

It is worth noting that in fact UNECA has already begun a continental project aimed at assessing progress towards democratic governance in Africa. UNECA intends to produce the first African governance report by the end of 2002. This UNECA project investigates three main components of governance namely (a) political representation, (b) institutional effectiveness and accountability and (c) economic management and corporate governance. Electoral systems reform is bound to become an important issue to feature in this report. In order not only to deepen democratic governance in the SADC region and in this regard living up to the expectations of NEPAD as well as ensuring the successful implementation of the democracy peer review instruments of the AU and UNECA, this paper argues strongly for a deliberate electoral systems reform throughout the region aimed at a regional adoption of the MMP along similar lines as has recently happened in Lesotho and Mauritius.

It is gratifying to also note that the SADC heads of state and government during their recent Annual Summit held in Luanda, Angola on the 3rd October 2002 made a definite commitment to nurture and consolidate democracy in the region. To this end the Summit urged member states to continue with efforts 'directed at deepening and accelerating reforms to constitutional, political and electoral system to ensure that they are participatory, accountable, inclusive and predictable' (SADC 2002:2). It is worth noting that the electoral reform process in the SADC region should not be an end in itself, but rather a means to an end. Electoral system reform should aim at nurturing and consolidating democracy, deepening constitutionalism and ensuring peace and security through constructive management of conflicts.

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