

THE SYSTEM'S NOT TO BLAME?

Electoral Systems, Power and Accountability

*Report Commissioned by the Council for the
Advancement of the South African Constitution (CASAC)*

April 2015

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COUNCIL
FOR THE ADVANCEMENT OF THE
SOUTH AFRICAN
CONSTITUTION



This publication was supported
by a grant from the
Open Society Foundation for
South Africa (OSF-SA)

EXECUTIVE SUMMARY

The principle that holders of public office should be accountable to the citizenry is a key democratic value and is thus central to the values which underpin the constitution. It is often argued that democracy here would be strengthened significantly if there were greater pressures for accountability and the electoral system has often been seen as a key factor in determining whether public office bearers are held accountable.

It has long been argued in the South African debate that our current electoral system, while it ensures a much closer fit between voters' choice of party and the seats allocated in legislatures, is a key reason why political representatives are not held accountable by voters. Because politicians rely on party lists to secure their election, and these lists are compiled by party leaders, representatives, it is argued, are accountable to 'party bosses' rather than voters. This obviously implies that a different system would ensure greater accountability. It is also often argued that the State President would be more accountable if the person occupying the office were directly elected by the citizenry.

Academic work on the topic shows, however, that the link between electoral systems and accountability is not nearly as

straightforward as these 'common sense' views claims. The evidence does not support the view that direct election of representatives automatically ensures accountability – there are cases in which it does, but others in which it does not. How politicians respond to the rules established by electoral systems also depends on context – different systems will have different effects depending on a country's circumstances. Advocates of greater accountability need, therefore, to look beyond the electoral system to find ways of making it more likely that representatives will account to those who elected them. The importance of context is demonstrated by the finding that the same system as Brazil's has very different consequences in Chile and Finland. A study notes that the US, UK, India, Ghana, Zimbabwe and Kenya, all use a constituency system but with very different outcomes in each case. These are just some of the examples which show that the choice of electoral system is not nearly as important as the debate suggests – changes in electoral system can simply offer politicians new ways of doing the same things.

None of this means that the choice of electoral system is entirely irrelevant – voting systems can nudge political systems in particular directions. But it does mean that it is necessary to recognise both the limits of changing the system and the already-mentioned importance of context. In South Africa's context three factors are important in shaping the context. First, the persistence of poverty and inequality mean that the difference between serving as a local councillor and losing a seat is the difference between being middle class or living in poverty. Second, identities are important – South Africans (like voters in many other countries) vote for parties who they believe speak for their particular (racial, language, regional or cultural) group, far more than on perceptions of possible economic benefit. Third, and flowing from this, parties are far more powerful organisations and wield more influence over their members and supporters than they do in many other democracies. These factors

ensure that party politics has been less competitive than it seems: parties control geographic areas and blocs of voters and so they devote greater effort to maintaining unity in their camp than to seeking support in other blocs. And parties can win huge majorities in areas even when their voters are unhappy with them.

These factors suggest that a switch to a more majoritarian system, using constituency representation, might hold few benefits and many costs. It would remove parties from parliament, denying some identities a voice, and could make current divisions within the society more pronounced by freezing out minorities. The strength of party loyalties also suggests that it would not prevent parties ensuring that representatives account to them rather than voters. The financial dependency of many representatives would also ensure that they remain beholden to their parties. A shift to direct election would need to be extremely modest if it is not to bring negative effects - the gains it would bring are limited. Measures which are more likely to enhance accountability are recall provisions, allowing voters to remove representatives in mid-term (which would create expression for voters loyal to their parties but unhappy with their representatives), and party primaries, which would allow voters rather than party activists to choose candidates.

This last point is also relevant to the call for direct Presidential elections. While in theory it seems to open the way for direct voter choice, the context discussed here makes this highly unlikely. Presidential candidates would be sure of the bloc vote of their party's support base and the outcome would not be significantly different to the current reality. At the same time, direct election also means a change to a fully Presidential system. At present, South African presidents are accountable to Parliament, which can remove an incumbent. Direct election would shield an incumbent president and the result would be a much stronger Presidency, whose power would make accountability much less likely. Primary

elections could make a difference by allowing voters to choose a Presidential candidate while remaining loyal to their parties. The risk of this change is that it could have the same effect as Brazil's system which allows voters to choose individuals within parties unless strict controls on party and candidate financing are introduced and implemented – restrictions on political financing are crucial to efforts to ensure an accountable political order whatever electoral system is used.

Given these factors, a change in electoral system would have limited benefits and would also hold significant risks. Substantial evidence also shows that, around the world, changes in electoral system are rare – when they happen, the move tends towards greater proportional representation, the opposite direction to that advocated in this country. There is no evidence of mass support among the citizenry for a change of system, which further weakens pressures for reform. This suggests that, while CASAC and other advocates of greater accountability may wish to keep the electoral reform issue alive, they would be better advised to look elsewhere for sources of greater accountability. A campaign which seeks to encourage accountability is likely to be most effective if it looks beyond the electoral system for possible levers.

The search for strategies must take into account two crucial realities. First, the ability to hold government to account is unevenly spread within the society. More affluent groups are far better able to get government to take them seriously than the poor despite the fact that they are more likely to vote against the governing party. The poor are deprived of influence not because they are ignorant and apathetic but because they lack the power to hold office bearers to account. Second, while citizens cannot influence decisions without the vote, they are not guaranteed to do so with it unless they are organised –in all societies it is the most organised citizens who have most influence. The key to enhancing pressures for accountability lies in enhancing the power of the bulk of South

Africans to demand, through organisation, that the government account to them.

Three strategies are proposed to pursue this goal. First, supporting the right to organise of groups in townships and shack settlements who do combine to hold office holders accountable but are often subjected to harsh restrictions. Second, creating linkages between grassroots organisations and a range of power holders inside and outside government. Third, working to open information flows to grassroots citizens which would enable them to know what government and other power holders are doing, which in turn may prompt them to take action to demand accountability.

These three ideas do not remotely exhaust the possible options available to a programme seeking to enhance the capacity of local citizens to hold government accountable – they are offered more in an attempt to stimulate thought than to suggest a definitive programme. What is crucial, however, is the approach they embody – one which recognises that accountability will be elusive until most citizens are better able to insist on it. It seeks to alter power relations using methods consistent with the values of the constitution to ensure that citizens become better equipped to demand the accountability which depends far more on their own access to power than on the form of the electoral system. It seems likely that this will yield far greater benefits than excessive emphasis on the electoral system.

THE SYSTEM'S NOT TO BLAME?

Electoral Systems, Power and Accountability

The principle that holders of public office should be accountable to the citizenry is a key democratic value.

While definitions of 'accountability' are hotly debated in academic literature,¹ for practical purposes we can understand it as a key element of the core democratic principle that holders of public office govern on behalf of the people and are therefore entitled to govern only as long as the people wish them to do so. This in turn means that they should be accountable to the people who are entitled to know what office bearers do to serve them, to tell them what they should do and how they should do it, and to remove them from office if they fail to comply. Accountability is thus a core consequence of the democratic idea of rule by the people since it assumes that public office holders are, in principle, servants of the people who must report to and take instruction from those they serve. It is, therefore, also a core value underpinning the South African constitution.

1 Peter Newell and Shaula Bellour "Mapping Accountability: Origins, Contexts and Implications for Development". Brighton: Institute of Development Studies, Sussex University. (IDS Working Paper 168.) 2002

It was no doubt this realisation which prompted CASAC to commission this report. Its first task is to examine the proposition that the choice of electoral system can enhance or weaken the accountability of public representatives to voters. If the evidence suggested that accountability could be ensured by changing the electoral system, nothing further would need to be said. But it does not – the report will argue that the most an electoral system can do is to make accountability more likely. This, of course, means that the route to more accountable public representatives and office holders cannot lay only – or even, perhaps, mainly – through the electoral system. This report will, therefore, go beyond the discussion of electoral systems to propose ways in which greater accountability can be promoted outside the electoral process.

THEORY AND PRACTICE: ELECTORAL SYSTEMS AND ACCOUNTABILITY

The electoral system's effect on accountability has become the subject of a strong – almost uncontested – conventional wisdom. Besides appearing repeatedly in public discussion, it is also a strong theme in the analysis offered by democratic South Africa's only official inquiry into electoral systems, the Electoral Task Team headed by Frederick van Zyl Slabbert² (although its understanding of the issue is, in fairness, more qualified than many accounts of its report claim). And it is also found repeatedly in academic literature on the topic. The persistence of this view is odd since it is contradicted by South Africa's own experience.

This view holds that our current electoral system, closed list proportional representation, is a key reason why political representatives are not held accountable by voters. While it is usually conceded that the current system is a fairer 'reflection

2 Report of the Electoral Task Team January 2003, Government Printer, Pretoria, 2003

of the choices made by an electorate' because it awards seats to parties proportionally to their share of the vote, 'Pure First Past the Post systems (FPTP or winner takes all)... bear the potential for greater accountability to constituencies, (and) allow ordinary members of political parties and back-bench legislators greater influence in policy by virtue of the constituencies they command'.³ Because, it is said, politicians rely on party lists to secure their election, and these lists are compiled by party leaders, the system ensures that representatives are accountable to 'party bosses' rather than voters.⁴ The obvious implication – which is sometimes made explicit,⁵ is that a change to some form of direct election of people rather than parties would ensure greater accountability. It is assumed that proportional representation systems 'promote greater fairness to minority parties and more diversity in social representation' while majoritarian systems promote 'government effectiveness and accountability'.⁶

This 'common sense' view seems to rest on an obvious logic – that if voters directly choose a representative, the person selected will be more beholden to them than the party leadership. But what makes this confident assumption strange is that we have no need to speculate on the effect of a change in electoral system towards direct election – we have just that system in local government elections. And yet local representatives are those who South

3 Ebrahim Fakir 'The electoral system: Is there vice or virtue in reform?' *Daily Maverick* 22 May 2014 <http://www.dailymaverick.co.za/opinionista/2014-05-22-the-electoral-system-is-there-vice-or-virtue-in-reform/#.VO9Guo7Cc8t>

4 See for example remarks attributed to Barney Pitso in Bertha Chiroro, *Electoral System and Accountability: Options for Electoral Reform in South Africa*, KAS Johannesburg, Policy Paper No 3, January. 2008, p.1

5 Chiroro, 'Electoral System'

6 Aubrey Matshiqi *Making Meaningful Electoral Choices: Reviewing Current Debates on Reforming South Africa's Electoral System* Johannesburg, Centre for Policy Studies, Research Report 110, January 2009, p.3

Africans consider least accountable, a claim which is supported both by attitude research⁷ and by the fact that local government is repeatedly the target of citizen protest.⁸ This alone should suggest that the relationship between electoral system and accountability cannot be as straightforward as the conventional wisdom suggests.

This is not the only oft-stated view of the relationship between how government is elected and accountability. A second view, while not a conventional wisdom, is firmly held by many and appears regularly in the public debate: this is the view that the State President would be more accountable if the person occupying the office were directly elected by the citizenry.⁹ While it does not command nearly the same support among commentators and in academic literature – where a continuing dispute rages between the advocates of Presidentialism, a system in which the present is directly elected, and parliamentarism, in which the head of government is chosen by Parliament¹⁰ – it shares something with the first view. This is that it seems to express a ‘common sense’ truth: that a head of government elected directly by the citizenry

7 The 2012 Afrobarometer survey, for example, found that 51% of respondents believed that most local councillors were corrupt, the highest such response for any level of government. It found that confidence in local government had declined over the previous 4 years. Idasa, Afrobarometer, *Key Results of the Afrobarometer Round 5 Survey in South Africa* June 21, 2012

8 Karl Von Holdt, Malose Langa, Sepetla Molapo, Nomfundo Mogapi, Kindi Ngubeni, Jacob Dlamini and Adele Kirsten 2011 *The Smoke That Calls: Insurgent Citizenship, Collective Violence and the Search for a Place in the New South Africa* Johannesburg, Centre for the Study of Violence and Reconciliation, Society, Work and Development Institute, July

9 Discussed in Matshiqi 'Making Meaningful Electoral Choices' p.7

10 See for example Timothy Hellwing and David Samuels Electoral Accountability and the Variety of Democratic Regimes *British Journal of Political Science* 37, 2007, pp. 1-25

is likely to be more accountable to them than one foisted on the country by political parties. By now, it should be clear that 'common sense' understandings of how electoral systems effect politics – so routine in the South African debate – are not always supported by the evidence. The assumption that presidentialism would enhance accountability here is another example: it will be argued that direct presidential elections would make very little difference and that, if anything, they might reduce pressures for accountability. This report will now discuss these two views in turn.

The Exaggerated Merits of Direct Election

An examination of the body of academic literature on the topic suggests two key realities which shape discussion of electoral systems and their impact on accountability.

The first is that the link between electoral systems on the one hand, political behaviour in general and accountability in particular on the other, is not nearly as straightforward as the 'common sense' view claims. This is so in two related senses. One is that the evidence does not support the view that direct election of representatives automatically ensures accountability – there are cases in which it does, but others in which it does not. The other is that how politicians respond to the rules established by electoral systems depends on context. A range of factors unrelated to the electoral system may – and very often does – ensure that the effects of the system are different to those anticipated by the 'common sense' view. This means that a choice of the 'optimal' electoral system for South Africa would need to take into account the context in which that system would operate.

The second is that, even if it were possible to find an electoral system which is guaranteed to make it likely that political representative would be held to account, there is wide agreement

that no electoral system is capable of ensuring accountability on its own. Unless other factors exist which make accountability more likely, it will remain elusive regardless of the electoral system. This does not mean that the choice of electoral system is irrelevant – particular electoral systems used in a conducive context may well make accountability more likely. But it does mean that advocates of greater accountability in South Africa need to go beyond the electoral system to find ways of making it more likely that representatives will account to those who elected them.

Electoral Systems and their Impact

The debate on electoral systems often seems to be characterised by sweeping statements which fail to stand the test of careful scrutiny; ‘there are more assumptions than truly systematic findings about the effects of electoral systems’¹¹

One of them is the tendency of much of the debate – academic as well as popular – to assume that there are only two systems – proportional representation or FPTP – the plurality or majority system in which candidates are elected directly in geographic constituencies. The choice is thus assumed to be between these two options and a ‘mixed’ system which is meant to combine the two. But in reality, ‘there is an enormous variety in world-wide parliamentary election systems’.¹² PR systems vary in how proportional they really are (the formula used for translating votes into seats can be crucial) while it is possible to provide for direct election of representatives in ways which are more or less proportional. It is argued that the difference

11 Dieter Nohlen *Elections and Electoral Systems* New Delhi, Macmillan, 1996, p.23

12 Christof Hartmann ‘Paths of Electoral Reform in Africa’ in Matthias Baseda, Gero Erdmann and Andreas Mehler (eds) *Votes, Money and Violence: Political Parties and Elections in Sub-Saharan Africa* Scottsville, UKZN Press, 2007, p.147

between PR and non-PR systems is one of 'degree, not kind'.¹³ If a small number of representatives are elected from each district and a threshold is applied, PR systems can lack proportionality. This obviously complicates the debate on which electoral system is most conducive to accountability in a particular context- it would be necessary to choose not only between 'PR' and 'majoritarian systems' but for the specific form of either which would be most likely to make accountability more possible.

This insight, however, does not alter the reality that there is an inevitable trade off in the choice of system¹⁴ - the more proportionality is stressed, the less leeway there is for voters to choose individual candidates and vice versa. For example, the smaller the number of representatives elected in multi-member constituencies, the less proportional is the electoral system - systems in which each constituency elects three or four members have been described as 'more of a majoritarian electoral system than a PR system'.¹⁵ And so a frequently-cited reason for choosing a 'mixed system - that it offers 'the best of both worlds' (always an appealing prospect) - is that it does no such thing. A 'mixed system' which is largely proportional will inevitably sacrifice a degree of direct election - if it stresses direct election with a modicum of proportionality, the principle that parties should be awarded seats in direct proportion to their votes will be watered down. To advocate a 'mixed system' is thus to tell us very little unless we know in precisely what way it is to be mixed. The choice between the fairest possible match between votes and seats on the one hand, direct voter selection of public representatives on the other, cannot be fudged by a preference for both.

13 Arend Lijphart and Bernard Grofman *Choosing an Electoral System: Issues and Alternatives* New York, Praeger 1984, p.7

14 Hartman 'Paths of Electoral Reform', p.150

15 Hartman 'Paths of Electoral Reform', p.148

This is particularly relevant to the debate on South Africa's options – despite the frequency with which many participants denounce the current system, support for a 'simple majoritarian' system in which representatives are elected purely by winning more votes than any other candidate in a geographic constituency is minimal. This is illustrated, for example, by the report of the Electoral Task Team which was divided between a minority which supported the current system and a majority which proposed that 300 members of parliament be elected in 69 multi-member constituencies while 100 more seats be awarded by PR.¹⁶ To the extent that critics of the current system propose a detailed alternative – and few do – it is invariably a combination of a constituency and PR system. The mainstream debate is not one between supporters of proportional representation and a majoritarian constituency system: it is, rather, between those who wish to retain closed list PR and those who favour 'some form of constituency system...combined with a PR system'.¹⁷ But this does not make the debate over the two approaches irrelevant – a change from the present system designed to ensure greater accountability would mean at least a partial choice in favour of direct election of individual candidates. This begs the question whether this really is likely to increase the incentives for accountability.

The evidence does not support the view that directly electing representatives in constituencies necessarily makes it more likely that they will account to voters. One crude measure of accountability is the extent to which candidates lose their seats – in effect, the degree to which they are subject to the strongest form of accountability which voters can impose, which is to reject them and replace them with someone else. Using this measure, Staffan Lindberg finds that 'plurality systems in particular perform poorly indeed. The incidence of legislative turnover is about three

16 Report of the Electoral Task Team p.12

17 Report of the Electoral Task Team, p.7

times more common in PR and mixed systems than in majoritarian systems'.¹⁸ This raises doubts about the claim that direct election means greater accountability. In the US House of Representatives, for example, the accountability supposedly imposed by forcing candidates to seek re-election directly every two years is largely nullified by the tendency for incumbents to be regularly re-elected: one reason for this is the latitude these systems offer for gerrymandering – the drawing of electoral boundaries to ensure that particular parties have an unassailable majority. Accountability in these cases is often very low.

This measure is, however, fairly crude: frequent turnover of elected representatives may mean that voters are exercising power but it does not necessarily mean that their needs are being taken more seriously – they may be forced to turf out incumbents repeatedly because none of them do what most voters want them to do. Other evidence, however, confirms that weakening party bosses does not necessarily strengthen voters. A compelling illustration is Brazil, where an unusual system of PR 'gives the electorate exceptional choice in choosing individual candidates and weakens party control over candidates'.¹⁹ The rationale is the same as that of the US system of primary elections – to weaken the hold of parties and increase the powers of voters. Supporters of the single transferable vote system argue for it on the same grounds because voters are not bound by party lists. Although strictly a PR system, it would seem to ensure greater accountability because voters do directly select candidates and the effect has been to weaken substantially the influence of Brazilian parties – representatives can also change parties at will.

18 Staffan I. Lindberg, 'Consequences of electoral systems in Africa: a preliminary inquiry' *Electoral Studies* 24, 2005, p.59

19 Scott Mainwaring *Politicians, Parties and Electoral Systems: Brazil in Comparative Perspective*

Helen Kellogg Institute for International Studies, Notre Dame, Working Paper no141 - June 1990, p.6

If weakening the hold of party bosses and increasing the power of voters to choose a candidate enhances accountability, we would expect Brazilian representatives to be extremely accountable. According to an important study by Scott Mainwaring, they are not –freedom from parties has, rather, enhanced the power of money over politics: ‘Because there is such a premium on individual campaigning and because significant benefits accrue to winning, PR with an open list has encouraged massive individual spending and financial corruption.’²⁰ ‘Low citizen involvement and a lack of information give politicians latitude ‘to wheel and deal with few constraints from the electorate’²¹ He adds: ‘Through the electoral system, Brazilian political elites have institutionalized mechanisms that favor weak parties; limit accountability; and encourage personalistic, clientelistic, and individualistic styles of representation.’²² Representatives are not accountable to voters but to business interests.²³

Big money is not the only reason – the absence of party discipline means that ‘Politicians run favors and obtain resources for individuals more than groups or classes. Where representation is so individualistic, party programs and class issues are undermined, to the detriment of the popular sectors. Privileged elites gain easy access to the offices and dining tables of congressional representatives and state bureaucrats, and thus can dispense with having strong corporate representation through parties. Popular interests, however, are not effectively represented through such informal channels... the electorate cannot keep track of the performances of all of the deputies and senators, nor can it infer much about their performances and positions on the basis of party

20 Mainwaring 'Politicians, Parties and Electoral Systems' p.12

21 Mainwaring 'Politicians, Parties and Electoral Systems' p.22

22 Mainwaring 'Politicians, Parties and Electoral Systems' p.30

23 Mainwaring 'Politicians, Parties and Electoral Systems' p.31

affiliation'.²⁴ This highlights a point to which we will return – while an electoral system may offer voters accountability in theory, in practice only access to information and the capacity to organise enables voters to seize the opportunity: where these are lacking the lack of party discipline operates in favour of the powerful, not the voter. Mainwaring thus concludes: 'Electoral systems that give the electorate more of a voice in determining which people will run for office seem more democratic than those in which the party machine makes this decision. Unfortunately and counter-intuitively, comparative evidence indicates that giving voters more choice in intraparty nominations does not make parties more responsive to popular demands. At worst,... (it) may encourage ... demagoguery'.²⁵

Similar points can be made about the system in the USA, which used to be cited often as a country in which politicians were highly accountable to voters, not only because they were directly elected, but because primary elections enabled voters to choose party candidates. This latter system was introduced precisely to counter the influence of party bosses whose power 'brought ... undesirable phenomena such as patronage distribution, corruption, vote buying and limited citizen participation...'²⁶ Because candidates were not beholden to their parties, they often voted with the opposition if they believed that this is what their constituencies wanted – the choice had less to do with a deep commitment to representation than a desire for re-election. But, while this may once have been so, this pattern has weakened markedly in recent years – the influence of big money and the leverage which primaries, because they tend to attract only a small minority of voters, offer to special

24 Mainwaring 'Politicians, Parties and Electoral Systems' p.31/32

25 Mainwaring 'Politicians, Parties and Electoral Systems' p.32

26 Pat Tucker and Kathlena Walther (eds) *Electoral Systems and Accountability – Comparative Case Studies. Considerations for South Africa*, The Forum for Public Dialogue, Johannesburg, 30 June 2014, p.94

interests and rigid ideologues, has ensured a growing tendency for representatives to vote in the way in which the powerful in society and the well organised within the party want them to vote.

One consequence is to severely weaken one of the purported virtue of majoritarian systems - that they are said to produce a two party system in which both must appeal to a wide range of voters and thus avoid polarisation.²⁷ Even where parties do fit the theory, this does not mean that candidate choices are necessarily designed to ensure inclusiveness – to take a pertinent local example, the choice of provincial premiers after the 2014 local elections shows that, the more choices are made by members, the more women are excluded.²⁸ But, as noted above, they now hardly fit the theory at all. The more general effect is to ensure that a change designed to ensure greater accountability has precisely the opposite effect: ‘The candidate centred nature of America’s electoral politics has made running for elections an entrepreneurial affair. Election campaigns are expensive and funding is crucial. Politicians are thus preoccupied with the task of amassing as much financial support as they can... Reforms that sought to address the usurpation of democratic processes by party bosses ... have inadvertently opened the door for special interests to capture the electoral process.’²⁹ Indeed, not even the oft-stated truism that election in constituencies produces a two-party politics³⁰ is necessarily accurate. In India’s constituency system, it is extremely rare for any party to win enough seats to govern alone and coalitions are the norm. The reason is that local politics and power holders are very important: voter turn-out is

27 Matthijs Bogaards ‘Electoral Systems, Party Systems and Ethnicity in Africa’ in Basedau, Erdmann and Mehler (eds) ‘Votes, Money and Violence’ p.170

28 ‘Duarte lambastes ANC over single female premier’ <http://www.news24.com/elections/news/one-female-premier-unacceptable-duarte-20140520>

29 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.95

30 Chiroro ‘Electoral System and Accountability’, p.4

higher in state and local than in national elections³¹ and this gives smaller parties a solid base which enables them to play a major role. It is argued that 'instead of minority interests being stifled and their opportunities for representation, being suppressed by FPTP, the votes of minorities have greater weight because they can swing elections in favour of or against major parties... It is statistically safer to be a challenger than an incumbent... The electorate seems to have no patience with non-performance.'³² The United Kingdom may be headed in the same direction but for different reasons. A study notes that the US, UK, India, Ghana, Zimbabwe and Kenya, all use the 'first past the post' plurality system but with very different outcomes in each case.³³

This does not mean that allowing voters to choose candidates always empowers elites at the expense of voters. As mentioned earlier, context is crucial and in Chile and Finland a similar system does not have the same effects as those in Brazil: 'An open list system in the context of strong parties that have deep roots in civil society is one thing; the same system in the context of a society that had never had strong parties is quite another'.³⁴ But it does warn strongly against assuming that electoral systems will always have the effect which 'common sense' says they will. It also hints at why this is so – because in a context dominated by powerful special interests, an electoral system which seeks to empower voters may end up simply giving more power to the powerful. This raises the possibility that the context is more important than the system and that efforts to achieve accountability might be more effective if they concentrated on the context rather than the system of election.

31 Manmohan Singh Gill 'India: Running the World's biggest elections' *Journal of Democracy* 9(1), 1998, p.166

32 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.81

33 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.6

34 Mainwaring 'Politicians, Parties and Electoral Systems' p.18

It is also worth noting that, while open lists may empower voters in some cases, there is no guarantee that systems such as alternative vote and single transferable vote, which allow voters to choose candidates as well as parties will, in reality, escape the control of party leaderships. In Australian Senate elections, the single transferable vote theoretically leaves the choice of candidates up to the electorate and out of the parties' hands. In practice, however, parties issue "how-to-vote" cards to indicate their preferred order of candidates. According to Bogdanor, there has never been a case of electors ignoring these party instructions in Senate elections although they do this in state elections in Tasmania. In Italy, the parties present an initial ordering of their lists and work to ensure that their top candidates are elected. For the Christian Democrats, 100% of those who headed the list and 80% of other ranked candidates were elected, compared to only 17% of unranked candidates, whose names appear on the list in alphabetical order after the ranked candidates. For the Socialists, 96% of the heads of list and 63% of other ranked candidates were elected, compared to a mere 4% of the unranked.³⁵ Another study finds that, where voters can choose candidates from a party list, these preference votes usually work in favour of those individuals who are already higher on the list.³⁶

The lesson seems clear – where party discipline is strong, voting systems which mix PR and direct choice of candidate do nothing to weaken the hold of party leaders. Indeed, much the same can be said of constituency systems. In Ghana during the Rawlings presidency, a constituency system did not prevent his governing party leadership from controlling its elected representatives: of the 133 constituencies it won in 1996, at least 53 objected to the sitting MP for such reasons as corruption and inaction over the last four years. But the party leaders in Accra still went ahead and ignored

35 Mainwaring 'Politicians, Parties and Electoral Systems' p.16

36 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.23

their constituents, who it was said would elect 'inappropriate candidates if allowed to do so'.³⁷

These points raise an important question – whether electoral systems shape party behaviour or vice versa. The academic literature, which tends to make great claims for the power of electoral systems to shape the behaviour of politicians and parties (while often producing convincing evidence that these claims are exaggerated) insists that they do make a difference to how politicians behave.' The system influences the way political leaders conduct themselves as well as whether political parties choose to pursue politics of accommodation or division'.³⁸ Similarly, it is claimed that: 'An electoral system determines the calibre of individuals elected to office, the character of the legislature, the orientation and implementation of policy and the public's attitude to the political system as a whole'.³⁹ Claims that electoral systems matter are in one sense clearly true – the system does create rules within which politicians must operate and this prompts them to behave in particular ways. Members of parliament in closed list PR systems do not vote contrary to the party line, for example. But the claims quoted here are, the evidence shows, wildly exaggerated: Mainwaring is surely correct when, after noting that electoral systems do affect 'the ways parties organize and function internally'⁴⁰ adds that '...electoral systems have significant consequences, but they are not all-important. The relationship between politicians and parties is affected by other factors in addition to electoral legislation. Arguing that certain features of an electoral system cause specified kinds of party organization, party discipline, or relationships between parties and politicians is misleading'.⁴¹

37 Cited in Tucker and Walther (eds) 'Electoral Systems and Accountability' p.51

38 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.15

39 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.9

40 Mainwaring 'Politicians, Parties and Electoral Systems' p.3

41 Mainwaring 'Politicians, Parties and Electoral Systems' p.18

The point has been made in some of the examples cited here in which the electoral system either reinforces patterns which already exist or simply creates a set of rules within which existing patterns of behaviour must operate. The Brazilian example cited here did not prompt politicians to act in a particular way – it emerged because this is the way politicians wanted to operate. In much of Australia and Italy, open lists simply force politicians who are able to persuade voters to select the candidates they choose to do so in a different way. A study notes that, although Spain has a PR system and the United Kingdom a plurality system ‘these different systems appear to produce remarkably similar parliamentary results that privilege accountability over representation.’⁴²

In South Africa’s parliament, closed list PR does not turn all portfolio committees into rubber stamps of the executive – when internal ANC politics dictated this in the period immediately after the Polokwane conference in late 2007, these committees became vehicles for internal party battles. We have already noted that, latterly, electoral rules which supposedly create huge incentives for representatives to ignore the party line have been unable to prevent a shift towards increasing uniformity in the Republican Party. All this suggests that electoral rules might solidify existing patterns in the behaviour of politicians and the political culture but that they do not reshape it.

The point has a more general application. It should be clear by now that electoral systems often seem to do more to strengthen existing patterns than to change them. The possibility that, in some contexts, the choice of system may be virtually irrelevant is strengthened by a study of voting patterns in agrarian African societies by Joel Barkan. He found that, the higher ‘the geographic concentration of the vote, the more closely will the distribution of seats under a majoritarian system be mirrored by the distribution

42 Joe Foweraker and Todd Landman ‘Constitutional Design and Democratic Performance’, *Democratization*, Vol 9 No. 2, 2002, pp 43-66 p.58

through PR'.⁴³ This led Barkan to argue that 'a proportional system of representation does not really make much difference in agrarian societies and that a single-member district plurality system is equally good in ensuring a distribution of seats in parliament that reflects the total vote.'⁴⁴ His point is that, where voter allegiances are shaped by identities and the people who adhere to these identities tend to be concentrated in particular geographic areas, it hardly matters whether electoral systems are proportional or majoritarian – the result will be a landslide for the party which represents that identity.

While Barkan uses the argument to support the view that there is little point in abandoning majoritarian systems for PR, it could also be used to support the argument that there is no need to abandon PR for direct election by voters – it has been argued that, where voters' support for parties is based on identities and these coincide with geography, constituencies can ensure huge majorities and a consequent lack of pressure for accountability.⁴⁵ This argument is, of course, highly relevant to South Africa. While it is not an agrarian society, it fits very closely Barkan's model of a society in which voters who share the same identity are concentrated in geographic areas, ensuring very large majorities for the party which speaks for that identity.⁴⁶ While it is common to draw attention to the ANC's traditional dominance of the townships, the point applies to

43 Joel Barkan 'Rethinking the applicability of proportional representation for Africa' in Timothy Sisk and Andrew Reynolds (eds) 'Elections, and Conflict Management in Africa' Washington DC, United States Institute of Peace Press 1998 cited in Lindberg 'Consequences of electoral systems' p.45

44 Lindberg_ 'Consequences of electoral systems' p.60

45 Timothy Sisk and Andrew Reynolds (eds) 'Elections and Conflict Management in Africa' Washington DC, United States Institute of Peace Press 1998; Bogaards 'Electoral Systems' p.169

46 Steven Friedman 'South Africa: Electoral Dominance, Identity Politics and Democracy' in Renske Doorenspleet and Lia Nijzink (eds) *Party Systems and Democracy in Africa* Houndmills, Palgrave MacMillan 2014 pp. 47- 68

the suburbs too: if the votes of domestic workers are taken out of the equation, the vote for the DA in the suburbs of the major cities exceeds that for the ANC in the townships. This partly explains the ‘puzzle’ – that in SA, Mozambique, Angola, Liberia, and Namibia the (almost) pure PR system generate, or at the minimum sustain, an essentially biparty system. ‘All have a history of an entrenched conflict line between two main contenders in national politics. It is no wonder that such a trajectory leads to electoral competition along the same lines despite, and not thanks to, relatively pure PR systems’.⁴⁷ Barkan’s point raises the possibility that, as long as these realities persist, changing the electoral system would not alter in any meaningful way the pressures for or against accountability.

Some research and analysis goes further – it finds that majoritarian systems concentrate representation in the hands of two or at most three parties and exclude entirely ‘dispersed minorities – political constituencies which are geographically scattered.’ Instead of providing increased political stability and less conflict by generating fewer political parties, majoritarian systems give rise to a polarized situation. A single party typically obtains a majority exceeding two thirds of all seats.⁴⁸ This severely weakens pressures for accountability by ensuring that governing parties are under little or no pressure to retain their support base. Lindberg adds that, because majoritarian systems are based on the ‘winner takes all’ principle, they raise the stakes and increase the incentive to use ‘irregular practices’ to win.⁴⁹ In support, he cites research indicating that, in Africa, only 30% of elections in countries using majority systems were declared free and fair by observers.⁵⁰ He concludes that, in Africa, ‘Overall, PR systems are doing a better job than

47 Lindberg_‘Consequences of electoral systems’ p.55

48 Lindberg_‘Consequences of electoral systems’ p.61

49 Lindberg_‘Consequences of electoral systems’ p.44

50 Lindberg_‘Consequences of electoral systems’ p.56

majoritarian systems not only in representativity, accountability and 'democraticness' of elections but also on governing capacity'.⁵¹

It is perhaps worth mentioning that the original rationale for majoritarian systems in the literature was not that they ensure accountability but that they make governing easier by ensuring 'firm government' because the governing party has a stable majority.⁵² Given the evidence cited here, they may be better at doing that than at creating incentives for accountability. It has been argued that strong government is a necessary condition for accountability. Voters' decisions on whether to reward or punish governments at the polls 'is made easier, for example, when a single party controls the executive and/or legislative branches of government'.⁵³ Similarly '... the assignment of responsibility is enhanced when a single party has majority control of the executive'⁵⁴. More concretely, in India: 'The constant need for negotiation and consensus building as well as the time and effort spent on conciliation efforts where there are major differences among coalition partners can cause government to falter, weakening its ability to be responsive to the needs and demands of the citizenry'.⁵⁵ These propositions are hotly contested, however –that strong government by a single party enhances accountability is hardly self-evident.

Claims about an electoral system's impact on accountability also beg a question rarely addressed in the debate – accountable to whom? 'Citizens' or voters are often discussed in the debate as if they were an entirely homogenous group, who all want the same policies and government behaviours. But one of many rationales

51 Lindberg_'Consequences of electoral systems' p.61

52 Lindberg_'Consequences of electoral systems' p.44; Lijphart and Grofman 'Choosing' p.6

53 Hellwig and Samuels 'Electoral Accountability' p.3

54 Hellwig and Samuels 'Electoral Accountability' p.5

55 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.81

for multi-party democracy is that they are not: actions which satisfy one group of voters may alienate others. The point can be illustrated by imagining a South African constituency which straddles suburbs and townships. How would the representative be expected to vote on measures to divert resources from one to the other? And, while the MP may seek to square the circle by seeking to ensure adequate service provision for all constituents, it is easy to imagine many cases in which serving one section of the electorate may be seen to disadvantage the other. A skilful public representative might well find ways to navigate the minefield – but, if one or other group were so numerous that the representative was guaranteed re-election by serving one rather than another, the minority might find that their directly elected representative was very unaccountable indeed. In any event, the claims for direct election are not that it might allow representatives to adequately serve voters if they so choose – it is that it creates incentives for them to account to everyone: these examples show that this is clearly not the reality. ‘Plurality/ majority systems have traditionally been seen as having the ability to foster accountability, but this is not always the case’.⁵⁶

This problem raises an issue which further weakens the case for constituency systems and was mentioned earlier only in passing – that they create incentives for gerrymandering⁵⁷. One oft-cited example is that of the United States, in which this practice has enabled the Republican Party to control congress despite winning a minority of votes. Besides the obvious unfairness of a system which, in effect, ensures that some votes are worth more than others, this weakens accountability by eroding representatives’ incentives to account to constituents (because, of course, majorities are unassailable). It is important to stress that this problem is not escaped by opting for a mixed system,

56 Chiroro ‘Electoral System and Accountability’ p. 5

57 Lijphart and Grofman ‘Choosing’ p.7

including one in which representatives are elected in multi-member constituencies: in all these cases, boundaries may be drawn and this may be a source of unfairness which weakens pressures for accountability. In South Africa, this could be a very serious problem given that there have been violent conflicts over provincial and municipal boundaries: Anthony Butler thus warns that these conflicts 'could become endemic in a constituency-based system where real interests depend on where the boundaries are drawn'.⁵⁸

One example of a variation within electoral systems which has received some discussion in South Africa is minimum thresholds. The current system allocates seats to any party which manages to achieve the one quarter of one percent necessary to win a seat in a 400 member legislature (sometimes a little less because of the vagaries of the way in which 'surplus votes' which parties win over the 0,25% required are redistributed). Some PR systems, however, impose a minimum percentage of the vote which parties must achieve if they are to gain representation. The argument for a minimum threshold here has been put by Ebrahim Fakir who declares it 'almost intolerable' that, after the 2014 election, nine parties share 6,5% of the vote and 30 seats. He is concerned about 'excessive proliferation and fragmentation amongst "opposition"' and adds that smaller parties 'have minimal to no political impact, policy influence, or governance effectiveness'. Unless a mixed electoral system is introduced, 'those with less than 2% must go'. Fakir argues that parties with small representation 'are unable to play an effective oversight and policy role, especially where committee deliberations are more substantial than debates in plenary. Smaller parties are overstretched and frequently unable to represent their interests on key portfolios of substance'.⁵⁹ This implies that the representation of these smaller parties, while it is

58 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.110

59 Fakir 'Vice or Virtue?'

often hailed as evidence of PR's inclusiveness, inhibit accountability and adequate representation.

It is perhaps worth pointing out that thresholds are not seen in the literature as a way of ensuring that only parties with sufficient capacity to represent voters should be represented in the legislature: 'Such minimums were designed to make difficult the ascension of antisystem parties or to limit the number of parties in parliament as a means of facilitating interaction among the remaining parties.'⁶⁰ The first point is topical – the Israeli parliament has raised its threshold in an attempt to exclude Palestinian parties. It can be safely assumed that this is not what democrats have in mind when they advocate thresholds. The second criterion mentioned might seem to speak to Fakir's argument but it seems to refer to attempts by the large parties to ensure that they are not distracted by smaller rivals – the interests served are those of the bigger parties, not voters. But, while it is perfectly true that small parties don't have the resources to serve on most committees, it does not follow that they contribute little or nothing to governance, particularly if they are careful about applying their very limited resources strategically. An example in the South African context is the United Democratic Movement which recently played a pivotal role in the ultimate removal of the chair of the Independent Electoral Commission. While it is true that South African small parties often fail to use their limited leverage effectively because they harbour inflated views of their potential influence, that is a reflection on the parties, not of the system. There are also aspects of the current South African context which argue against a threshold, to which this report will return.

Some authors also advocate, as a form of ensuring accountability, a recall system which 'allows electors to remove representatives

60 Mainwaring 'Politicians, Parties and Electoral Systems' p.11

who are not accountable' before their term of office is complete.⁶¹ South Africa did have such a provision in local elections long before 1994 and the Ministry of Co-Operative Governance and Traditional Affairs was, for a time, interested in reinstated them for municipalities only. Countries which have recall provisions including the United States, Canada and Kenya.⁶² It has been argued that the Kenyan provision should be introduced here.⁶³ A possible obstacle even if political support was available is that recall has only been used where representatives are directly elected rather than on party lists: the obvious reason is that representatives can only be recalled by their electorate and, in effect, the electorate of any person elected on a party list is the entire country – it would clearly not be credible to call a national election if some voters were unhappy with a particular representative. Here, therefore, recall at any but the local level would need to be part of a wider package of reforms which included a form of constituency representation. Recall procedures are used rarely, even in the United States, where it is most frequently used: In Kenya, the requirements are extremely onerous – MPs can only be recalled during specific time windows, a very high proportion of signatures from constituents is required (30% and at least 15% in all wards) and the High Court must agree to the recall⁶⁴ ; legal specialists doubt whether a successful recall will ever happen. The recall weapon is, therefore, limited and sparing.

In sum, this discussion shows the limits of relying on electoral systems to change political behaviour in general, to ensure greater accountability in particular. It confirms the widely held view

61 Matshiqi 'Making Meaningful Electoral Choices' p.13 See also Chiroro 'Electoral System and Accountability', p.19

62 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.63

63 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.5

64 Wambui Ndonga 'Why recalling an MP is no easy task' Capital News April 24, 2013

in the literature that a new electoral system cannot guarantee accountability. While the Electoral Task Team is frequently cited in the popular debate in support of claims that a different electoral system could ensure accountability, this is not, in fact its view. On the contrary, it insisted that 'no electoral system can compel an elected representative to behave democratically, take care of a constituency or party responsibilities, or be a disciplined, dedicated member of parliament. In so far as these issues may relate to accountability, additional measures, policies, rules or regulations are needed to operate alongside or parallel with an electoral system.'⁶⁵ Matshiqi draws the obvious conclusion – that the role of the electoral system is limited and we must therefore 'look elsewhere' for 'sources of accountability'.⁶⁶ He is supported by an academic specialist on the topic: 'electoral systems are not the only factors influencing outcomes.... socio, political, cultural, and economic conditions may condition outcomes in significant ways'.⁶⁷

But it is important to stress that none of this means that the choice of electoral system is entirely irrelevant - it means only that it must be made in full recognition of the limits of this choice. To say that an electoral system cannot guarantee accountability is not to say that it cannot contribute towards it, that it cannot nudge politicians in that direction. And so many of the voices which warn against relying on an electoral system to ensure accountability also suggest that it might help in the quest. Thus the Task Team did not claim its favoured electoral system would ensure accountability

65 Report of the Electoral Task Team, p.9

66 Matshiqi 'Making Meaningful Electoral Choices' p.27

67 Dieter Nohlen. 'Electoral systems and electoral reform in Latin America' In: Ahrend Lijphart and Carlos Waisman, (eds.) *Institutional Design in New Democracies: Eastern Europe and Latin America*. Westview Press, Boulder, CO, 1996, p.45 See also: 'It is also important to bear in mind within these debates that changing the electoral system alone might not enhance accountability' Chiroro 'Electoral System and Accountability' p.20

– but it did believe that it made ‘a greater contribution’ to it.⁶⁸ A recently-published South African study finds that the electoral system can ‘make accountability easier’. What it can do is ‘facilitate behaviour ... push people in a certain direction’, if it is accompanied by other measures.⁶⁹ Fakir makes much the same point: ‘(despite) ... the use of a pure mixed system at local government level, better accountability and responsiveness has not been evident. At least, though, it bears the potential for greater accountability and responsiveness....’⁷⁰

The key point, of course, is that, despite all the evidence marshalled here to demonstrate the limits of expecting particular results from specific systems, it would be equally mistaken to lurch to the other extreme and conclude that political outcomes will be identical regardless of the electoral system. Thus comparative studies of electoral accountability (whether voters reject candidates who are performing poorly by measures such as the state of the economy) do find some patterns which suggest that systems can make some outcomes more likely, even if they are forced to be tentative and to stress that trends are valid only *ceteris paribus* (if all other factors are equal).⁷¹ The manner in which their findings are phrased sum up the reality well – electoral systems can tend in particular directions and are most likely to do so if they are strengthening existing patterns in the society. This highlights the importance of the point made earlier – that the context in which systems are introduced matters.

68 Report of the Electoral Task Team, p.21

69 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.1

70 Fakir ‘Vice or Virtue?’

71 Hellwig and Samuels ‘Electoral Accountability’; See also Lindberg_ ‘Consequences of electoral systems’

The Importance of Context

A key problem with many discussions of democratic context in Africa is that they tend to express and strengthen cultural prejudices which portray African societies, by implication, as inferior and incapable of achieving the supposedly more advanced norms of the West. The effect of these analyses is not to show how electoral democracy can best serve the context of specific countries – it is, in effect, to suggest either that the discussion is irrelevant because democracy is impossible in Africa (since the locals are either not ready for it or not cut out for it at all) or that it should take an extremely basic form lest it strain the very limited capacity of the society in question for ‘real’ democratic politics.

Thus a study of African party systems by Carrie Manning argues that they ‘are built on quite a different foundation from the one that undergirds both advanced industrial democracies and the theories about party systems generated by their experience. Instead of cross-cutting cleavages and flexible pluralism, there is political polarization and a certain fixity of cleavage lines...’⁷² Because the private sector is said to be very small in these countries, parties are said to derive their support ‘more from the promise of direct access to the state... than from the promise of economic policies that will bring growth and, indirectly, improvements in the lives of voters’. Despite the growth of democratic politics on the continent, ‘the underlying logic of politics as an elite-driven enterprise in which the right to control the assets of the state is the only prize that matters has remained’.⁷³ This in turn means that logical sounding theories about the presumed virtues of multi-partyism simply do not apply on the continent.⁷⁴ In essence, then, African democratic

72 Carrie Manning ‘Assessing African Party Systems After the Third Wave’ *Party Politics* Vol 11. No.6 pp. 707–727 p.708

73 Manning ‘Assessing African Party Systems’ p.719

74 Manning ‘Assessing African Party Systems’ p.721

politics is about leadership figures dishing out crumbs to compliant followers, not about the vigorous clash between competing interests and policies found in grown-up democracies. While Manning is more polite than many who ascribe these patterns to culture and tradition – she blames the effect of over-large states and structural adjustment policies imposed on Africa which have limited the economic policy choices of governments – the import is much the same as that of the cruder caricatures: it suggests that nothing in this report is of much interest because African democracy is likely to remain largely an illusion.

A detailed examination of this argument is well beyond the scope of this report.⁷⁵ Suffice it to say that it presents a caricature of both older and newer democracies in which the former are never prone to corruption, patronage politics and a tendency by representatives to focus on their own interests and the latter always are.⁷⁶ They ignore significant changes in Africa which have prompted a growth in precisely the independent civil society organisations which this analysis claims are non-existent and largely wish away significant differences between African democracies. Contrary to a pervasive prejudice which holds that civil society in Africa is weak and so unable to hold the state to account, one of the key trends on the continent in the past two decades has been the growth of a strong civil society in a range of countries, including South Africa – in countries such as Ghana, Kenya and Senegal, civil society has played a key role in pressing for democracy (and, by implication,

75 This author has developed the argument in Steven Friedman. *Power in Action: Democracy, Collective Action and Social Justice*. Research Report Submitted to the Institute for Democracy in South Africa and the Ford Foundation, 2007.

76 See my 'Beyond "Democratic Consolidation": An Alternative Understanding of Democratic Progress' *Theoria* Volume 58, Number 126, Spring 2011, pp. 27-55(29)

accountability).⁷⁷ They also support claims that, in countries such as the US and UK there is a 'long and established history of democracy in which leaders have been subjected to rigorous public scrutiny' which is not to be found in countries such as India, Ghana, Kenya and Zimbabwe.⁷⁸ This blithely ignores the fact, to name but one example, that in recent years the majority of members of the UK House of Commons and of the US House of Representatives have been found to be guilty of financial irregularities. The claim turns out to be as false as are all other claims that some groups of human beings are superior to others. They are also at odds with Lindberg's finding that 'the empirical analysis points to very similar effects of electoral institutions in Africa as in established democracies... Only the logic of accountability diverges from the theories of constitutional design'.⁷⁹ This does not mean that context is irrelevant but that, given the same context, African voters will act in the same way as those elsewhere. Contrary to the cultural determinants, circumstances in which the continent's voters do behave the same as those in other parts of the world do occur regularly – if they did not, researchers would be unable to examine their effects.

The approach adopted here, by contrast, is to endorse Lindberg's assertion that there is nothing essential about the African condition which prompts African voters to behave any differently to any others given the same context but to examine what factors in our specific context need to be taken into account when considering the likely effect of particular electoral systems. This needs to be approached with some care because, like those who cling to cultural biases, we may fall prey to the temptation to freeze history and

77 Vicky Randall 'Political Parties in Africa and the Representation of Social Groups' in Basedau, Erdmann and Mehler (eds) 'Votes, Money and Violence' p.93

78 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.7

79 Lindberg_'Consequences of electoral systems' p.41

politics, ignoring its propensity to change. The problem here is a tendency, sometimes not far from the surface in the South African debate, to advocate electoral systems which are designed to address current realities which may not last. Just as constitutions are not meant to deal purely with a set of immediate problems which may not exist in future, electoral systems which assume that the present will always be the future are in danger either of becoming outdated very soon or, worse, helping to reinforce for the future the realities they see in the present. The challenge, then, is to identify those aspects of the South African reality which might be expected to endure well into the future.

Three factors are worth mentioning in the South African context which seem likely to endure and to affect the way in which politics is conducted. The first is a response to Manning's argument mentioned above. On one level, it seems entirely inapplicable to South Africa since much it is based on the claim that African party politics is an attempt to access state resources in the absence of a strong private sector and an independent and vigorous civil society. South Africa has both a substantial private sector and a very loud and vigorous set of associations, even if they do not reach very deeply into the society.⁸⁰ But this is true only for part of the society – those who enjoy access to the formal economic core. ⁸¹ For many others, Manning's claim that '∴ the resources gained through access to public office – including salaries for party leaders and activists, the potential to provide various sorts of in-kind patronage to supporters, or even state subsidies for parties represented in parliament – are of vital importance ∴'⁸² rings

80 Steven Friedman 'Beneath the Surface: Civil Society and Democracy After Polokwane' in Neeta Misra-Dexter, Judith February (Eds) *Testing Democracy. Which Way is South Africa Going ?*, Cape Town Institute for Democracy in South Africa (Idasa) 2010 pp 117-141

81 Edward Webster 'The promise and the possibility: South Africa's contested industrial relations path' *Transformation* 81/82 (2013)

82 Manning 'Assessing African Party Systems' p.720/21

entirely true. But, while she argues that this applies to political parties, in our context it applies more importantly to many elected representatives. In a society in which levels of inequality remain high, in many townships and shack settlements, the difference between serving as a local councillor and losing a seat is the difference between being middle class or living in poverty. How long this is likely to persist depends on whether the country finds a sustainable response to poverty. But, even if it does, it seems likely that these realities will persist for decades even under the most optimistic prognosis. South African experience may well support Foweraker and Landman's suggestion that 'it may be time to bring dependency theory back into global comparisons of democratic performance'.⁸³ In other words, they may need to take more seriously the seemingly old-fashioned notion that how economic power is distributed in the world and the country places constraints on attempts to build democratic accountability.

The second is the importance of identities in South African party politics.⁸⁴ Essentially, South African voters have tended to vote overwhelmingly for parties which speak for their identity group – race is a key factor but so is language, region or even in some cases, culture or religion. This reality is often expressed in the popular debate by claims that black voters support the African National Congress whether or not it represents their interests. And it is perhaps best explained by pointing out what is wrong with this statement. The first problem is that strong loyalty to parties which express particular identities is not a black monopoly – it is visible among all sections of the electorate, a point underlined by

83 Foweraker and Landman 'Constitutional Design' p.58

84 Steven Friedman "Who We Are: Voter Participation, Rationality and the 1999 Election" *Politikon* November 1999

a look at election returns. The second is that it ignores the fact that significant minorities of the black electorate have supported parties other than the ANC, all of whom represent identities and what we might call sub-identities (groups within identity groups who are divided on who best represents the identity). Examples include the IFP (Zulu-speaking rural people), the UDM (people in the Mthatha area of the Eastern Cape), COPE (people loyal to the traditional ANC identity who supported former President Mbeki) and the EFF (traditional ANC supporters who support the former leadership of the ANC Youth League). The tenacity of these sub-identities can be illustrated by, for example, the case of the Independent Democrats who, before they joined the Democratic Alliance, drew most of their support from Western Cape 'coloured' voters who had previously supported the New National Party. Similar differences can be found between white voters who support the DA and those Afrikaans speakers who remain loyal to the Freedom Front Plus. Third, the sweeping generalisation, because it denies the possibility of voters shifting allegiances, fails to explain why they do change when they do. The answer is that they change when they are able to shift to a party which enables them to retain their identity. COPE and EFF supporters can still feel that they are within the ANC tradition while the DA began to grow when whites discovered they could feel as at home in the party as they had in the National Party had before 1994, to name two examples.

The salience of identities does not make South Africa particularly different to many other societies, including those in Europe and North America where voters tend to support parties who speak for 'people like us' rather than conforming to a frequent stereotype of voters as human calculators, working out which party will give them which material benefits. But it does shape political behaviour in ways which challenge some of the assumptions of those who insist that electoral systems affect voter behaviour in particular ways – it explains many of the supposed anomalies discussed

earlier (such as the fact that PR produces not coalitions but a solid majority for the party which represents the dominant identity). It is often claimed that these patterns are temporary effects of a racially divided past. But even if they were only that, they would be likely to persist for quite some time since there is no sign that racial divisions are likely to disappear any time soon (they are, after all, alive and well in the United States a century and a half after the Civil War ended slavery despite the election of a black President). But they are almost certainly much more than that since, as noted above, identity divisions affect voter behaviour in countries which have no apartheid past.

Third, and flowing from the preceding point, parties are much more important to voters here than they are in many democracies, including many new ones. Voters often see parties, even when they are angry with them, as expressions of who they are, not simply vehicles to express themselves at the polls. Voters of the various parties are clearly identifiable – they move reluctantly if at all to other parties and, if they do, they may well invest their new home with the same status as their old one (the DA is the best example here). While this too is not unique – it is still, for example, often easy to tell the difference between British Labour and Conservative voters or American Republicans and Democrats – it does tend to diverge from the experiences of many new democracies: other parallels are also societies where ‘liberation movements’ assumed office or perhaps Latin American countries where the current wave of democracy is not the first and parties survived from previous eras, taking committed vote blocs with them.

All of this has thus far combined to ensure a reality mentioned earlier – that South African party politics is not nearly as competitive as it seems. First, despite a plethora of parties, the way in which identity politics has operated has ensured that one party gets most of the votes, another lags far behind but dwarfs most of the others, and the rest represent small sub-groups of the electorate – so far the

biggest party has never received less than 62%, the second party never more than 25% and a third party no more than 8%. Second, because the persistence of apartheid-era residential patterns ensures that identity groups remain concentrated in geographic areas, there is little competition within those areas and the 'dispersed' minorities mentioned earlier are represented only as long as PR survives. To illustrate: in Johannesburg's 2011 local elections, the ANC won 80%-90% of the township vote – the one exception was a ward which includes a hostel for Zulu-speaking workers is housed; here the IFP won. In core suburban areas – those which do not include non-suburban areas – the DA's share of the vote ranged from 78-87%. Since these suburbs include domestic workers who are assumed not to vote for the DA, it seems likely that the party wins over 95% of the vote of the suburbs' property owning or renting residents (rather than those of their employees).⁸⁵

It is worth spelling out some consequences of some of these realities. One is that the chief threat to the largest party's majority is not voter desertion to a rival but an internal split (witness the drop in the ANC vote after the departure of COPE and the EFF). Much the same applies to the second largest party – the DA has tended not to lose voters to other opposition parties but to win support from them – it has become increasingly hegemonic among voters who do not come out of the ANC tradition. This means that holding parties together is a major preoccupation of party leaderships and it may explain, for example, why reforms which might encourage greater competition for office within parties are resisted: before its Mangaung conference, the ANC rejected the notion of holding internal primary elections as a concession to American colonialism.⁸⁶ It also explains why so much energy is

85 Figures calculated from Independent Electoral Commission (IEC) 2011 Local Election Results <http://www.elections.org.za/content/Elections/Local>

86 Author's engagement with Gwede Mantashe, University of Johannesburg, February 2013

devoted to ensuring that all factions remain within the party even if their differences are palpable.

It is also worth mentioning here that the consolidation of opposition support behind the DA illustrates the importance of what scholars call 'path dependence' – a frequently mentioned factor when electoral systems are discussed. In the literature, it means the tendency of both countries and politicians to retain the electoral system with which they feel comfortable – Shaheen Mozaffar, for example, traces the electoral system choices of Anglophone and Francophone African countries to the political patterns developed under colonial rule⁸⁷. A country's choice of electoral system is said to be 'based more on its political culture – that is, local political conditions and traditions – and its history, than upon abstract considerations of electoral justice or good government'.⁸⁸ Here it means the propensity of voters to become used to ways of thinking embedded in the past, even when the rules change. In this case, voters in the racial minorities, used to a constituency system in which splitting the opposition vote was a very real concern, continue to see that unity as a source of strength even when a closed list PR system means that the costs of 'splitting the vote' are negligible and that, in reality, a plethora of opposition parties probably increases the size of the opposition vote because it gives voters who reject the governing party greater choice. This sort of path dependence, of course, raises further questions about the ability of electoral system changes to influence behaviour, in this case that of voters rather than politicians.

Third, because voters are largely loyal to parties whether or not they are happy with their current leadership, huge majorities do not

87 Shaheen Mozaffar 'Electoral Systems and Conflict Management in Africa: A Twenty-Eight State Comparison' in Timothy Sisk and Andrew Reynolds (eds) 'Elections and Conflict Management in Africa'. Washington DC, United States Institute of Peace Press 1998 pp.81-98

88 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.18

necessarily mean voter contentment. On the contrary, in townships and shack settlements, rebellions aimed at removing from office elected politicians are extremely common.⁸⁹ Indeed, it was almost certainly these frequent demands that elected representatives be removed which prompted government interest in recall elections. It might be useful to see this factor as an important counterweight to the pressure for internal party coherence – it suggests that the larger parties may pay a price for keeping everyone in the tent and that the only way of reducing that price or eliminating it entirely may be to stress a vigorous form of internal party democracy.

What do these realities suggest about electoral system choices? First, that a switch from PR to a purely constituency based system would hold few if any benefits and a great many costs. It would certainly do far more than any electoral threshold to remove parties from parliament. An exercise conducted after the 1994 election showed that, if constituencies were introduced, only the ANC, NP and IFP would be represented in Parliament.⁹⁰ The IFP's decline and the fact that today's third party, the EFF, is far more geographically dispersed, means that today, only the ANC and the NP would be. The first effect would be to increase the ANC's representation, even if its vote share continues to decline (since it still has unassailable majorities in many of its strongholds): the IEC's chief electoral officer, Mosotho Moepya, was almost certainly correct when he told researchers that if constituencies were introduced, 'the ANC will have more anybody else – much greater than the proportion of seats it has at the moment. And I'm not sure the commentators (who lobby for electoral reform) have considered this'.⁹¹

89 Von Holdt et al 'The Smoke That Calls'

90 Steven Friedman and Louise Stack 1994 'The Magic Moment: The 1994 Election' in Steven Friedman and Doreen Atkinson (eds) *The Small Miracle: South Africa's Negotiated Settlement*, Johannesburg: Ravan Press, pp. 301-330

91 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.40

The second would be to deprive many identity groups and sub-groups of representation in Parliament. This would be a setback for democracy for the same reason that the threshold for which Fakir and others argue would be a setback – it would deprive voters to whom identities are important of representation in parliament by a party representing that identity. The result would surely be alienation, not accountability. Matshiqi cites the view of one theorist who argues that minority voters don't simply want a voice in the legislature, they want an impact on decisions.⁹² This could be interpreted to suggest that they would rather vote for a large opposition party which had influence than a small one which speaks for people like them. While the drift towards the DA shows that this is true of some voters, the fact that one in six voters still chooses a smaller opposition parties suggests that identities and sub-identities are important to these voters. While the numbers may not seem large, societies may pay a severe cost for driving from the political system minorities who could be accommodated at very little cost – Matshiqi therefore warns, appropriately, of the danger of electoral systems which alienate majorities and force them to withdraw from participation.⁹³

In this context, a sharp move to majoritarianism may also have other negative effects. It is argued that constituency systems may 'render divisions more pronounced' by freezing out minorities⁹⁴ – and could exacerbate the already existing divisions in South African society, which is historically characterised by divided 'neighbourhoods, groups and communities'.⁹⁵ Experience elsewhere on the continent gives some credence to this view – it is argued that, in Ghana, ethnic cleavages ensure that 'the politics of patronage serve to weaken representation and broader accountability.

92 Matshiqi 'Making Meaningful Electoral Choices' p.12

93 Matshiqi 'Making Meaningful Electoral Choices' p.4

94 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.25

95 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.39

Presidents and MPs see themselves as accountable to those regions and communities where their support base is strongest. This has contributed to the public sentiment that public representatives do not account to the diverse constituencies of the nation.⁹⁶ In Kenya, the competitive nature of FPTP, combined with the ethnic polarity of Kenyan society increased the political value of ethnic support during elections... FPTP can be said to have given Kenya's politicians an incentive to fall back on ethnicity to establish the basis of their electoral support.⁹⁷

The obvious objection to this is the point made earlier – that a 'pure' constituency system is not on the agenda. But, as mentioned earlier, it does raise a crucial question – the degree of majoritarianism in any proposed 'mixed system'. It is worth noting here, simply as an illustration, that the proposal of the Electoral Task Team would significantly tilt the system in a majoritarian direction both because three quarters of MPs would be elected in constituencies and because those constituencies would elect on average four representatives which, it was noted earlier, makes the proposed system more majoritarian than proportional. Some of the negative effects discussed here, such as the exclusion of minorities, may be mitigated by allowing for PR members. But not all would be – most members would be represented in constituencies where they might well be able to rely on large vote banks to dilute much of the PR effect of multi-member districts.

South African realities are thus hostile to innovations designed to counter one of the negative effects of majoritarianism – the danger that minorities will be excluded. Alternative voting which, among other features, is designed to force candidates to solicit support outside their own group (the system asks voters to rank candidates in order of preference – if no candidate wins a majority of first

96 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.53

97 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.57

preferences, candidates must rely on the second or third preferences of defeated candidates to win election),⁹⁸ clearly does not have that effect if geographical concentration of voters is so pronounced that one candidate would be assured of a large majority of first preferences. In some African countries, incentives to reach out to minorities are created by obliging presidential candidates to win a minimum of votes in a variety of regions⁹⁹ - in South Africa, where one party controls eight provinces, this would either be futile or would be seen as a crude attempt to evade majority rule.

The strong salience of parties in South Africa and the incentives to impose party discipline also suggest that a majoritarian or mixed system would not achieve its stated aim - to ensure that representatives account to voters, not party leaders. In Germany, the model for advocates of this system: 'The personal vote for a candidate in single-member constituencies aims to ensure a close relationship between voters and their representatives. In practice, however, the advantage of these districts should not be overestimated... elections ...are mainly based on party preferences and not on the personality of the candidates. The initial hopes that (the system) would guarantee a close voter representative relationship have consequently only partly materialized, despite efforts by representatives to establish strong links with their constituencies.¹⁰⁰ Another author adds: '... within Parliament the party caucuses wield more influence than individual MPs. For MPs there is a tension between toeing the party line and maintaining independence. The ability to act and decide according to their conscience, which comes with being elected in a constituency-based system, is weakened by the dominance of political parties...

98 Bogaards 'Electoral Systems, Party Systems and Ethnicity' p.172

99 Bogaards 'Electoral Systems, Party Systems and Ethnicity' p.175

100 Michael Krennerich, 'Germany: The original mixed member proportional system'. *Electoral System Design: The New International IDEA Handbook*. aceproject.org/ace-en/topics/es/esy/esy_de

'¹⁰¹ While it is argued that 'this constituency element within a PR system does at least help to bridge the gap between voters and representatives which is normally widened by ordinary closed-list PR systems'¹⁰², the effect seems very weak indeed. In South African conditions it may well be non-existent.

South African conditions suggest, therefore, that a shift to direct election would need to be extremely modest if it is not to bring the negative effects discussed here. Given the possibility that it would not achieve its desired aim of weakening party influence – as it has not in local elections – this seriously questions whether the desired benefits of a change would outweigh the significant costs. To put it slightly differently – a change of system towards a moderate degree of majoritarianism may open new opportunities for accountability but there is no guarantee that they would be taken up by politicians and a real possibility that they would have some negative consequences.

But the findings here do not suggest that there are no changes which would have any prospect of enhancing accountability. It was argued above that the key area of reform may lie in enhancing pressures for internal party democracy. One measure which has been discussed is recall. While its limits were mentioned, it could be argued that these are not arguments against this change. First, it is presumably only meant to be used sparingly and second, even a sparing use might serve as an effective warning to representatives that their large majorities do not allow them to ignore voters. Under present conditions, this would only be possible in local government but even that might inject an important spur to accountability throughout the system. The other are those primaries which Mantashe rejected. In principle, it should be possible to introduce

101 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.103

102 Krennerich, 'Germany'

here a workable system which would enable members of parties to elect some or all of their candidates. The question, as mentioned above, is whether that is possible without enhancing the already considerable role of money in South African politics. Since this issue is crucial to the question of whether direct Presidential elections would make a difference, it is to that question that we now turn.

The Perils of Presidentialism

Because the previous section discussed the issue of context, it is useful to begin the discussion of this question by pointing out the context which has placed it on the agenda of some advocates of electoral reform.

Direct presidential election was raised in earnest after the ANC recalled President Thabo Mbeki in September, 2008. Supporters of the then President argued that he had been removed by politicians despite the fact that he was elected by voters (in the sense that his face had appeared on the ballot paper – he was not, of course, directly elected since there is no Presidential election). They added that the people should appoint the President directly in order to ensure that the incumbent could not be removed by politicians who may not enjoy popular support for their actions. Matshiqi points out that direct presidential elections were thus seen as a way of reducing the ANC's 'inordinate power' to choose the head of government.¹⁰³ It was also suggested that provincial premiers and mayors should be directly elected.¹⁰⁴ This proposal became one of COPE's early policy position. Fakir points out that it has failed to gain political traction – in the 2014 elections, parties who support the idea 'did not collectively get more than 10 seats in Parliament or more than 5% of the vote share... This should tell us that the

103 Matshiqi 'Making Meaningful Electoral Choices' p.8

104 Fakir 'Vice or Virtue?'

appetite for this kind of “direct” election of executive authority is low’.¹⁰⁵ Nevertheless, it still enjoys some support in the public debate and may reappear on the agenda.

In theory, as noted earlier, the proposal seems to be backed by common sense. It enjoys academic support too. It is argued that voters are more likely to be able to assign responsibility for government actions, and thus to be able to hold government to account, if there are ‘separate executive and legislative elections, as under presidential and semi-presidential constitutions. There is good theoretical reason to believe accountability is stronger in systems where power is separated, all else equal’.¹⁰⁶ The authors of this study claim too that their theoretical claim is backed up by a research exercise in which they sought to measure the extent to which voters punished or rewarded governments in response to the economy’s performance. They find that ‘all else equal, electoral accountability for the economy is stronger in systems where powers are separated than in pure parliamentary systems: in presidential systems, a 1 per cent increase in economic growth in the period before the election produces a rise in the incumbent’s vote by three-quarters of a point. In parliamentary systems the influence of the economy is considerably smaller¹⁰⁷ – there is more electoral accountability for the economy under presidentialism than under parliamentarism.¹⁰⁸ One reason, they argue, is that, in parliamentary systems, almost half of all cases of prime ministerial turnover result from factors other than elections: MPs often sanction the executive themselves between scheduled elections. For example, no-confidence procedures permit either government or opposition MPs to remove the government, with no consideration

105 Fakir ‘Vice or Virtue?’

106 Hellwig and Samuels ‘Electoral Accountability’ p.5

107 Hellwig and Samuels ‘Electoral Accountability’ p.11

108 Hellwig and Samuels ‘Electoral Accountability’ p.14

of voters' preferences.¹⁰⁹ The comment might, of course, have just as well have been written with Mbeki's removal in mind.

The problem with this argument is that, even if it is accepted (and we shall see shortly that it is contested), all things are never equal. If we look at this report's discussion of context, the theoretical common sense of the proposal begins to dissolve. In a context in which parties matter greatly and in which voters are therefore likely to put party before individual and in which parties have a strong interest in discouraging potentially divisive internal contest, it is surely inevitable that whatever presidential candidates parties choose will win overwhelming support from their voters – in effect, the only change would be that voters would directly elect exactly the same chosen presidential candidate who would ascend to the Presidency in an indirect election in the current system. It can safely be assumed that, if direct election had been required during 2008, Jacob Zuma would have been the ANC's candidate and that he would have won by much the same margin as the majority party won the 2009 general election. It is not at all clear why voters willing to place a cross next to Zuma's face because he heads the ANC would refuse to do so in a Presidential ballot.

Supporters of this reform also need to consider that a great deal more would be entailed than a change in an aspect of the electoral system – direct election of the President would necessarily entail a substantial change from a largely parliamentary to a Presidential system. While the head of state and government is currently called a President, the incumbent can be removed by a parliamentary vote (which Mbeki may have faced had he not decided to resign). In presidential systems, the incumbent cannot be removed except by impeachment. On the one hand, this means that not even a fully presidential system would necessary have enabled Mbeki to remain in office since he could have been impeached by an ANC

109 Hellwig and Samuels 'Electoral Accountability' p.5/6

majority which wanted him out. On the other, more importantly, the President would be far more insulated from a need to account than the incumbent is now – since the head of government could only be removed by a time-consuming and complex process rather than by a simple vote of members of parliament. All the arguments made in the previous section against a constituency system in the South African context apply at least as much and even more to the choice of a president and for all the same reasons.

This may well be what Fakir has in mind when he writes: 'Where there are indirectly elected executive authorities, it is also possible that pre-legislative processes can serve as an additional curb on excessive executive authority through both legislative as well as political party structures. Thus, from an accountability perspective, indirectly elected executives and presidents are better than directly elected ones'.¹¹⁰ The view cited earlier, that presidentialism is more accountable, is hotly contested: a strong strand of academic thinking argues that democracy is strengthened by reducing Presidential power and strengthening that of the legislature.¹¹¹ In contrast to the study on presidentialism just mentioned, another multi-country statistical exercise finds that 'parliamentary systems perform better than presidential ones by measures of participation, and of political, civil and minority rights; these results ... tend to support the large literature that defends the superiority of parliamentary systems...'¹¹² Even the authors of the study which supports presidentialism find that accountability weakens in this system if elections for the president and the legislature are not held at the same time¹¹³ because this makes it easier for the branch which

110 Fakir 'Vice or Virtue?'

111 See for example Peter Burnell 'Legislative-Executive Relations in Zambia: Parliamentary Reform on the Agenda' *Journal of Contemporary African Studies* Vol 21 No 1 pp.47-68

112 Foweraker and Landman 'Constitutional Design' p.55

113 Hellwig and Samuels 'Electoral Accountability' p.20

is seeking election to blame the one that is not. So the dangers of presidentialism may outweigh its presumed benefits, particularly since parliamentary democracies seem to last much longer than the presidential equivalent: 'democracy's life expectancy under presidentialism is less than 20 years, while under parliamentarism it is 71 years', with 'presidential systems ... less likely to survive under good economic conditions than parliamentary systems are under bad conditions'.¹¹⁴

All of this assumes, however, that the only part of the system which would change would be the manner in which the President is elected. There is, however, another change which would answer many of the objections of those who argued for direct election – primaries. Where party loyalties are strong, we have seen, direct election simply means that whoever the party nominates will be elected. But, if more citizens are to have a say, then the nominee could be chosen by party members: all paid up members of a party could be allowed to elect its presidential candidate or voters could register as supporters of a party, thus enabling them to cast a vote in its leadership elections even if they are not full members. Had this been in force in 2008, Zuma would not have been the ANC's candidate for president unless a majority of ANC members – rather than delegates to a conference chosen indirectly – elected him. This system would, of course, seem appropriate to South African conditions given the criteria spelled out in the previous section.

This report has already pointed out, however, that primary elections in the US, and open list systems in Brazil, lead not to greater accountability but to greater power for moneyed special interests. This would seem to be a particularly strong possibility in South Africa where, as we noted earlier, at least some of Manning's claims about the lack or absence of money to fund

114 Adam Przeworski, Michael Alvarez, José Antonio Cheibub and Fernando Limongi, 'What Makes Democracies Endure?', *Journal of Democracy*, Vol.7, No.1 (1996), pp.45/46

campaigns is pertinent – anecdotal evidence suggests that it is already common for business people to be approached for support by candidates seeking election in internal party ballots.¹¹⁵ It seems almost inevitable that a primary system in these conditions would make the already toxic mix of money and politics¹¹⁶ far more of a threat to democracy's survival than it already is. But this in turn assumes that change will be more limited than it need be: the problem could, at least in principle, be addressed by introducing effective controls on the funding of political campaigns. We will return to this point. But for now it is important to point out that, if a primary system was introduced, it would meet the concerns of those who raised the question in 2008 without forcing the country to abandon parliamentarism for a Presidential system which, in South African conditions, is more likely to erode than enhance accountability.

The Feasibility of Change

The argument thus far raises an important strategic question for CASAC and other supporters of enhanced accountability: is a push for a new electoral system worth a significant investment in time and effort?

There are two reasons for suggesting that it might not be. One has been discussed repeatedly in this report – that the likely gains for accountability of a change are uncertain and that they may well be quite modest if they occur at all. It is surely not necessary to repeat all the arguments – but the point can be restated by this summary of the findings of a recent study whose authors began their work determined to find the electoral system which would ensure enhanced accountability: 'In the end, their conclusion is

115 Interview, stock-broking firm, Cape Town, November 2012

116 Anthony Butler (ed.) *Paying for Politics: Party Funding and Political Change in South Africa and the Global South*, Sunnyside, Auckland Park, Jacana, 2010

– well, yes, accountability could be improved by a change to the present electoral system, perhaps, but other changes are required as well. The debate must go on – yet if it is to have political purchase, there must be recognition that it will take much more than a change in the electoral system to bring about the greater accountability of our politicians.’¹¹⁷ This report has argued for an even more diffident conclusion about the effect of change – it has suggested that there is no guarantee that a different system will help increased accountability and that, even if it does, it can have only a limited effect. The obvious question this raises is whether so uncertain and limited a prospect requires a major effort.

Second, the chances of significant reform seem slim. A study of African trends reports that ‘successful reforms have been few and mostly limited to minor elements and have rarely led to a fully-fledged change in the overall electoral formula’. Change is usually limited by path dependence which, as we have seen, plays a role here despite the fact that negotiation dynamics prompted a change of system from FPTP to PR when democracy was introduced (as it did in Namibia).¹¹⁸ Nor is this purely an African phenomenon: Politicians everywhere are also, it is argued, reluctant to agree to change because too little is known about its likely effects and they are reluctant to risk worsening their position.¹¹⁹ Where systems are changed around the world, the shift is usually towards, not away from, PR: where, as in SA, a constituency system has been replaced by PR ‘it becomes very difficult to return to majority systems.’¹²⁰ So, everywhere, change is likely to be resisted and, in

117 Roger Southall ‘Foreword’ in Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.8

118 Hartmann ‘Paths of Electoral Reform’ pp.146/147

119 Gero Erdmann, Matthias Basedau, and Andreas Mehler ‘Conclusion: The Research Agenda Ahead’ in Basedau, Erdmann and Mehler (eds) ‘Votes, Money and Violence’ p.287

120 Hartman ‘Paths of Electoral Reform’, p.165

those rare cases where it is accepted, the trend is toward the system SA already has. As supporters of the Electoral Task Team Report have discovered, enthusiasm for electoral reform in the political class is exceedingly weak.

Nor, contrary to the claims of supporters of reform, does the little evidence we have suggest that there is much voter appetite for change. The Electoral Task Team commissioned a study of voter attitudes by Mattes and Southall which is regularly quoted – by one of the authors of the study as well as supporters of reform – to show significant voter support for change. The problem is that this is not what their numbers say. The research claimed to have found that citizens wanted a new system because 71% said they wanted to vote for a candidate from the area where they lived. But this is the only finding which seems to offer unambiguous support for a change in system. The finding that 64% felt that MPs should live close to the people they represent says nothing about how they should be elected while the 53% who wanted party members rather than leaders to choose candidates were expressing a preference for internal party democracy, not a new electoral system. Against this must be balanced the survey's finding that respondents overwhelmingly found the current system fair and that 68% said that it 'helped voters "hold the parties accountable for their actions"'. Indeed, one sign of voter desire for change is said to be that, when asked whether the system helps voters to 'hold individual representatives of government accountable for their actions', just 60 per cent agree and fully one-quarter (25 per cent) disagree ¹²¹ It is extremely rare – and, to be frank, rather odd – to cite 60% support for a system and 25% opposition as a sign of public disenchantment. It is difficult to avoid the impression that citing the research in this way testifies to the desire of the reformers to claim a popular mandate they did not have.

121 Report of the Electoral Task Team p.8

Of course, this research is more than a decade old and it is possible that public attitudes have shifted since then. But this remains speculative unless and until the exercise is repeated. The point is strategically important, of course, because one way for advocates of change to respond to a lack of willingness to reform among politicians is to mobilise public opinion in their support. The survey shows very clearly that, at the time the Task Team did its work, the public were not available to be mobilised – if that is the case now, then the only plausible resource for change is unavailable. Even if it could be shown that public attitudes have changed, there are no current signs that citizens feel so strongly about the need for change that they are willing to campaign for it. It is possible in theory – and perhaps in practice – that a concerted effort to persuade citizens both of the need for and urgency of change might ensure the necessary momentum. But the possibility remains untested. Given the other point made in this section, it is surely worth asking whether it is worth making a huge effort to find out when the gains are likely to be uncertain.

This argument does not mean that CASAC and other advocates of greater accountability should ignore the electoral reform issue. Since it may offer some prospects of change, it may well be appropriate to keep the issue alive by raising it in the public domain: it may even be worth holding some further discussions both to test and to popularise ideas on electoral system reform. The point is rather that a major commitment of time and effort does not seem justified given both the obstacles to change and its uncertain benefits. This conclusion is reinforced by the already-mentioned consensus that there are other ways of promoting greater accountability which may be more likely both to be implemented and to make a difference. The final section of this report will discuss broader efforts to promote accountability.

THE FIGHT FOR ACCOUNTABILITY

If electoral systems cannot do nearly as much as is hoped to ensure that elected politicians (and the officials who serve them) are held to account, what can?

While, as we have seen, statements arguing that measures other than electoral reform are needed to ensure greater accountability abound, credible ideas on what must be done are much harder to find. A look at the literature suggests that, at present, proposals for greater accountability can be divided into two broad categories – moral platitudes and institutional tinkering. The first seems to consist largely of blaming accountability deficits on the moral failings of politicians and voters. Thus changing ‘political culture’ is proposed as a solution¹²² and it is also claimed that ‘the character and calibre of individuals who enter politics is important.’¹²³ Parties are scolded for taking race seriously and are instructed to change their behaviour.¹²⁴ Citizens are also blamed for not knowing enough about politics and, as ever, the favoured solution of middle class academics when they find that the people fail to measure up to their high standards is recommended – civic education.¹²⁵ Similarly, Kenyan proposals include ‘stringent leadership’ and ‘moral and educational standards for prospective public representatives’.¹²⁶ In effect, the message is that politicians do not live up to the exacting moral standards of the author and that accountability would be enhanced if they did. But it is surely trite to point out that moral standards are highly subjective – one person’s villain is another’s role model. One of the many arguments for democracy is precisely that we don’t agree on who is suitable for office and that it is

122 Southall ‘Foreword’ p.8

123 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.2

124 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.3

125 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.3

126 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.64

therefore necessary for the question to be settled by majority vote. Much of this is simply the expression of a cultural prejudice: no evidence is presented to show that citizens are in need of 'education' by the elite – it is simply assumed. And even if someone were to invent a miraculous scientific test of which behaviours were appropriate to public office, how would the advocates of this approach change the behaviour of the candidates who do not meet the test? Moralising may induce a warm feeling in the moraliser but does nothing to change human behaviour.

This approach also reduces structural and historical problems to human failings – race is not an issue for South African political parties because they are filled with bigots: they are interested in it because over three centuries of history have made it the key divide in the society. More generally, the more rigorous literature agrees that accountability deficits are a consequence of the character of the society and the political system, not of an unfortunate tendency for politicians to turn out to be not the sort of people commentators and analysts would prefer to invite for lunch. An effective response to accountability requires us to tackle the underlying causes, which this approach clearly does not do.

Institutional tinkering recognises the point made here – that the problem is the way the system works, not moral failings. But it tries to address the problem only by redesigning aspects of the formal institutions. The programme for change in Kenya seems rather more detailed and coherent than it is here – it includes an independent election administration body, devolving authority and decentralising power; the adoption of elements of proportional representation and provision for the electorate to institute recall proceedings against unsatisfactory MPs.¹²⁷ Here proposals include measures to enhance internal party democracy, including the

127 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.64

extreme proposal that the constitution should mandate it¹²⁸ - while these proposals are often vague, primaries again are seen as an antidote although at times only tentatively.¹²⁹ Campaign financing regulations are also frequently proposed, as this report has already pointed out.

We have, in effect, dealt with much of this. Institutional changes may well help to a degree - certainly it is hard to imagine South Africa establishing effective pressures for accountability unless the current free-for-all which allows moneyed interests to purchase politicians and parties remain in force. As noted above, credible primaries would be impossible without this change. Critics of regulating political financing seem to have ignored a growing consensus, supported by compelling evidence, that the reason why American democracy is subject to far more threats than those in Western Europe such as Germany is that the latter have implemented effective measures to regulate funding and the US has not.¹³⁰ Some raise doubts about the degree to which these changes can be implemented effectively in South Africa.¹³¹ While there are clear constraints to implementation, however, the failure to act is likely to be far more costly than action which faces implementation challenges: the oft-cited risk that reform could weaken opposition parties because the governing party would then know the identity of their donors is implausible - a governing party which wishes to punish private donors for supporting opposition parties would presumably be willing and able to use its security services to find out who was paying what to whom. Either it doesn't matter whether

128 Albert Venter and Murray Faure, 'Recommendations to the Present Electoral System'. Paper presented at the KAS/EISA conference on electoral system reform. Vineyard Hotel, Cape Town, 2007 cited in Chiroro 'Electoral System and Accountability', p.19

129 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.4

130 Tucker and Walther (eds) 'Electoral Systems and Accountability' p.4

131 Butler 'Paying for Politics'

the government knows because it isn't planning to do anything punitive or the government already knows and only the citizenry does not. Regulation is a necessary condition for an accountable political system and it is thus a reform which requires the support of accountability's supporters. The other proposals have been discussed here already – primaries and recall might help but only if other realities begin to change which may enable them to play their intended role. In this and in many other cases, institutional tinkering may make a difference but only at the margins – the answer lies in the society.

Charting an effective way forward rests on addressing the accountability question in a more rigorous way. This reveals two crucial realities. First, that the ability to hold government to account is unevenly spread within the society. While there may well be room for improvement in the way in which government responds to businesses, professional associations and suburban residents, the evidence suggests that they are far more likely to be able to get it to respond to their concerns than residents of townships and shack settlements.¹³² This daily reality of South African life further places in perspective some of the points argued in this report – that, as important as the vote is in principle, it matters far less than advocates of electoral system reform believe if the underlying realities in society do not change. The obvious 'paradox' is that those who fare better at getting government to account tend to vote for the opposition, those who do worst vote for the governing party. There could surely be no starker illustration of the argument that a programme for greater accountability needs to recognise that the problem is embedded in social reality far more than in the electoral system.

The reason for this reality raises the second point. The suburbs and those who live in them fare better at holding government to

132 Friedman 'South Africa: Electoral Dominance'

account not because, as some contemporary conspiracy theories would have it, government is in the pocket of rich people. It is the consequence of a core political reality – that the common sense statement that ‘voting is the primary means by which most citizens exercise their right and power to hold political actors to account’¹³³ is at best a generalisation and at worst plain wrong. Without the vote, citizens cannot exercise power. But, on its own, the vote is not a source of power: to use it effectively citizens need to be able to work with like-minded people, which requires organisation, and they also need to be able to access government effectively, which requires the confidence, resources and access which tends to come almost naturally to the better off. Often they don’t have to work for it at all – since governments are forced to take seriously those whose resources are needed to fund the fiscus and meet social needs, the affluent may often exert influence without even trying to exercise it. By contrast, the poor must fight perpetually, and often unsuccessfully, to achieve it.¹³⁴ It is organisation and access which confers the power to hold to account and the vote is only a means to that end.

The point can be illustrated by the following reality. Within the South African national government, it would no doubt be broadly agreed that the national treasury is an efficient department – many would argue the most efficient in the government (important voices sometimes object strongly to what the Treasury is doing but they usually agree that it is effective at doing that to which they object!). The reason is not that the Treasury seems to employ more technically competent people – it may well do but this is a consequence, not a cause. The key reason is that it is government’s most accountable department not because it wants to be but because it has to be. In an open economy such as SA’s, Treasury

133 Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.12

134 Frances Fox Piven and Richard Cloward *Poor People’s Movements: Why They Succeed, How They Fail*, New York, Vintage Books, 1979

errors and failures are visible within hours in the movement of international markets, which are monitored closely by a businesses and financial media which are likely to begin complaining almost immediately. The consequences are likely to be far more concrete than the embarrassment which a bad Press causes – they may well mean lost income and jobs for many people. Treasury’s competence is, therefore, a direct consequence of the accountability which the well off are able to achieve, sometimes without doing anything to achieve it. It can be safely assumed that if the average local councillor, municipal official or even national MPs and senior officials in departments which are expected to address the concerns of the poor were subject to the same pressures for accountability as the Treasury, the government would be a great deal more efficient and prone to serve the citizenry than it is now. It is what it is now because the citizens who most need those departments to be accountable lack the power to ensure this (the incentives for the suburbs to demand better service is greatly weakened by increasing use of private provision in education, health and security). The key to enhancing pressures for accountability lies in enhancing the power of the bulk of South Africans to demand that government account to them.

One way of doing this which is popular in this society is to rely on formal forums which are meant to offer citizens the opportunity to influence government and to hold it to account – perhaps the most obvious are the local government ward committees which governing party politicians tend to regard as the key to greater municipal accountability.¹³⁵ But these are only one example of the many forums which have been created in South Africa’s democracy to give voice to citizens in general, the poor in particular –this country is widely believed to have more of these platforms than

135 See comments attributed to former minister Essop Pahad in Tucker and Walther (eds) ‘Electoral Systems and Accountability’ p.107

any other democracy.¹³⁶ It should be obvious by now, however, that a plethora of platforms does not translate into a louder and more effective voice for citizens – it may well do the opposite both because the forums tend to attract organised interests only, thus excluding those who need voice most because they are unorganised, and because the way in which they are structured tends automatically to exclude the poor or relegate them to spectators – people in forums have ways of interacting with each other which again come naturally to the connected but are foreign to millions at the grassroots. The problem is not exclusively South African¹³⁷ but is particularly acute here given the society's severe disparities in access to power. The key to greater accountability lies not in more forums but in greater organisation for poor people which would allow them to use their citizenship rights to insist on government which serves them.

It is sometimes argued that people in townships and shack settlements will be unable to hold government to account as long as a single party continues to dominate elections in these areas. It is certainly true that, where poor people are organised, electoral competition can give them greater leverage – this reality has empowered slum dweller organisations in India.¹³⁸ But the argument thus far should have made it apparent that attempts to encourage greater accountability are not doomed to wait in cold storage until a development outside the power of CASAC and others seeking to promote accountability – a change in the electoral arithmetic – emerges. Even if the balance between the parties does not change, a more organised citizenry can win greater accountability from those

136 Steven Friedman *Participatory governance and citizen action in post-apartheid South Africa* Geneva, International Institute of Labour Studies, 2006, Discussion Paper /164/2006

137 Jane Mansbridge *Beyond Adversary Democracy* Chicago and London The University of Chicago Press, 1983

138 Partha Chatterjee *The Politics of the Governed: Reflections on Popular Politics in Most of the World*, New York, Columbia University Press, 2004

who govern. If it does, citizens will be unable to take advantage of the change unless they are organised. And so a growth of democratic organisation among the bulk of South African citizens remains the key to more accountable government. This poses an important strategic problem – democratic organisation is created by the people it serves, not for them. And so, even if CASAC and other organisations which seek greater accountability were to decide that creating organisations for the majority were a good idea –which seems unlikely – this would be more likely to retard than to advance the required shift in power. But this does not mean that advocates of greater accountability are forced to watch unless and until poor people organise themselves. In at least three areas, interventions are possible and could make a significant difference:

Supporting The Right to Organise

Despite the constraints which grassroots citizens face, some do organise. The organisations are usually local rather than provincial or national and the constraints usually ensure that they represent only a fraction of those for whom they seek to speak. But they do provide a voice for the grassroots poor and a potential vehicle for holding power to account.

They are, however, frequently subject to harsh treatment by local power holders seeking to protect their turf who often enjoy close relations with local police.¹³⁹ This highlights another irony of post-1994 South Africa – that, while the suburbs, whose residents often insist that they are living in a tyranny, are fully entitled to speak and do exercise that right repeatedly, the townships and shack settlements are often places in which the right to organise

139 Richard Pithouse, The Case of the Kennedy 12: No Easy Path Through the Embers *Counterpunch* August 1 2011 <http://www.counterpunch.org/2011/08/01/no-easy-path-through-the-embers/> ; Salim Vally 'The Iron First and the Velvet Glove' Mail and Guardian 20 December 2003 p.24

enshrined in the constitution is largely ignored.¹⁴⁰ The situation is worsened by the fact that media tend to ignore South African life which occurs outside suburbs¹⁴¹ and so this reality is largely ignored by the mainstream debate. The fact that constitutional rights are not respected in the areas where most citizens live is thus a reality which gets nowhere near the attention it deserves.

This suggests an urgent need to protect existing grassroots organisation by identifying cases where it is repressed and working with organisations to highlight breaches and bring them to the attention of the mainstream.

Creating Linkages

The dilemma mentioned earlier – that grassroots organisation is crucial but that the poor cannot be organised from above – is in one sense less of a dilemma than it appears.

It has been apparent for well over a decade that poor people do form organisations – many of them. The reason they do not feature in discussions on accountability is that they are not advocacy organisations – they are not pressing government to do anything or seeking to hold it to account. They are, rather, organisations of ‘collective sustenance’¹⁴² in which people come together to address common problems such as HIV and AIDS or to look after local needs such as pooling funds or making crafts for the market. Some of these organisations make a deliberate choice not to engage in advocacy. But it seems reasonable to expect that many might avoid it not because they don’t want to but because they don’t know who to direct their advocacy to – they tend to be isolated from local officials and politicians, from private power holders such

140 Friedman ‘South Africa: Electoral Dominance’

141 Steven Friedman ‘Whose Freedom? South Africa’s Press, Middle Class Bias and the Threat of Control’ *Ecquid Novi* Volume 32, Issue 2, 2011 pp 106-121

142 Monty Narsoo ‘Civil Society : a contested terrain’ *Work in Progress* 76 (1991)

as businesses and from potential sources of support such as local NGOs . It also seems reasonable to expect – and some evidence from elsewhere on the continent supports this –, that, if they were linked to these sources of power and support they may become advocacy organisations which are able to ensure greater accountability.¹⁴³

There is a clear role here for organisations which are willing to facilitate this sort of contact. Experiences in other contexts suggest that simply ensuring that grassroots organisations can begin a conversation with local officials and politicians and other interests can begin to encourage advocacy and a more effective use of citizenship rights. A key difference between these proposed processes and formal forums is not only that they would not claim to provide ‘a voice for the people’ – simply a platform for conversation between some people – but that, if they are to be effective, they would not impose on participants a pre-determined end result. Simply getting people in a room once every couple of weeks to talk to each other may sound trivial to organisations and donors used to grander interventions – but it may, if managed sensitively, be an important trigger to local action for accountability.

Opening Information Flows

It is trite to point out that the flow of information to citizens is a key source of potential power. The constraints created by its lack are often most noticeable at the grassroots of society where a lack of access to government information which would enable citizens to hold officials to account is a serious constraint to accountable government. The question of how adequate information can reach people to empower them to hold government to account is an important challenge which could and should attract the attention of advocates of greater accountability.

143 Centre for Policy Studies *Analytical overview of the political economy of the civil society sector in Southern Africa with regard to the poverty reduction agenda*, Johannesburg, Centre for Policy Studies, 2002

Times and space does not permit a full examination of this crucial issue. But, as a general guide, it has been argued ¹⁴⁴ that a key challenge for government is disseminating information to citizens in a manner which enables them to make choices. This may sound simple but would require a substantial change in the way government thinks about the issue – conventional strategies tend to focus on telling people what government is doing in a way which is designed to win support for it. What is envisaged here is not that at all – it is an approach which informs people of the choices which face them in a way which does not pre-determine an outcome: to take a very topical issue, it might entail not deciding on a freeway funding formula and then inviting some organisations to comment – it would entail placing the need for improved freeways before the citizenry, pointing to the implications of competing options and inviting them to choose. If we imagine this process occurring not in the usual forums which exclude the poor but at the grassroots where the poor gather – at churches, medical facilities and schools, for example, we have some sense of what might be entailed. A further change required is an approach which assumes that it is not the task of citizens to approach government to receive this information but of government to seek citizens out and to engage them.

One possible role here for non-governmental advocates of accountability would be to open a discussion with government on the importance of this sort of approach and to inject these issues into the public debate. But, depending on resources and inclination, non-governmental actors can also encourage these sorts of processes – an indicative example is the social audit process initiated by the Social Justice Coalition in the Western Cape supported by the International Budget partnership. This programme empowers local citizens to collect information on

144 For details see Centre for Policy Studies 'Analytical overview'

local conditions and then to engage with government.¹⁴⁵ This may make it seem more of a linkage strategy than a demand for better government information and, in a sense, it is. But the engagement process is premised on the assumption that local government will give as well as receive information and will seek to work with citizens to act on it. This is obviously only an indicative example of the kinds of interventions which are possible.

These three ideas do not remotely exhaust the possible options available to a programme seeking to enhance the capacity of local citizens to hold government accountable – they are offered more in an attempt to stimulate thought than to suggest a definitive programme. What is crucial, however, is the approach they embody – one which recognises that accountability will be elusive until most citizens are better able to insist on it. It seeks to alter power relations using methods consistent with the values of the constitution to ensure that citizens become better equipped to demand the accountability which depends far more on their own access to power than on the form of the electoral system. It seems likely that this will yield far greater benefits than excessive emphasis on the electoral system.

145 *Our Toilets are Dirty': Report on the Social Audit Into the Janitorial Service for Communal Flush Toilets In Khayelitsha, Cape Town 1 October 2014* <http://nu.org.za/wp-content/uploads/2014/09/Social-Audit-report-final.pdf>

