

EISA SOUTH AFRICAN ELECTORAL SYSTEM ROUNDTABLE

Welcoming address by Mangosuthu Buthelezi, MP, Minister of Home Affairs, South Africa

Cape Town, 9 September 2002

It gives me great pleasure to welcome all the participants to this roundtable and the many people who, through their efforts and dedication, have made it possible. A special word of appreciation goes to the Konrad Adenauer Stiftung which once again has played a pivotal role in the development and consolidation of democracy in our country. I also wish to acknowledge and thank all the other sponsors who have made the work of the Electoral Task Team possible; namely the Danish Government, the Swedish Government, the Norwegian Government and the Government of the United Kingdom.

I wish to express particular appreciation to Dr van Zyl Slabbert, who has been leading the Electoral Task Team. He accepted to carry out this difficult and delicate responsibility, even though he knew well that he had to storm in where angels fear to tread. I also appreciate the fact that he was willing to put up with almost one year of delays which took place from when he first gave me his availability to preside over this delicate process of policy formulation, to when Cabinet finally approved the establishment of the Electoral Task Team under his chairmanship. I know that this delay has caused him great inconvenience, as he kept himself available for almost one year when I was unable to give him a clear commencement date. He is a real patriot, who waited for the right time to be called and set aside other more lucrative and rewarding commitments for love of country. South Africa remains indebted to him.

This review roundtable is a moment in which I hope the Electoral Task Team will be able to begin consolidating its thoughts and proposals in respect of the formulation of the new electoral system for South Africa. The Electoral Task Team has now worked for several months and I have received interim reports of its activities. I sincerely hope that during this important event we can all find together a clear direction on the way forward, so that a draft Electoral Bill may be finalised before the end of the year.

This process of policy formulation is of historical importance and I feel very privileged to be the Minister under whose responsibility it is now taking place. It is the last act of an epic institutional transformation which began 12 years ago when, on February 2 1990, the then State President FW de Klerk announced the beginning of the dismantling of apartheid. The adoption of a new Electoral Act for South Africa will complete the constitutional transformation from apartheid to democracy, as it will be the last major piece of legislation required to replace the interim arrangements set forth in the 1993 interim Constitution and carried over into our present Constitution. Therefore, I feel that today we can rightly celebrate the end of the beginning.

An Electoral Act is a special piece of sub-constitutional legislation. More than any other piece of legislation required to implement the Constitution, it defines the nature of democracy. Our Constitution has given the Legislature a substantial degree of latitude in defining the type of parliamentary democracy South Africa shall enjoy. Barring the fact that an electoral system must yield a generally proportional outcome, the Legislature has the latitude to adopt any of the known systems which produce such an outcome, and to devise any other new one which may better suit our needs. This is an important creative time in which we must not only look at South Africa's present day conditions, but also at

the impact the electoral system will have in developing the conditions of our future democracy.

The electoral system defines the terms of the fundamental compact between the voters and their elected representatives. It is that which defines the very notion of representation and therefore the very matrix of democracy. The terms of the contract between the voters, political parties and elected representatives define how political parties and members of legislatures are expected to conduct themselves, carry out their electoral mandate and act as agents of democracy.

For this reason, the formulation of an electoral law cannot be the exclusive prerogative of political parties or elected representatives. Political parties and elected representatives in Parliament are surely qualified to pass any other piece of legislation, acting in the name and on behalf of the voters. However, when drafting the electoral law, we, members of Parliament, somehow find ourselves in a sort of conflict of interests as we would be writing the terms of our own contract. For this reason, since the outset of this process of policy formulation it was realised and accepted that the new electoral law could not stem exclusively out of an agreement amongst political parties and should not be formulated from within the bosom of government. The electoral law should belong as much to civil society as it belongs to political parties.

For this reason, Cabinet accepted that this process of policy formulation be conducted in a somehow different fashion than many others. We appointed the Electoral Task Team as an institution of civil society which could liaise with other organs of civil society, but we gave it a stringent mandate to liaise with political parties and take their views into account. The pivotal element of this operation was that of identifying a point of fusion between the realm of politics and that of civil society.

We needed somebody whose integrity would be beyond question, with vast knowledge of the political system, with no specific party allegiances, and devoted to the preservation of the prerogatives of civil society. I feel confident that no better man could have fitted this description than Dr van Zyl Slabbert. I also feel that the commissioners he has gathered around him represent one of the most powerful brain trusts and collections of expertise and wisdom ever gathered together during the many processes of policy formulation which our country has undergone during the past 8 years. I say this because I want to make it clear that out of this extraordinary group of people I expect nothing trivial nor mediocre.

In fact, South Africa as a whole has a great deal of expectation. Now more than ever public debate is focusing on the features of an electoral system which can produce genuine accountability of the elected representatives to their voters. There is general recognition that it is incumbent on us to strengthen the bond of accountability. We must do so in a system which also meets the other criteria of fairness, inclusiveness and simplicity. The criteria of fairness is entrenched in the Constitution as part of the requirement that the electoral system yields a generally proportional outcome. The requirement of inclusiveness has somehow been accepted within our political debate since the opening of CODESA, as we realise that ours is a country characterised by extensive demographic, ethnic, cultural, religious and social diversity. Such a plural society needs to be represented by a system which gives value and provides a voice to all the segments of our society. Therefore, it must make provision for the representation, or perhaps even the over-representation, of minorities, however such minorities may aggregate in the future, whether they are political, ethnic or cultural minorities.

The element of simplicity has also been acquired in our political debate as a given. It is what led us to adopt simple ballot papers which allow even people who cannot read and write to confidently express their political choice. However, we need to ensure that the quest for simplicity does not create setbacks for democracy. In fact, I remember how at the World Trade Center the notion of simplicity was utilised by those who were opposing the notion of a double ballot paper, arguing that our electorate was not sophisticated enough to deal with two ballot papers for national and provincial elections respectively. Our electorate proved them wrong as there were no reported difficulties in understanding the function of the two ballots.

There has been a substantial process of democratic consolidation which has increased the electorate's sophistication. We witnessed this clearly in our last local government elections which were held on a much more complex electoral system. Most of the constituencies understood the difference between proportional representation lists and constituency representatives. They might not have understood the intricacies of the system, but by and large they understood how people would be chosen to represent them.

It is a proven fact throughout the world that the vast majority of voters do not understand, or for that matter care to know, the mathematical intricacies of the various formulae adopted in the design of an electoral system. They know how to use the system and they understand what the system will yield depending on their inputs. After all, this is what we all experience everyday whenever we use many of the technological gadgets which surround our daily lives. We understand how they work, even though their internal functioning is far beyond common comprehension. For this reason, I believe that in designing an electoral system for South Africa we must not allow a subliminally condescending quest for simplicity to hold us back from adopting an electoral system based on features which promote and consolidate democracy. These should be features which require voters to become increasingly proactive in the electoral process and empower them to participate in the electoral process with greater electoral awareness. In itself the electoral system should promote individual and collective political growth, paving the way to a day in which the majority of our voters may be rightly regarded as empowered and well-informed opinion-makers.

To this extent, it is necessary that the electoral system assists shifting the emphasis away from leaders, ideologies and rhetorical political imagery, to focus it on the hard bread-and-butter issues which voters are really concerned about. In this fashion, the electoral system will provide its contribution to ensuring that the will of the people is what fuels the functioning of democracy.

I hope that this roundtable can tease out how an electoral system can help to promote accountability through the political process. Strengthening accountability requires the development of mechanisms which enable the electorate to be informed on the relevant issues, to voice their opinion on such issues, to know what their political representative does about them and to hold the individual representative accountable if his or her conduct or stand is not consonant with the electorate's wishes. We need to ensure that political representatives perform in terms of producing political activities which are relevant to the will of the people. Within this context, this roundtable should also interrogate questions relating to the role of political parties in promoting or deflecting accountability. Undoubtedly, political parties have an important role to play to extract this internal discipline from their members. However, they may also become the only channel and target of political accountability, which leads back to focusing the

electoral discourse only on political parties, ideological divides and abstract perceptions of a political party's image, rather than the actual bread-and-butter issues which concern the electorate.

I am stressing these issues to highlight how the decisions which will emerge through this process may shape what type of democracy, politics, political discourse and interaction between politics and civil society we may have for decades to come as a consequence of the electoral law to be drafted. As the Minister technically in charge of this line function, I do not wish to give any direction or in any way influence the course of your deliberation. However, I must disclose that I am a genuine democrat. I will sacrifice my privileges and prerogatives of a party leader on the altar of democracy. I have been involved in South African politics for half a century. I have been involved in electoral processes for decades. I witnessed the electoral processes in the erstwhile White areas first and then in Indian and Coloured areas. We held elections in the erstwhile KwaZulu Government, and I witnessed them taking place with a greater or lesser degree of democracy in many of the other self-governing territories and TBVC states. I have seen elections taking place within my own political party and within many others. Throughout this process I have witnessed enormous changes taking place.

We have moved forward in leaps and bounds. Democracy has grown at a rate and pace which many of us believed to be impossible. We are far from having implemented the full measure of democracy of which our country is today capable of, and which our people expect of us. Moreover, what we are here to provide should respond not only to the needs of the present. We must anticipate future changes and demands and bring forward that which can accommodate them. For this reason, I wish to plead with you all that whatever direction you may wish to take, have the courage, the integrity and the vision to be bold in promoting democracy, not only to meet the full extent of today's democratic demands but also tomorrow's.

Do not be timid, parsimonious or insecure in dispersing democracy, because democracy is dispersed only at the most precious and rare junctures of history, after which the purse strings of democracy often tend to be tied. Therefore, I urge you to enable the Electoral Act to create mechanisms which can empower voters to become citizens and opinion-makers, and political representatives to be accountable to them.

We need to maintain a delicate balance between the powers and prerogatives of political parties and the fundamental functions, duties and responsibilities of elected political representatives. In this context, we must also ensure that the accountability to which elected political representatives are subjected forces their own political, professional and personal growth. Too often when political accountability is concentrated only on political parties, political representatives have no incentive to become more competent, effective and efficient, and they tend to only try to please party leaders rather than the electorate. I make this point with many decades of personal experience during which I witnessed many elected representatives being more concerned about pleasing me than getting the job done to please the electorate. I have also witnessed people being more concerned about their parliamentary records showing their punctual attendance at meetings and sessions than their having made any significant contribution while they were there.

Therefore, we must accept that the electoral system we design will have a bearing also on the type of elected representatives who will be serving in our various legislatures in the future, how they will perform their work and how their performance will be audited.

The Constitution also requires that this process determine the number of members in the National Assembly, which can be between 350 and 400. In order to make this determination, one would need to have a clear notion of the type of work which elected representatives will be required to perform under the political accountability established by the new electoral system.

Within this context, you must also consider whether the electoral system should provide for techniques aimed at controlling the internal democracy of political parties, as happens in other countries. This latter issue will be closely tied to the thorny and vexed question of whether we should maintain an imperative mandate as the foundation of our democracy, or whether our electoral system should espouse the free mandate as the basis on which political representatives operate. My concern is that in your deliberations you promote techniques which may make political representatives more visible, outspoken and independently minded, and that they be penalised in one way or the other if they become ineffective, invisible and indolent.

Moreover our electoral system must reflect the nature of our form of State, which comprises three distinct spheres of government. Within the constitutional schema, when a province passes a provincial constitution, it may provide for legislative structures different from those set out in the national Constitution, for instance establishing a bicameral system. A provincial constitution itself could determine how members of such reshaped legislative structures are elected which, in essence, would be the cornerstone of an electoral system. Such a new provincial electoral system would need to be implemented by either the national or by provincial legislation. This aspect needs to be taken into account by the new Electoral Act which should decide whether a province which has adopted a constitution which provides for electoral structures different from those contemplated in the national Constitution should receive the assignment of passing an electoral law for that province consistent with that provincial constitution. These are complexities which emerge out of our own Constitution which must be addressed to ensure that the end product of our work meets the future demands of a constitutional system which is undoubtedly at the very beginning of its evolution and which, in my opinion, will rely to a much greater extent on the contribution that provinces can make towards its proper and effective functioning.

There are many other complexities at work within our fledgling constitutional structure. In respect of the third sphere of government, we have already moved from a proportional representation party list system to a mixed system relying on constituencies. In so doing, we have introduced an element of increased complexity. I do not wish to give directions amongst the many options which I know have been considered by the Electoral Task Team. I know a great deal of attention has been given to a multi-member constituency system limited to a small number of members to be elected in each constituency, which would ensure inclusiveness by allowing small political parties to be represented while ensuring a generally proportional outcome by virtue of its combination with the PR system. I also know that consideration has been given to an electoral system which resembled that adopted at local government level.

I have also read proposals for multi-member constituencies based on a large number of representatives to be elected, which is similar to the present system of national and regional lists. This latter approach would effectively multiply the number of regional lists and shrink the national list. There are obviously many more known options that this roundtable may consider, and many more which it can formulate to consider our needs. I would urge you to accept that even in the present case we do not have a straight PR

system as, effectively, we are operating on the basis of 9 multi-member constituencies and one national list.

The difficulty that I have, which perhaps many members of this roundtable may also encounter, is that while many of such options are well-known to the experts in the field who are capable of assessing their pros and cons for our democracy, public debate on them has indeed been lacking. Personally, I have not read much in our newspapers engaging public debate on these issues. One would have expected our media to run articles describing the various options for an electoral system and soliciting different viewpoints to assess their respective pros and cons. The lack of attention by our media to important debates relating to our democratic institution is most lamentable.

I remember when, in the early 90s, I tried to promote a public debate on the issue of our form of State to elicit public response to whether South Africa should be a unitary, a provincial or a federal State. At the time the information provided in the media was inadequate. On this occasion, it is almost nonexistent. Therefore, I feel that this roundtable should also consider whether it should not formulate two or three options on which we can seek greater public participation and public inputs. I would like our universities, our university students, our trade unions, our churches and all the other building blocks of our society to be able to focus on the way forward. It is regrettable that they have not done so sufficiently in spite of having been given plenty of time and opportunity to participate. I just do not wish us to find ourselves in an unfortunately too often typical situation in which, once government finalizes the product, all those who had plenty of opportunities to make inputs in its formulation come out to point out defects in such product, or complain that they did not make an input.

I also wish to urge political parties to come together on issues relating to the electoral law and overcome any sectoral political division. It is most remarkable that thus far great progress has been made in this direction. Thus far, this process of policy formulation has not been characterised by political divisions, political point scoring and factional arguments. I would pray that during this roundtable this may be maintained. The electoral law should not be a matter on which political parties ought to have different views. It should serve all equally, for those who are today the majority, may become tomorrow's minority and vice versa, through the normal cyclical turns of the wheel of democracy.

I hope that this process of policy formulation also offers the opportunity to consolidate democracy, by all political parties rising to the challenge of exercising true leadership and promoting democracy, rather than self-interests, and serving the interests of our people, both in respect of the present as well as our future generations, rather than assessing how the electoral system can procure advantages to themselves. This is the time where we all must show the greatest measure of love for our country and love for democracy, and the greatest measure of statesmanship of which we are capable.

In conclusion, in welcoming all the participants, I wish to merely impress the type of spirit which I hope can inspire your deliberations, leaving to you the difficult and delicate task of finding the content and substance of the future electoral law of South Africa.