

THE ELECTORAL PROCESS AND DEMOCRATIC GOVERNANCE IN LESOTHO

Lessons for the Democratic Republic of the Congo

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INTRODUCTION

After long years of authoritarian rule, marked, in the main, by either civilian or military dictatorship, all the member states of the Southern African Development Community (SADC) have embraced multi-party democratic governance. Although much progress has been made in a majority of the regional states towards nurturing and consolidating democratic governance, fairly slow progress is still manifest in the case of three SADC member-states, namely Angola, The Democratic Republic of the Congo (DRC) and Swaziland.

It is not difficult to understand and explain the rather disappointing record of democratisation in these three states. The main problem in both Angola and the DRC is largely the protracted violent conflict that has characterised them, although it appears now that the prospect of successfully settling these intra-state disputes is fairly bright. Swaziland is steeped in a traditionalism that has entrenched a dynastic form of governance in which the King, as an executive monarch, is central to the running of national affairs. This constitutes a critical democratic deficit for the country.

One important ingredient of democratic consolidation in the SADC region is the holding of regular multi-party elections. It should, however, be noted right from the start that an election does not amount to democracy. In other words, the holding of regular multi-party elections is one thing, while institutionalisation and consolidation of democratic governance and ensuring political stability and a peaceful succession of national leadership is quite another. Put somewhat differently, it is quite possible that the SADC region could embrace regular multi-party elections but that democratic practice and culture as well as political stability may lag far behind. This scenario does not augur well for the nurturing and consolidation of the democratic rule and political stability the region needs for socio-economic development.

The above observation, therefore, suggests that an election, in and of itself, is not tantamount to democratic governance, although it may be a key ingredient for it. The challenge facing young democracies in the region, such as Lesotho and the Democratic Republic of the Congo (DRC), is not as much how often elections are held, but rather 'to establish durable systems of governance that will bring about peace and stability to these countries individually and collectively as a region' (SADC *Regional Human Development Report* 1998, 78). In a word, regularity of elections is as important as the substance of the process for democratisation.

Thus the need for regular elections should not overshadow the need for appropriate systems, institutions and procedures to be put in place for such elections to add value to the nurturing and consolidation of democracy. These systems must, of necessity, include the electoral models used in these countries. At the heart of the effectiveness of elections and their value to democratic culture and practice lies the choice and use of preferred electoral systems. The region uses a variety of electoral systems, with different impacts and consequences for democratic governance and stability. Which one could best serve democratic governance in a country such as the DRC, which is emerging from a violent conflict? I attempt to respond to this question by drawing on the experience of the process of democratic governance, elections and political stability in Lesotho. From the outset, it should be emphasised that the DRC must make a deliberate effort to avoid the pitfalls imposed by the electoral models which most SADC countries adopted at independence and instead engage key stakeholders in the dialogue that is essential for popular choice of a preferred electoral model.

Electoral systems are crucial to the process of institutionalising democratic governance (Reynolds and Reilly 1997). The type of system adopted by each of the regional states may either enhance or inhibit democratic governance and stability.

The two main electoral systems used in this region are the proportional representation (PR), especially the party-list variety, and the plurality-majority system, especially the first-past-the-post (FPTP) variety. On balance, if the excellent examples of Mozambique (since 1992), Namibia (since 1990) and South Africa (since 1994) are anything to go by, there is abundant evidence to suggest that the PR model lends itself well to constructive management of conflict. To be sure, a majority of the regional states have inherited the plurality-majority model, which was bequeathed to them by the colonial administration, without any opportunity for serious internal debate about a home grown and popular electoral model. Only South Africa, Namibia, Mozambique and Angola have adopted the party-list model of the PR system.

Mauritius is currently exploring the possibility of adopting multi-member proportionality (MMP) with a view to nurturing and consolidating its world-acclaimed democracy. Lesotho has only recently changed from the FPTP system, which had been in place since independence, to the MMP system because of the need for constructive management of incessant violent intra-state conflicts and on the basis of the perceived deficiencies of FPTP.

The main argument of this paper is that the DRC can learn important lessons from the Lesotho electoral reform process, which may assist in nurturing and consolidating democracy at the end of the war that has engulfed it for half a decade.

It must be accepted from the onset, though, that the correlation between the electoral system on the one hand and democratic governance and stability on the other is somewhat nebulous, controversy-ridden and, thus, certainly not straightforward. Any argument that suggests that democratic governance is all about regular elections is both narrow and shallow for it reduces democracy and democratisation to electioneering per se. However, to the extent that electoral systems serve to distribute power and representation in order to define the legitimacy and political mandate of rulers, they do have a bearing (direct and indirect) on democratic governance and stability (Matlosa 2001). The paper interrogates the effectiveness and efficacy of FPTP in contributing to democratic governance and stability by posing various questions:

- What is the exact nature of the FPTP electoral model?
- How does it work?
- What are its strengths and weaknesses?
- Does it generally enhance or inhibit democratic governance and stability?
- How appropriate is it for young democracies in the SADC region?

The overall assessment is that the FPTP system did not serve Lesotho's political system well in terms of deepening democratic governance and ensuring political stability. It is precisely because of this stark reality that Weisfelder (2001, 75) poignantly observes that 'recurrent political crises in Lesotho are rooted in constitutional and electoral systems and party politics dating back to the 1960s'. For instance, in the elections of 1965 and 1970, the FPTP system delivered an electoral outcome in which opposition parties felt extremely excluded, cheated and marginalised. In the last two elections – 1993 and 1998 – the same electoral system 'virtually excluded from Parliament opposition parties that received 25% of the vote in 1993 and 40% in 1998.

'Lacking a stake within parliament, the disgruntled opposition leadership had no compunction about challenging the legitimacy of the political institutions and attempting to displace the elected government by means of mass protests, military mutinies and royal intervention' (Weisfelder 2001, 75). The political culture of factionalism and incessant conflict, which, essentially, is the hallmark of Lesotho's age-old political crisis, is also confirmed by Elklit (2002, 3), who aptly alludes to the reality that 'Lesotho's political life is notorious for being adversarial and confrontational', obviously with dire consequences for stable democratic governance. The major conclusion to be drawn from this development is that the FPTP electoral system played its own role in the conflict in Lesotho between 1966 and 2002, even if various other factors have contributed to this unsavoury political condition. It is thus to the implications and impact on governance of this system that we now turn.

ELECTORAL SYSTEMS AND GOVERNANCE

Although *elections* are not the only ingredient of democracy, it is generally accepted that they play a crucial role in deepening and sustaining democratic governance. This observation aptly applies to the political landscape of the SADC region. An election is surely one of the core variables of democratic rule (Adejumobi 1998; Bujra and Adejumobi 2002; UNPD 2002; Bujra and Buthelezi 2002). An election, simply defined, refers to a *process* whereby a people belonging to a particular country, who are at times referred to variously as either the electorate or voters, periodically choose their national leaders to form a government and manage the affairs of the state *on their behalf*. The internationally accepted mode of choosing managers of state affairs is a voting system, usually based on the principles of universal suffrage and secret ballot. Voting takes place within well-defined rules, regulations and procedures provided for within national constitutions and electoral laws of individual countries.

In Lesotho, the electoral process is governed by the national Constitution – especially articles 56, 57 and 58. The country's 1993 Constitution provides the principal legal foundations for the election of members of the National Assembly (the lower house), whereas the Senate (the upper house) is an appointed arm of the parliament. The general administration and supervision of elections is governed by the National Assembly Order of 1992 (as amended) and an autonomous statutory body known as the Independent Electoral Commission (IEC). Following the contested 1998 election a new IEC was appointed by King Letsie III in April 2000.

Chapter 2 of the Election Act stipulates clearly that the main functions of the IEC include:

- Administering and managing national and local government elections.
- Establishing and maintaining cooperation with political parties and other interested civic groups, and enforcing a code of conduct.
- Reviewing election legislation.
- Promoting voter education.
- Preparing and maintaining voters' rolls.
- Managing election-related disputes.

While initially election administration was the responsibility of a sitting government, through the Electoral Office, this responsibility is now vested in the newly established IEC (Government of Lesotho 1997). This has resulted in a considerable improvement in the administration of the electoral process, for it has tended to enhance participation of all parties in the preparations for elections. It has also helped to build the necessary confidence in the administration of elections as well as levelling the playing field to a considerable degree. The move away from a government department towards an autonomous election management body to oversee the administration and management of elections is a positive political development, from which the DRC can learn important lessons. The DRC would

benefit greatly if, well before the election is held, a manageable and autonomous election management body could be put in place, ideally enjoying the confidence of all stakeholders because of its own integrity and credibility as well as its efficiency and effectiveness.

An *electoral system* refers to a *method* that a particular country adopts for choosing national leaders. There are many electoral systems throughout the world and there is considerable argument about which is the best, for each system is appropriate for particular political and economic conditions of a given country (Matlosa 2001; Matlosa 2003). Each country adopts the system that best suits its own political traditions and culture as well as its level of economic advancement.

This does not apply, however, to Anglophone African states. Of the 52 states in Africa, 18 – most of them former British colonies – use the ‘first-past-the-post’ electoral system (Reynolds and Reilly 1997). The Westminster Constitution and liberal democracy which encompassed the constituency-based electoral model were regarded as suitable for the former colonies for it was assumed that modernisation of their systems and institutions would make it easy for them to adopt the British political traditions and culture. The result is that electoral systems in many Southern African states ‘are generally hardly ever debated and carefully chosen on the basis of consensus among political players and the population at large’ (Molutsi 1999, 9-10).

Lesotho was no exception – it adopted the FPTP system when it attained political independence in 1966. It would be desirable for the DRC to consider a more inclusive and participatory method of choosing an appropriate electoral system. The DRC would benefit immensely from such a process, which should be embraced within the Inter-Congolese dialogue process. Commendable as the recent electoral reform in Lesotho may be, it is worth noting that the debate about the adoption of the new model remained confined to the realm of upstairs politics, involving primarily the political elite. As such, more by default than by design, the process tended to undermine downstairs politics by excluding the voices of the ordinary people in the conception of the reform process and the dialogue that ensued before it was implemented in 2002. The situation meant that the IEC had to embark on a massive campaign of voter education before the election of May 2002 and the voter turnout of more than 70% suggests that the campaign was successful (IEC 2002).

It is important to note that the electoral systems adopted by former colonies were an inheritance from their colonial masters; they were not rooted within the domestic socio-economic and political dynamics of the societies in which they operate. Put somewhat differently, the systems were externally derived in pretty much the same way as the constitutions and political institutions the new states inherited with independence. It is thus imperative that the DRC consider adopting the electoral system best suited to its own peculiar political condition and the experience of the SADC region rather than one that reflects the political culture of Belgium – its former colonial master.

The electoral system is crucial in determining the impact of elections on democratic governance. As Tekle (1998, 167) aptly observes, 'the commitment to, and the holding of, elections have become the litmus test of a sincere commitment to democratic governance'. By democratic governance we simply mean management of national affairs which is transparent, participatory, representative, inclusive, legitimate and accountable to the electorate.

The 1998 SADC Regional Human Development Report proposes that the effectiveness and efficacy of governance in Southern Africa be measured at four main levels: political (i.e., participation); institutional (i.e., institutions rather than individuals, must form the heart of politics); economic (i.e., resource distribution) and women empowerment (i.e., gender equity). A meaningful election must therefore be able to strengthen these key pillars of democratic governance and ensure a stable political system, which condition is also critical for economic development. Indeed, the 2002 global human development report corroborates the important observation that democratic governance has to cover a wide gamut of elements including participation/representation, institutions/systems/procedures, economic welfare and gender equality (UNDP 2002). Essentially, therefore, the post-conflict DRC should be concerned not only with the regularity of elections but also with the form and substance of the democratic project.

While a national constitution and the electoral law determine the procedures and administration of elections, electoral systems determine the manner and pattern by which votes are matched with the allocation of seats in parliament. An electoral system is, therefore, 'a method of converting votes cast by electors into seats in a legislature. Electoral systems thus are practical instruments through which notions such as consent and representation are translated into reality' (Asmal and de Ville 1994, 2). However, an electoral system has a great potential to either make or break democratic governance. If the system is to contribute meaningfully to the deepening and sustenance of democratic governance, the following must be achieved:

- the uncontested legitimacy of rulers and institutions of governance;
- a broadly inclusive and transparent mode of governance;
- fair representation of diverse groups and interests;
- accountability of rulers to the electorate;
- an undisputed mandate of the leaders to rule;
- decentralisation of power;
- political stability and conflict management.

The value of whatever electoral system the DRC ultimately adopts will have to be judged in terms of these criteria, among others. On the basis of the expected outcomes of a given electoral system vis-à-vis democratic governance some writers remind us that 'the proof of the pudding lies in the eating. The value of an election lies in the acceptance by all parties of the outcome. More particularly, the losing party should accept defeat. A rejection of the result will be that much more difficult

if the election is indeed free and fair' (Steytler et al 1994, xxiv). As part of the constructive management of the conflict and achievement of the peace process in the DRC it is crucial that a culture of tolerance of opposing views and the politics of accommodation are institutionalised so winners will be able to assume state power with magnanimity while losers will be ready to accept defeat with dignity. It is instructive that in Lesotho, since political independence, major losing parties have contested election outcomes and challenged results, even in courts of law. This tendency has, in the past four decades, generally deepened a dangerous culture of intolerance that has helped generate political instability which has, in turn, undermined democratic governance.

It is not surprising, therefore, that political instability has been so pervasive in Lesotho. This instability is, in many respects, linked to the defects of the electoral model, although other factors such as economic underdevelopment have been crucial too because it has intensified the elite struggles over scarce resources, most of which are easily accessed through control of state power. Could the dynamics in the DRC be different given the abundant resources that hold out the prospect of economic development, all things being equal? Yes, of course it could, but these dynamics might simply change the nature of the conflict rather than resolve it. It is widely accepted that even in resource rich countries resource conflicts are pervasive and this has been confirmed by scholars in the case of Angola and has been found to be so in the protracted conflict that has beset the DRC itself.

When contestants in an election accept its outcome they pass a vote of confidence in the electoral system while, at the same time, according the verdict of the electorate the necessary respect. Be that as it may, for an electoral system to carry all stakeholders on board, it must have the following properties:

- it should be simple to understand and apply;
- it should be easy to manage and administer;
- it should provide multiple safeguards against manipulation of the election;
- it should ensure a transparent and simple method of vote calculation;
- it should provide a simple formula for translating votes into legislative seats;
- it should be cost-effective and affordable;
- it should be easy to audit, review and adjust over time.

These essential properties must inform the debate and dialogue in the DRC as the country embarks on the path of adopting its preferred electoral model.

As we review Lesotho's electoral system, these are all important signposts to guide us in making an informed judgement about its effectiveness in the consolidation and sustenance of democratic governance and political stability. Uppermost in any such review must be an appreciation of the country's political history, level of institutional and political development, and level of economic development. What follows is a brief review of the current electoral system which unravels some of its salient features and the manner in which they impinge on

democratic governance and political stability in the country. The review takes into account political history/culture, levels of institutional and political development and economic advancement in the country, especially since independence.

ELECTORAL SYSTEMS AND POLITICAL STABILITY

Upon independence in 1966 Lesotho adopted the Westminster 'first-past-the-post' (FPTP) (or single-member-constituency) electoral system, whose main tenets have been elaborated upon by various writers (Curtice 1992; Steytler et al 1994; Reynolds and Reilly 1997; Gill 1998; Mahao 1997; Mahao 1998; Molomo 2000; Matlosa 1997; Matlosa 2001; Matlosa 2002; Matlosa 2003). In this section I attempt to tease out the political implications of the key elements of this electoral model, particularly in so far as they relate to democratic governance and stability. The system has various attributes, which either strengthen or weaken democratic governance and have varying impacts on and consequences for political stability.

The FPTP is one of the simplest electoral models in the world. The whole country is divided into constituencies (electoral zones) of almost equal size, in terms of the population of eligible voters. Each constituency elects one candidate to represent its interests in parliament. It is this feature that gives FPTP its reputation for accountability, for it links the MP directly with his/her constituency and, in this regard, is indeed stronger than all other electoral systems, particularly the proportional representation (PR) system. Candidates contesting elections do so as individuals who are either endorsed by the party or independent.

This is the case in Lesotho whose electoral system is predicated upon the individual, rather than the political party. The candidate stands for election on behalf of, and is ultimately answerable to the constituency, irrespective of whether he or she has contested the election as an independent or as a party-endorsed candidate. In other words, parties do not contest elections, but simply sponsor or endorse candidates. The fact that this feature is not usually understood leads politicians to confuse FPTP with PR, a misunderstanding that has led to various types of conflicts within political parties in Lesotho, where party leaders have attempted to impose tight control and patronage over candidates during the primary elections and even as they discharge their duties in the legislature.

This also raises important questions about democratic leadership within parties themselves. In other words, although we need to be worried about threats to the democratic process at the macro level of the state, we need to be equally concerned about democracy at the micro level of the political party. The key litmus test of this micro level of democracy is the success or failure of primary elections. Primary elections in Lesotho have been marked by bitter conflicts between party leadership and constituencies over the desired candidates, with the former invariably gaining the upper hand. This suggests that, despite the fact that Lesotho has made recognisable improvements in reforming its electoral model, the challenge of democratising political parties as institutions remains real. There is also a crucial

lesson here for the DRC – since parties are the key actors in the democratic process and the key agents for the running of the state machinery, their internal management structures will need to be adequately democratised and the success or failure of this democratisation process will manifest itself in the way primary elections are conducted.

In Lesotho intra-party conflicts that led to litigation particularly afflicted the Lesotho Congress for Democracy (LCD), the Basutoland Congress Party (BCP) and the Basutho National Party (BNP) during both the 1998 and the 2002 elections. It is significant that during the elections all the major political parties experienced serious hiccups in the primary election phase in relation to the fielding of candidates in certain constituencies. The two main reasons for the problems were that the political leadership confused the FPTP system with proportional representation and the lack of inner-party democracy, which led to top-down administrative and decision-making approaches. The tight party control of the candidates has not only undermined inner-party democracy and primary elections but has tended to undermine the accountability of MPs to their constituencies as MPs tend to be torn between allegiance to the party and allegiance to the constituency.

Even in the National Assembly MPs are subjected to tight control and discipline by political (especially ruling) parties to the extent that they virtually become party operatives and are oblivious of both their watch-dog role and their presumed mandate from their constituencies. The two instruments used effectively to achieve this end are the party caucus and the Chief Whip – mechanisms which are ideally intended to entrench and sustain the inner democracy of the parliament but are, in practice, used by political parties to enforce law and order and to pressure MPs to toe the party line, even if their individual consciences and constituency interests are at variance with party positions.

This contradiction has become more glaring and threatening to the political system during times of massive floor crossing in parliament, as happened in 1997 when the LCD was formed and precipitated a crisis of unprecedented proportions for Lesotho's parliamentary democracy. As the party takes centre stage constituencies tend to be marginalised and are likely to be remembered only when the next round of general elections approaches. It is possible that this situation has been considerably resolved by the electoral reform towards the MMP system as such massive floor crossing now seems impracticable given the complexion of the National Assembly.

Another influence on the democratic system is the way parliament discharges its duties. The National Assembly has three main functions – legislative, financial and critical. While it has historically been fairly active in the first two areas, it has been quite sloppy on the third, mainly because members of parliament (MPs) invariably perceive themselves as party operatives/activists and thus as representing the interests of the ruling party rather than those of their constituencies. No wonder, therefore, that criticism of the executive organ of the state is considered to be heresy.

Under the 'first-past-the-post' system, a candidate 'succeeds in getting more votes than any other candidate in an election even though she may not be supported by an absolute majority of voters in that constituency' (Asmal and de Ville 1994, 3). This is the main pillar of this system: the constituency elects only one candidate (as an individual) and that candidate does not necessarily have to achieve an absolute majority (Mahao 1998). The candidate who has obtained more votes than other individual contestants wins the constituency, even though the total number of votes cast for the other candidates may far exceed those of the winner. Molomo (2000, 112) observes that under this system 'a candidate who gets a mere plurality of the vote stands duly elected as an MP and the other candidates irrespective of the size of their poll are declared losers, and do not make it to parliament'. Four other important elements of FPTP that flow from this are the possibility that a constituency will be represented by a candidate with a minority of votes; a ruling party may have a minority of votes at national level; a one-party legislature may be created by the absence of opposition in the National Assembly and the system may result in the marginalisation of smaller parties (Asmal and de Ville 1994; Mahao 1998). All these are critical deficiencies in the FPTP system, which have in part contributed to incessant and violent conflicts in Lesotho, with dire consequences for democratic governance and stability.

This essentially means that, although in theory the winning candidate is supposed to represent all members of a constituency, those members of the electorate who voted for losing candidates are effectively disenfranchised because they are not represented in parliament. We call this vote wastage. The problem is replicated at the national level in that a political party can form a government, even though it has won fewer votes than the combined total votes of the other parties. At constituency level, this outcome leads to a skewed vote that disproportionately rewards numerically strong parties at the expense of other, smaller parties that command some local support. At the national level it leads to minority governments representing a small percentage of the total number of voters and thus poses serious problems, not only of representivity, but of legitimacy of key institutions of governance. It is this situation that has led to the description of FPTP as 'winner-take-all', which tends to turn politics into a zero-sum rather than a positive-sum game.

How useful is this perception of politics as a zero-sum game, especially when the notion itself is engrained in an electoral system? The answer is contained in Tekle's apt observation that 'Mutual appreciation of opposing views must be accepted and the conviction that losers lose everything while winners take it all can no longer be the norm. It must be recognised that in a democracy winners and losers are partners and not enemies who must destroy each other. Electoral systems must advance this in law and practice' (1998, 175).

A cursory glance at Lesotho's electoral history reveals that in 1965 six of the 31 parliamentary seats for the BNP were won on a minority vote (Mahao 1998). Even in the case of the 1970 election, which was interrupted mid-stream by the ruling

party and declared null and void, eight constituencies were won on a minority vote. The overall election result in 1965 delivered a minority government, for the ruling party had won only 42% of the total valid votes cast. The combination of votes won by the other contestants accounted for 58% of votes cast, but their representation in parliament was tenuous at best and ceremonial at worst.

Little wonder, then, that the election outcome was contested by the main opposition, BCP, on the grounds that the BNP had rigged the results with the covert complicity of the British authorities (Gill 1998). The losers did not accept defeat with dignity, nor did the winner assume power with political comfort. The BNP's victory proved a liability rather than an asset to Lesotho's young democracy and its electoral system. Given its Pyrrhic victory, the ruling party strove to entrench its political hegemony over the other parties and failed to nurture politics of consensus, compromise and inclusiveness in the early years of Lesotho's democracy. This tendency minimises or totally denies the critical role of an opposition in the legislature.

Another problem with FPTP is that it tends to unduly advantage dominant parties and disadvantage weaker parties, thereby strengthening one-party systems, which further whittles away the participatory nature of democratic governance. This trend also weakens and fragments opposition parties and often leads to the type of one-party legislature that was the hallmark of Lesotho's political landscape between 1966 and 2002. Once the opposition in the legislature is either weak or non-existent, the efficacy and effectiveness of the business of the parliament is severely undermined. If parliament fails to see its role as a watchdog of the executive organ of government, but instead acts as a rubber stamp for government decisions and policies, democratic governance is hampered. It is not surprising that members of the Lesotho National Assembly have historically perceived themselves as first and foremost representing the interests of the ruling party, and thus as accountable to the party even more than to the constituency. This irony suggests that the unwritten intricacies of the Lesotho electoral model are not generally well understood even by the politicians, let alone by the ordinary voter in the village.

Linked to the one party or dominant party outcome of FPTP is the fact that the overbearing hegemony of the ruling party over the legislature and the MP is entrenched, to the detriment of the check and balance role parliament is supposed to play vis-à-vis the executive branch of government. The stability and effectiveness of the government is seen to emanate from the single-party outcome of an electoral system that does not allow coalitions, which may yield fragile governments. In effect, in the Lesotho context, the single-party outcome has been responsible in part for the political instability that has beset the country for more than three decades. Lesotho, thanks largely to the FPTP system, has rarely experienced political stability and this condition has also affected the effectiveness of ruling parties (Matlosa 1997). In this connection, it is instructive that had the 1970 election been allowed to run its full course Lesotho would have had yet another minority government.

However, the 1970 election was annulled by the ruling BNP, which, sensing an inevitable defeat by its main opposition, the BCP, attempted to spoil the game. The annulment was, in itself, tantamount to a vote of no confidence by the BNP as the ruling party in the FPTP electoral system – the very system, ironically, that had helped the BNP win the 1965 pre-independence election. Subsequently the BNP sustained its rule, not by the ballot, but by undemocratic means. It was dislodged from power in 1986 by a military coup that, paradoxically, followed decades of BNP reliance on the security apparatus to ensure and anchor its authoritarian, de facto one-party rule (Matlosa and Pule 2001).

An electoral system that produces either a minority government or a single-party government breeds conditions for excluded parties to attempt to rock the boat rather than help redirect it. Even a ruling party, if threatened with electoral defeat by an opposition party, may simply spoil the game and resort to other unsavoury methods of sustaining its rule.

The events that followed the 1970, 1993 and 1998 elections serve as an illustration of such behaviour. In 1970, the ruling BNP won 23 seats and 42% of the vote, while the BCP won 36 seats with 49.8% of votes. The party decided that if it could not hang on to power through the ballot, it would do it through the bullet.

In 1985, recognising that it might not be able either to win the majority of votes or to attain some seats in parliament, the BNP spoiled the election by making it impossible for other candidates to contest it so that, in the end, all the BNP candidates were declared elected unopposed (Southall and Petlane 1995; Matlosa 2002). The political developments that followed the general elections of 1993 and 1998 were of a fairly different order, but still emphasised the exclusionist tendency of the electoral model and its contribution to recurrent and incessant conflicts. In both elections, the system delivered a one-party government with no opposition in parliament. Unlike the 1965 election, which produced a minority government through the 'first-past-the-post' system, the elections of 1993 and 1998 both produced a mono-party government with no significant opposition.

The 1993 election was interesting in that it produced a stunning victory for the BCP, which won all 65 constituencies and 75% of the votes, with the other contestants securing a total of 25% of the votes and not a single parliamentary seat. Even the BNP, which had secured a total of 23 % of votes, was denied representation by the nature of the electoral system. The BNP protested the fairness of the election and lost in the courts (Sekatle 1995; Matlosa 1997; Matlosa 2002). In fact, rather than contest the result, the BNP should have contested the electoral system. Having failed to persuade the court to nullify aspects of the election, feeling excluded from the political system it had shaped and sustained for years and being unable to influence policy from within, the BNP resorted to other methods of venting its grievances. These were, of necessity, extra-parliamentary methods, which directly and/or indirectly added to the instability of the political system.

The BCP government, which was reinstated with external assistance after being temporarily displaced by King Letsie III, experienced major infighting – a common

disease of one-party governments with no opposition in parliament – which culminated in the establishment of the Lesotho Congress for Democracy. Upon securing a majority of support in parliament, the LCD assumed the reins of power and displaced the BCP, which had been catapulted to power by a popular vote. Since the FPTP system recognises MPs as individuals and not as representatives of political parties, it condoned this development, which was also not outlawed by the Constitution. Again, instead of the BCP questioning the democratic form and content of both the Constitution and the electoral system, it accused the LCD of a coup and refused to take its seats as the official opposition in parliament. The LCD remained the ruling party.

During the 1998 election, the principal contest was among the LCD (79 seats and 61% of votes cast), the BNP (one seat, with 25% of votes cast) and BCP (no seats, with 10% of votes cast). ‘Once again, the first-past-the-post constituency system seriously disadvantaged the losing parties and exposed the new government to intervention by its opponents’ (Rule 1998, 11). The result was that once again the electoral outcome contributed to intense conflict among the political elite, rather than acting as a conflict management mechanism. The post-election conflict in Lesotho escalated rapidly and assumed violent proportions. The political elite locked horns in a violent armed confrontation which nearly plunged the country into civil war (Matlosa 1999; Matlosa 2002).

The conflict claimed many lives and caused a considerable amount of damage, not to mention the massive expenditure required for its ultimate settlement. After the failure of local initiatives to manage the conflict, South Africa and Botswana intervened. Following the diplomatic failure of the Langa Commission to spell out clearly the problems that had been encountered during the election and the remedial steps that might be taken by relevant stakeholders, a combination of military and coercive diplomacy was used to resolve the conflict (Matlosa 1999). The negotiation process that ensued, brokered by South Africa’s then Minister of Safety and Security, Sidney Mufamadi, culminated in the establishment of the Interim Political Authority (IPA), representing all political parties that had contested the election.

The primary mandate of the IPA was to prepare, in liaison with government, for a fresh general election, originally scheduled for May 2000 but later postponed to May 2002. Among the powers of the IPA was a review of the Lesotho electoral system with a view to making it more democratic and representative of the people of Lesotho (GOL 1998). Although the relationship between the government, the Independent Electoral Commission and the IPA has been marked by a certain amount of conflict and tension, the electoral reform process was undertaken successfully and the general election of May 2002 went off peacefully. In addition to the conflicts mentioned above, other problems involved in preparations for the 2002 elections were caused by:

- IPA members whose interests are served by the continued existence of a structure that assures them financial gain.

- Constant and persistent internal conflicts within the IPA itself over a number of procedural and policy issues.
- The failure of the IPA to involve the larger populace in its mandate to level the playing fields for the electoral contest, especially the reform of the electoral system.
- Heavy reliance by IPA and government on the external guarantors of Lesotho's democracy – Botswana, South Africa, Mozambique and Zimbabwe – to resolve conflicts, rather than to seeking internal remedies.
- Incessant intra-party conflicts, leading to fragmentation and constant changes of their representatives in the IPA.

Despite all these problems, all keen observers of Lesotho's political development agreed that it was highly unlikely that the 2002 election would trigger a violent conflict of the proportions experienced in 1998. However, they also recognised the stark political reality that some political parties could still cry foul, as the BNP did, and, in the process blame the IEC, even though the election was given a clean bill of health by observers. The fact that the 2002 election was not preceded by violent conflict, the election day was peaceful and the post-election period has witnessed a sense of reconciliation and harmony through a multi-party parliament is a positive sign, from which other SADC member states like the DRC and Angola who are dealing with protracted conflicts are compelled to draw lessons.

REVIEW OF THE REFORM OF LESOTHO'S ELECTORAL SYSTEM

Nowhere in the world is there a single electoral system that is considered the most perfect for sustaining and consolidating democratic governance and stability. Conversely, there is also no single electoral system that is considered the most imperfect and conflict inducing. Countries adopt electoral systems in accordance with their political traditions and cultures as well as in keeping with their political and economic needs at a particular historical juncture. It is not surprising, therefore, that former British colonies adopted the Westminster 'first-past-the-post' system. What is surprising, though, is that, apart from Namibia and South Africa, the political players themselves have not seriously considered whether the FPTP model is appropriate for democratic rule in their own countries. It is critical that when countries adopt or reform their electoral models, the general populace/electorate is fully informed and involved. This is a crucial lesson the DRC must learn from the Lesotho context. It is therefore imperative that the on-going Inter-Congolese dialogue grapples seriously with an appropriate political system for the country, as well as with the most appropriate electoral system.

Despite the problems outlined above, the FPTP system does have some advantages. Among these is the ability to:

- deliver stable and effective single-party governments;

- ensure a two-party system and discourage a proliferation of parties;
- discourage fragile coalitions or fragmented governments;
- be relatively easy to understand and administer;
- ensure accountability of MPs to their specific constituencies.

The major disadvantages of the system are:

- the tendency to create minority or single-party governments;
- the marginalisation of smaller parties and enhancement of the political hegemony of dominant parties;
- a tendency to discourage an active loyal opposition in parliament;
- the tendency to destabilise the political system, in that losing parties tend to feel cheated and excluded from the governance process;
- general weakness on some of the key principles of democratic governance such as representation, inclusivity, legitimacy and political participation.

The form, substance and mechanics of any electoral system must be understood by all stakeholders – the government, opposition parties, the election management body, civil society organisations and the electorate. More importantly, voters must have a clear grasp of why they are choosing a particular candidate to represent them in the legislature. They must know what to expect and what not to expect from their MPs. The system must also make it possible for voters to impose sanctions on MPs who fail to discharge their duties.

With sufficient evidence to suggest that much of the pervasive violent conflicts and general instability that have weakened democratic governance in Lesotho were linked to the elections and the nature of the electoral system, the country made a deliberate effort, after the ill-fated 1998 election, to reform its system from FPTP to MMP. Although initially the government and the IPA locked horns on an appropriate format for the reform process, with government pushing for the Multi-Member Majoritarian (MMM) system and the IPA for MMP, the latter option prevailed to the satisfaction of all concerned.

As Elklit observes: 'on 25 May 2002 Lesotho became the first African country to test the MMP electoral model in a parliamentary election. The election went well and the results produced by the new MMP system represent a significant political and democratic achievement. There can be no doubt that the experience from this first national level application of this electoral system to African soil will be studied carefully in many quarters, including outside the mountain kingdom' (2002, 1). Other countries known to have this system in place are Germany, New Zealand and Wales (for regional assemblies only) and Scotland (for regional assemblies). Unlike FPTP, the MMP system adopted by Lesotho was a dual ballot system in which each voter casts two votes – a constituency vote and a party vote. According to the IEC Report 'the constituency vote determines who will represent the constituency in the National Assembly. The party vote is used to elect candidates

from party lists and compensate parties who have won fewer constituency seats than they would be entitled to under pure proportional representation, or who have won no constituency seats even though entitled to under proportionality' (IEC 2002, 3).

The MMP system has many advantages, primarily because it attempts to combine the positive elements of both the FPTP and the PR systems. Its key features are:

- Although the country is divided into constituencies some representatives are elected by means of PR, which feature may change to a 65:65 ratio in the next election, if the arbitration award of October 1999 is to be implemented.
- Either one ballot (New Zealand) or two separate ballots (Lesotho) can be used to elect MPs.
- It makes allowances for independent candidates to contest elections under FPTP and not under the party list PR component.
- An agreed threshold is established for entry into parliament by MPs elected through the PR system (5% of total votes cast or, in the case of New Zealand, one constituency won). In the Lesotho case, there is no formal threshold.
- It combines the accountability of the MP to the constituency and the political stability assured by broad representation in the legislature.
- It allows for MPs to cross the floor – in the case of Lesotho, only those MPs occupying constituency seats.
- Linked to the floor-crossing provision is another advantage of the system which guards against the fragmentation of parties, thus avoiding the unsavoury developments of 1997 when the LCD split from the BCO, and in 2002 when the LPC split from the LCD, in both cases, the main casualty being Lesotho's fledgling parliamentary democracy.
- It encourages rather than throttles a multi-party arrangement by allowing both small and bigger parties to participate in the legislature.
- Although the constituency-based election may still allow for minority winners, this problem is contained by the PR component that ensures a broadly-based national legislature.

These are, therefore, some of the virtues of the MMP system the government of Lesotho and the Interim Political Authority (IPA) agreed to adopt after some protracted disagreements and negotiations. The new system was put into effect during the 2002 election. Whereas the new model will not change the size and composition of the Senate, the upper house of the legislature, it has changed both the composition and size of the lower house, the National Assembly. The National Assembly's political complexion has been changed by the participation of various parties, both big and small. Its size has increased from 80 to 120, with 80 seats occupied by MPs elected through the FPTP and the remaining 40 held by MPs elected through the PR system.

Table 1 depicts the overall result of the 2002 election and the manner in which votes were translated into parliamentary seats on the basis of the MMP System. All in all 16 parties contested the election. The total number of valid votes cast was 554 386 (column 1), about a 70% voter turnout. The same column indicates each party's total vote divided by the quota of votes. Of the 80 constituency seats only 78 were contested (2 were deferred) and the ruling LCD won 77 of these, while its splinter group, the LPC, won one (column 2). Column 3 depicts the allocation of compensatory seats on the basis of PR for the remaining 40 seats and it is worth noting that while the LCD is excluded from this benefit since it won a large majority of constituency seats, the BNP, which did not win even one constituency seat, received 21 compensatory seats. This represents the major strength of this electoral model. The total number of parliamentary seats contested was 118. The two major parties in parliament are the ruling LCD (77 seats) and the main opposition BNP (21 seats) (column 4). Columns 5 and 6 show party votes won through party lists on the one hand and constituency plus compensation in percentage terms on the other.

As Table 1 (see p 94) indicates, although it has many advantages over the FPTP system, the MMP system is relatively more complex. The voting process is complicated as is the process of calculating votes and translating them into legislative seats. As Elklit (2002) points out succinctly, the translation of votes into seats is a two-round process involving some rigorous arithmetic computations which, if not well understood, could cause not only dissatisfaction but also possible conflict that could disrupt what is essentially a positive development. Through both rounds, the sum of party votes divided by a quota of votes establishes a party quote which, in turn, helps establish how many seats each party is entitled to, and this process will also establish the number of compensatory seats.

The calculation of votes for those elected through the FPTP system and their translation into seats remains unchanged, but the PR system demands that the IEC follow various steps:

- Determine the total votes cast for all political parties (total votes).
- Determine the votes cast for each political party (total party votes).

In the case of Lesotho, the IEC must then determine the number of votes required for the allocation of seats in the National Assembly by:

- Dividing the total votes by the total number of seats in the National Assembly.
- Rounding off to the next number, including a whole number, any decimal fraction equal to more than half.
- Establishing, by means of the above steps, the quota of votes required for candidates to qualify for seats in the National Assembly by dividing the total number of valid votes cast by the total number of parliamentary seats.

Table 1
Summary of Seat Allocation and Percentage Votes and Seats

Contestants	Total party votes (valid votes)	Constituencies won by party	Party's allocation of compensatory seats	Total number of seats	% party votes (party votes)	% seats won (constituency seats + compensatory seats)
Basotho National Party	124 234	0	21	21	22.4	17.8
Basutoland African Congress	16 095	0	3	3	2.9	2.5
Basutoland Congress Party	14 584	0	3	3	2.6	2.5
Christian Democratic Party Khoetsa ea Sechaba	1 919	0	0	0	0.3	0.0
Popular Front for Democracy	6 330	0	1	1	1.1	0.8
Kopanang Basotho Party	1 155	0	0	0	0.2	0.0
Lesotho Congress for Democracy	304 316	77	0	77	54.9	65.3
Lesotho Peoples' Congress	32 046	1	4	5	5.8	4.2
Lesotho Workers Party	7 788	0	1	1	1.4	0.8
Marematlou Freedom Party	6 890	0	1	1	1.2	0.8
National Independent Party	30 346	0	5	5	5.5	4.2
National Progressive Party	3 985	0	1	1	0.7	0.8
New Lesotho's Freedom Party	1 671	0	0	0	0.3	0.0
Sefate Democratic Union	1 584	0	0	0	0.3	0.0
Social Democratic Union	542	0	0	0	0.1	0.0
United Party	901	0	0	0	0.2	0.0
Independent Candidates	-	0	-	0	-	0.0
Totals	554 386	78	40	118	100	100

The IEC must then establish the provisional total number of seats to which each party is entitled on the basis of its share of the total votes. At this stage, too, there is a number of crucial steps:

- Each party's votes are divided by the quota of votes, to establish its quota.
- Each party is allocated seats equal/proportional to its quota of votes, without any consideration of fractions of votes.
- All seats are added together and deducted from the overall total of legislative seats.
- Parties are entitled to compensatory seats, which are calculated by deducting the number of seats won through FPTP from the total seats allocated, resulting in a provisional allocation of compensatory seats to each party.

Table 2 presents a comparative survey of the results of all the general elections held in Lesotho between 1965 and 2002. The most striking fact revealed by the survey is that, while almost all the other elections (notably those of 1993 and 1998) produced a one-party parliament, the 2002 election produced a clearly multi-party parliament. This trend further emphasises the value of MMP over FPTP in relation to democratic governance. Thus, to a large extent, the introduction of the MMP system has addressed a major democratic deficit in Lesotho's political landscape.

Table 2
Election Results in Lesotho: 1965 – 2002

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

- The Lesotho electoral reform process is crucial for all parties, and political analysts believe that, by broadening participation and expanding the inclusiveness of the electoral system, it will assist in containing violent political conflicts, as the figures in Table 2 clearly show. It is thus believed to be a very positive political development (Elklit 2002). It is abundantly clear from Table 2 that the MMP has enormous potential to promote inclusive, participatory and consensual politics in Lesotho, and obviously the system will change the nature of parliament in fundamental ways for the good of the country's fledgling democracy. However, the electoral reform process in Lesotho still faces critical challenges if political stability is to be assured.

CONCLUSION

There are many lessons for the DRC to be drawn from the above. After the decades of authoritarian rule by the Mobutu regime, there is obviously a political quest under the new Kabila government for the entrenchment of a vibrant multi-party democracy. It is therefore imperative that the DRC embark on a deliberate process of political reform towards multi-party democratic governance, following the example of its neighbours in the SADC region, with a view to consolidating the implementation of the 1999 Lusaka Peace Accord as well as the achievements of the Inter-Congolese Dialogue. .

Elections and the choice of an electoral system will have no significant impact on democratic governance if there is no durable peace and reconciliation premised upon an agreed framework such as the Lusaka Accord. In other words, a peace agreement must hold and be respected by all the belligerent parties before elections can even be contemplated. Such an agreement must be followed by political dialogue involving all the stakeholders in the DRC. Fortunately this process is already under way, facilitated by the former Botswana president, Sir Ketumile Masire, and has delivered some positive results by way of a government of national unity under Joseph Kabila. Part of the dialogue must entail deep debate about the form of electoral system the country should adopt as an important ingredient of democratic governance.

The dialogue process should be broadened beyond the political elite to involve civil society and, particularly when it comes to the choice of electoral system, nationwide consultations involving the electorate should be undertaken. Different strategies must be devised to involve the electorate and these could even include public meetings throughout the entire country or, if need be, a referendum. The latter should be resorted to only if there are serious disagreements about the electoral model among the key political actors.

The DRC could benefit a great deal by reforming its electoral system away from FPTP towards MMP. However, the country does not have to adopt a replica of either the Lesotho or the New Zealand model, it must adapt the system to its own socio-economic and political context. The system it chooses must accord with

the prevailing political culture and the institutional context of the governing regime. The inter-Congolese political dialogue must thus grapple with these issues and explore the advantages and disadvantages of various electoral models (especially the FPTP and PR) before a final choice is made. However, given the protracted violent conflict that has marked the DRC's political landscape for decades and the pervasive socio-cultural and ethnic diversity of the country, in sharp contrast to the socially homogenous Lesotho, an electoral system that will sufficiently provide for broadly-based political representation of various segments of the population is desirable. It is thus highly likely that the MMP could serve the DRC extremely well, not only in nurturing and consolidating its young democracy, but also in managing conflict and achieving sustainable peace and security.

The above proposition is corroborated by Denis Kadima (2001, 87), who aptly notes that 'ethnic tensions in places like eastern Congo and Katanga would be exacerbated by a single-member constituency system of political representation given the exclusionary character of this system. It is therefore important to include elements of proportionality in the electoral system, maintain the link between the electorate and its representatives and ensure government stability.' The MMP has a greater potential to achieve these goals of establishing, nurturing and consolidating democratic governance in the DRC and ensuring political stability after years of costly violent conflict.

----- REFÉRENCES -----

- Adejumobi, S. 1998. 'Elections in Africa: A fading shadow of democracy'. *Africa Development* XXII (1).
- Asmal, K. and J. de Ville. 1994. 'An Electoral system for South Africa'. In Steytler, N., J. Murphy, P. de Vos and M. Rwelamira (eds). *Free and Fair Elections*. Cape Town: Juta & Co, Ltd.
- Bujra, A. and S. Adejumobi (eds). 2002. *Breaking Barriers, Creating New Hopes: Democracy, Civil Society and Good Governance in Africa*. Trenton: Africa World Press.
- and Buthelezi, S (eds). 2002. *Leadership, Civil Society and Democratisation in Africa*. Addis Ababa: Development Policy Management Forum.
- Curtice, J. 1992. 'The British Electoral System: Fixture without foundation'. In Kavanagh, D. (ed). *Electoral Politics*. Oxford: Clarendon Press.
- Elklit, J. 2002. 'Lesotho 2002: Africa's First MMP Election'. *Journal of African Elections* 1 (2).
- Gill, S. 1998. 'Electoral Systems for Lesotho: Lesotho's own political heritage and possible contributions from other systems'. In Sello, C. (ed). 1998 *Lesotho National Election: Lessons for the Future*. Maseru: Lesotho Council of Non-Governmental Organisations.
- Government of Lesotho, National Assembly Election (Amendment Act), 1997. Maseru, Lesotho.
- Government of Lesotho, Interim Political Authority Act, 1998. Maseru, Lesotho.

- IEC. 2002. 'Report on the 2002 General Election in Lesotho'. Maseru (mimeo).
- Kadima, D. 2000. 'The Inter-Congolese Dialogue and Constitution-Making'. In Kadima, D. and C. Kabemba (eds). *Whither Regional Peace and Security: The Democratic Republic of Congo after the War*. Pretoria: Africa Institute of South Africa.
- Mahao, N. 1997. 'The electoral system and the legitimacy of representation in a democracy'. *Lesotho Law Journal* 10 (2).
- , 1998. 'Why Lesotho should change its Electoral Model'. In Sello, C. (ed). 1998 *Lesotho National Election: Lessons for the Future*. Maseru: Lesotho Council of Non-Governmental Organisations.
- Matlosa, K. 1997. 'Lesotho's political turmoil and prospects for the 1998 national election'. *Africa Insight* 27 (4).
- , 1999. 'Conflict and Conflict Management: Lesotho after the 1998 Election'. *Lesotho Social Science Review* 5 (1).
- , 2001. 'Ballots and Bullets: Elections and Conflict Management in Southern Africa'. *Journal of African Elections* 1 (1).
- and N. Pule. 2001. 'The Military in Lesotho'. *African Security Review* 10 (2).
- , 2002. 'Lesotho'. In T. Lodge, D. Kadima and D. Pottie (eds). *Compendium of Elections in Southern Africa*. Johannesburg: Electoral Institute of Southern Africa.
- , 2003 (forthcoming). 'Electoral System, Constitutionalism and Conflict Management in Southern Africa. *African Journal on Conflict Resolution*.
- Molomo, M. 2000. 'In Search of an Alternative Electoral System for Botswana'. *Pula* 14(1).
- Molutsi, P. 1999. 'Southern African Development Community (SADC): Elections Focus 1999'. *SAPEM* 12(5), May.
- Reynolds, A. and B. Reilly. 1997. *The International IDEA Handbook of Electoral Systems Design*. Stockholm, Sweden.
- Rule, S. 1998. 'The Lesotho Election, May 1998'. Johannesburg: The Electoral Institute of South Africa (mimeo).
- SADC Regional Human Development Report*. 1998. Harare: SAPES Books.
- Sekatle, P. 1995. 'Disputing Electoral Legitimacy: The BNP's Challenge to the Results'. In *Democratisation and Demilitarisation in Lesotho: The General Election of 1993 and its Aftermath*. Pretoria: Africa Institute of South Africa.
- Southall, R. and T. Petlane (eds). 1995. *Democratisation and Demilitarisation in Lesotho: The General Election of 1993 and its Aftermath*. Pretoria: Africa Institute of South Africa.
- Steytler, N., J. Murphy, P. de Vos and M. Rwelamira (eds). 1994. *Free and Fair Elections*. Cape Town: Juta & Co, Ltd.
- Tekle, A. 1998. 'Election and Electoral Systems in Africa: Purposes, Problems and Prospects'. *International Commission of Jurists Review*, No. 60.
- UNDP. 2002. *Human Development Report*. Oxford: Oxford University Press.
- Weisfelder, R. 2001. 'What is Delaying Elections in Lesotho'. *South African Journal of International Affairs* 8 (1).