

**The First-Past-The-Post electoral system versus proportional
representation in Africa: A comparative analysis**

**A dissertation submitted in partial fulfilment of the
requirements of the degree LLM (Human rights and
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Plagiarism declaration

I, Isabela M Warrioba, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has neither previously been submitted nor currently being submitted to any other university for a degree or any other award. Where someone else's work has been used, due acknowledgment has been given and reference made accordingly.

Signature:

Date:

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Date:

Dedication

To Moses

You are the sunshine of our lives

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Table of Contents

Plagiarism declaration	ii
Acknowledgement	iv
Table of Contents	v
List of abbreviations	vii
Chapter one: Introduction.....	1
1.1 Background.....	1
1.2 Problem statement	3
1.3 Literature review.....	4
1.4 Research questions.....	5
1.5 Scope of study.....	5
1.6 Methodology.....	5
1.7 Chapter overview	5
Chapter two: An analysis of the proportional representation system.....	7
2.1 The meaning proportional representation	7
2.2 Methods of calculating votes into seats under proportional representation	9
2.2.1 The largest average formula	9
2.2.2 Quota formula	9
2.2.3 The Niemeyer method.....	10
2.3 Advantages and disadvantages of the proportional representation system.....	10
2.3.1 Government effectiveness/ stability.....	10

2.3.2 Representativeness	12
2.3.3 Reconciliation for divided societies	14
2.3.4 Accountability.....	14
2.4 Proportional representation: The case of Mozambique.....	16
2.5 Conclusion	21
Chapter three: An analysis of the First-Past-The-Post system.....	22
3.1 The meaning of the First-Past-The-Post electoral system	22
3.2 Analysis of the advantages and disadvantages of the FPTP system	23
3.2.1 Government effectiveness	23
3.2.2 Accountability.....	24
3.2.3 Representativeness	25
3.3 The First-Past-the-Post system: The case of Tanzania	28
3. 4 Conclusion	39
Chapter four: Conclusion and recommendations	40
4.1 Overall conclusion	40
4.2 Recommendations: The merging of the two systems.....	42
Bibliography.....	45

List of abbreviations

ASP	Afro-Shiraz Party
CCM	Chama cha Mapinduzi/ The Revolutionary Party
CHADEMA	Chama cha Demokrasia na Maendeleo/ Party for Democracy and Development
CUF	Civic United Front
EISA	Electoral Institute of Southern Africa
FPTP	First-Past-The-Post
FRELIMO	Frente de Libertação de Moçambique/ Mozambican Liberation Front
GPA	General Peace Agreement
HoR	The House of Representatives
ICCPR	International Covenant for Civil and Political Rights
IDEA	International Institute for Democracy and Electoral Assistance
MDM	Movimento Democrático de Moçambique/ Mozambican Democratic Movement
MPs	Members of Parliament
NEC	National Electoral Commission
NGOs	Non-Governmental Organisations
PDD	Party for Peace, Development and Democracy
PR	Proportional representation
RENEMO	Resistência Nacional Moçambicana/ Mozambican National Resistance
SADC	Southern African Development Community
SMP	Single Member Plurality
TANU	Tanganyika African National Union
TLP	Tanzania Labour Party
TWPG	Tanzania Women's Parliamentary Group

UD

União Democrática /Democratic Union

Chapter one: Introduction

1.1 Background

Most African states emerged from shadows and made a transition from mono-party, one-person and military rule towards political pluralism and multi-party democratic governance in 1990s.¹ One of the key ingredients of this transformation is the holding of regular elections and electoral systems that undergird the electoral process itself.²

However still, most African states practice what is referred to as shallow democracy as opposed to deeper democracy that requires full participation of citizens and accountability.³ Shallow democracy is the democracy that has not made any positive impacts to the ordinary people despite the radical changes to the constitution and expansion of party activity.⁴

It is widely accepted that elections are a crucial ingredient of democratic transformation.⁵ Also, the value of an election to a democracy is either enhanced or reduced by the type of an electoral system.⁶

Elections denote a process by which people sporadically choose their national and/or local leaders to manage public affairs on their behalf. It is a process which involves giving the electors a choice and causing that choice to have an effect on which persons are elected.⁷ According to Matlosa,⁸ elections serve the following functions:

- They provide a routine mechanism for recruiting and selecting individuals to occupy seats in representative institutions;
- They provide periodic opportunities to review the government's record, assess its mandate, and replace it with an alternative;
- They accord the elected government domestic and international legitimacy as well as

¹ A Reynolds *Electoral systems and democratisation in Southern Africa* (1999) 1.

² As above.

³ G Harrison *Issues in the contemporary politics of sub-Saharan Africa: The dynamics of struggle and resistance* (2002) 82.

⁴ Harrison (n 3 above) 81.

⁵ K Matlosa 'Electoral systems, constitutionalism and conflict management in Southern Africa' (2004) 2 *African Journal on Conflict Resolution* 20.

⁶ As above.

⁷ A Reynolds *Voting for a new South Africa* (1993) 6.

⁸ K Matlosa 'Review of electoral systems and democratisation in Southern Africa: Paper prepared for the international roundtable on the South African electoral system' (2002) 5.

moral title to rule;

- They also act as agents of political socialisation and political integration, providing a unifying focus for the country

Therefore, whereas an election is basically a process of choosing leaders, an electoral system is a method or instrument of expressing that choice and translating votes into seats in the legislature.⁹ So, the combination of procedures, rules and regulations governing the manner in which voters exercise their choice and legislators occupy their seats is commonly referred to as the electoral system.¹⁰

The choice of an electoral system is crucial for the credibility of the electoral process, the acceptability of the election outcome and the legitimacy of rule itself.¹¹ To be sure, the credibility of the process, the acceptability of the outcome and internal and international legitimacy of the rulers are all important ingredients for political stability in any country especially African countries in which most of them are just emerging democracies in which parties are weak and multi-ethnic coalitions are fluid.¹²

There is a correlation between electoral systems and democratisation in Africa. For an electoral system to add value to democracy, it must facilitate an exchange of views between the people and the government and allow the voters to express their opinions on a wide range of issues, consequently enhancing the accountability of the MPs¹³ while at the same time ensuring the broader representation of key political forces in the legislature.¹⁴ In this way a political system becomes more inclusive and participatory, and hence according the rulers legitimacy to govern. Furthermore, this ensures that the region's political systems are not destabilised.¹⁵ Therefore, states must make deliberate efforts to address election-related conflicts by, among other things, reforming their electoral systems.¹⁶

⁹ J De Ville & N Steytler *Voting in 1999: Choosing an electoral system* (1996) 1.

¹⁰ As above.

¹¹ Matlosa (n 5 above) 21.

¹² G Galaich *et al* 'Electoral institutions, ethnopolitical cleavages, and party systems in Africa's emerging democracies' (2003) 97 *The American Political Science Review* 379.

¹³ Reynolds (n 7 above) 5.

¹⁴ M Krennerich 'Electoral systems: A global overview' in J de Ville & N Steytler (eds) *Voting in 1999: Choosing an electoral system* (1996) 8.

¹⁵ M Bogaards 'Electoral systems and institutional design in new democracies' in CW Haerpfer *et al* (eds) *Democratisation* (2009) 220.

¹⁶ As above.

Electoral systems are indeed important in a country because they have vast effects to the citizens of a particular country. They shape the nature of the government, the kind of choices voters have at elections, the ability of voters to hold their representatives personally accountable and the composition of the parliament.¹⁷ Therefore, elections and electoral systems are a crucial, but not the only, prerequisite for political stability and democratic governance in Africa.¹⁸

There are many electoral systems throughout the world and there is little consensus as to which is best for democratic governance and political stability.¹⁹ However, the dominant electoral systems used in Africa are the constituency based electoral system which is commonly known as the first-past-the-post (FPTP) and PR.²⁰ These electoral systems differ fundamentally in terms of their essence and features as well as their impact on election outcomes and the political stability needed for democratic governance. No electoral system is a panacea for all ills in a country;²¹ therefore, this research has attempted to find out lessons and best practices from each of the two systems.

1.2 Problem statement

In most African states, the electoral systems that are used are not a product of public debate and broadly based internal political consensus.²² These electoral systems in the region have not been debated or carefully chosen on the basis of consensus among political players and the population at large.²³ Independent African states have simply inherited these systems from the colonial rulers together with other constitutional and legal frameworks.²⁴ The constituency-based electoral system commonly referred to as First-Past-the-Post (FPTP) or single-member plurality system and proportional representation are the most commonly used electoral models in Africa.²⁵

Countries using both systems have their fair share of problems regarding elections and democracy in general, for example inadequate representation in the parliaments, lack of accountability and unstable governments. Therefore, the main aim of this research is to compare how these two electoral systems are equipped to deal with the above mentioned problems

¹⁷ M Gallagher & P Mitchell 'Introduction to electoral systems' in M Gallagher & P Mitchell (eds) *The politics of electoral systems* (2005) 2.

¹⁸ Matlosa (n 5 above) 14.

¹⁹ Reynolds (n 1 above) 91.

²⁰ As above.

²¹ Reynolds (n 7 above) 16.

²² Matlosa (n 5 above) 7.

²³ As above.

²⁴ As above.

²⁵ Reynolds (n 1 above) 91.

among others and draw lessons and best practices in order to assess how the two can enrich each other towards the promotion of democratisation in Africa.

1.3 Literature review

Timothy D Sisk and Andrew Reynolds emphasise the importance of choosing an appropriate electoral system to democratisation. They address an important debate over electoral system choice, whether a plurality or a proportional representation is best for Africa.²⁶ Reynolds argues that majoritarian electoral systems induce more competitive, confrontational, exclusionary politics, whereas proportional systems are often argued to produce inclusive, consensual governments.²⁷

Reynolds²⁸ adds that the rationale underpinning of proportional representation system is to reduce the disparity between a party's share of national votes and its share of parliamentary seats.

Krennerich²⁹ is of the view that the major political aim of the principle of proportional representation is to reflect accurately the social forces and political groups in parliament. He argues that proportional representation has a better chance of significantly reducing disproportionality between seats and votes rather than constituency based and other plurality electoral systems.

On a different note, Barkan³⁰ claims that majoritarian system or first-the-post, arrangements are best suited to African society because they offer a direct link between representative and their electorate, and thus these systems can promote accountability. Bogaards³¹ adds that constituency based electoral systems promotes governability.

Therefore, it can be noted that a lot of writers have addressed this debate as to whether one electoral system is better than the other and defended their positions, however, this research does not seek to take a side on that prominent debate rather to give a comparative analysis of the two systems with the aim of depicting the best practices from both systems and see how

²⁶ A Reynolds & TD Sisk *Elections and conflict management in Africa* (1999) 5.

²⁷ Reynolds (n 1 above 12) 90.

²⁸ As above.

²⁹ Krennerich (n 14 above) 8.

³⁰ JD Barkan 'Rethinking the applicability of proportional representation for Africa' in Reynolds & Sisk (n 26 above) 58.

³¹ Bogaards (n 15 above) 220.

these best practices from each of the systems can be integrated into the other to work better in African countries.

1.4 Research questions

The main research question addressed by this dissertation is what are the best practices from each of the two systems and how can they be integrated to form one system that will do away with the weaknesses of each system?

The specific research questions are:

- (i) What are the advantages and disadvantages of proportional representation electoral system?
- (ii) What are the advantages and disadvantages of constituency-based electoral system?
- (iii) How can the best practices from the two systems be merged?

1.5 Scope of study

The comparative analysis of the two systems has been based on *interalia*, the following factors:

- Representativeness
- Accountability
- Promotion of a stable government

In the comparative analysis, the two electoral systems have been analysed also based on how they have been operating in two African countries, Mozambique which uses proportional representation and Tanzania which uses the FPTP system.

This research focused mainly only on parliamentary elections.

1.6 Methodology

This is a qualitative research that generally relied on desktop and internet research.

1.7 Chapter overview

The discussion takes the following form: chapter one has covered the introduction, chapter two provides an analysis of proportional representation and how it has been operating in Mozambique; this is followed by chapter three which analyses the First-Past-The-Post system and how the system has been operating in Tanzania and finally chapter four bears the

conclusion and recommendations on how the two systems can be merged to form a system that will do away with the weaknesses the two electoral systems when they stand independently.

Chapter two: An analysis of the proportional representation system

2.1 The meaning proportional representation

An electoral system based on proportional representation means that political parties compete for support in multimember constituencies and that the division of seats is determined by the actual support a party receives.³² The rationale underpinning all PR systems is the conscious translation/correlation of the party's share of the votes into a corresponding proportion of seats in the legislature.³³

Although the proportional representation system (PR) has multiple variants, in its purest form, the system uses what is called a closed party list system.³⁴ In Africa, Morocco, Algeria, Western Sahara, Nigél, Burkina Faso, Sierra Leone, Liberia, Guinea-Bissau, Benin, Liberia, Niger, Equatorial Guinea, Rwanda, Burundi, Angola, Mozambique, Namibia and South Africa use the party list system of PR.³⁵

Therefore, under proportional representation, electors cast one vote for a party or party list and then, by some rules the numbers of seats is translated proportionally among the parties according to their respective vote totals.³⁶ It is a system which without natural or artificial hurdles (the size of constituencies or thresholds), seeks to attain the highest possible degree of proportionality.³⁷ The winner is determined by a calculation of total proportion of votes of each party relative to the overall valid votes cast. Using a threshold for qualification of parties to enter parliament (for example 0.5% in South Africa) qualifying parties are allotted parliamentary seats in equal proportion to their electoral strengths.³⁸

The aim of proportional representation is to attempt the selection of a political assembly that is a reflection of the shades of political opinion in society as a whole.³⁹ Where majoritarian systems

³² A Lijphart *Electoral systems and party systems* (1994)10; A Ellis, A Reynolds & B Reilly (eds) *Electoral system design: The new international IDEA handbook* (2005).

³³ As above.

³⁴ HP Young & ML Balinski 'Criteria for proportional representation' (1979) 27 *Operations Research* 80.

³⁵ K Matlosa 'Electoral systems and political stability in Southern Africa: Paper prepared for the training workshop on election observation hosted by SADC Parliamentary Forum, Windhoek, Namibia' (2000) 11; Institute of Democracy and Elections Assistance (IDEA) available at <http://www.idea.int> (accessed 5 May 2011).

³⁶ B Ames 'Electoral strategy under open-list proportional representation' (1995) 39 *American Journal of Political Science* 406.

³⁷ J De Ville 'The Electoral system in terms of the South African interim Constitution' in De Ville & Steytler (n 9 above) 19.

³⁸ As above.

³⁹ BL Monroe 'Fully proportional representation' (1995) 89 *The American Political Science Review* 925.

emphasize governability,⁴⁰ proportional systems focus on the inclusion of all voices in a particular country especially minority voices which normally would be excluded.⁴¹

Under the party list system of proportional representation, the whole country is considered as one single constituency for the election hence there is no need for the delimitation of election boundaries systems.⁴² Rather than being a constituency-based system, it is instead an opinion based electoral system. Put simply, voters' choice is not bound by geographically confined electoral zones, but is driven, rather, by their opinions regarding the ideologies and manifestos of contesting parties.⁴³ Therefore, candidates do not contest in elections as individuals, but as party candidates appearing on the prepared list.⁴⁴

Voters also do not elect individuals but political parties therefore individual members of parliament do not identify with the residents of any geographical constituency.⁴⁵ The party list of candidates is usually equivalent to the number of seats to be filled.⁴⁶ Essentially in party list systems the election is primarily to ensure that the legislature reflects the relative popularity of the parties, individual candidates are a secondary concern.⁴⁷ This links to another feature of PR, that, after election, members of parliament are more accountable to the party than to voters.⁴⁸ Hence, the PR is usually criticised for its inability to ensure the accountability of the MP to the electorate, while subjecting him/her to the dictates of the party leadership.⁴⁹

At the beginning of this century, proportional representation was highly appreciated.⁵⁰ However, in the course of time, the legitimacy of the system is being questioned.⁵¹ Nevertheless, the system cannot easily just be dismissed due to important advantages it has.

⁴⁰ D Black *The theory of committees and elections* (1958) 230.

⁴¹ P Norris 'Choosing electoral systems: Proportional, majoritarian and mixed system' (1997)18 *International Political Science Review* 303.

⁴² Krennerich (n 14 above) 12.

⁴³ Matlosa (n 35 above) 11.

⁴⁴ As above.

⁴⁵ Barkan (n 30 above) 58.

⁴⁶ J De Ville & K Asmal 'An electoral system for South Africa' in Stegtler *et al* (eds) *Free and fair elections* (1994) 6.

⁴⁷ D Jackson & R Jackson *A comparative introduction to political science* (1999) 373.

⁴⁸ As above.

⁴⁹ A Reynolds 'Elections in Southern Africa: The case of proportionality, a rebuttal' in Reynolds & Sisk & (n 26 above) 77.

⁵⁰ Krennerich (n 14 above) 12.

⁵¹ As above.

2.2 Methods of calculating votes into seats under proportional representation

There are various methods developed by scholars to be used to calculate the number of seats allocated to a party depending on the number of votes obtained under proportional representation as follows:

2.2.1 The largest average formula

This is the most customary procedure for converting votes into seats.⁵² It is commonly known as the d'Hondt formula named after its inventor Victor d'Hondt.⁵³ According to this formula, the seats are allocated one by one by dividing the number of votes a party receives by 1,2,3,4 and so on successfully as is necessary.⁵⁴ The results of the division will then be arranged in order of magnitude depending on the number of seats for example if there are 5 seats, the 5 highest numbers will be taken and seats allocated accordingly.⁵⁵

A variant of this formula is the Sainte-Lague formula which requires that the number of votes polled be divided by unequal numbers only.⁵⁶ Therefore, the pure Sainte-Lague method divides the votes with odd numbers such as 1,3,5,7 and so on.⁵⁷ However, the formula was modified and the modified Sainte-Lague replaces the first divisor by 1.4 but is otherwise identical to the pure version.⁵⁸ The advantage of the largest average formula is that all seats are usually allocated in one stage only.

2.2.2 Quota formula

These formulae involve the division of the total number of votes cast by the number of seats available and this establishes a quota.⁵⁹ Each party that polls the number of votes established by the quota will be entitled to a seat in the parliament.⁶⁰ Various quota formulae have been developed such as the Hare, Droop and Imperiali quotas.⁶¹

However, in quota formulae, not all seats will usually not be allocated at the first count and different methods have been devised to allocate the remaining seats such as the remaining seat

⁵² De Ville (n 37 above) 50.

⁵³ As above.

⁵⁴ E Lakeman & JD Lambert *Voting in democracies: A study of majority and proportional electoral systems* (1955) 85.

⁵⁵ As above.

⁵⁶ De Ville (n 37 above) 51.

⁵⁷ As above.

⁵⁸ As above.

⁵⁹ Lakeman & Lambert (n 54 above) 85.

⁶⁰ As above.

⁶¹ As above.

to be allocated to the party with the highest remainder of votes, or to the party with the lowest remainder of votes or dividing the remainder votes using the d'Hondt formula.⁶²

2.2.3 The Niemeyer method

This method is named after its developer a German Mathematician.⁶³ According to this method, the number of votes cast for a party is multiplied by the number of available seats and then divided by the number of total votes cast.⁶⁴ The remaining seats are then distributed to the parties with the highest remainder of votes sequentially.⁶⁵

2.3 Advantages and disadvantages of the proportional representation system

The heart of the debate as to which system among the two (proportional representation or First-Past-The-Post system) is better than the other concerns the central criteria which an electoral system should meet, and whether strong and accountable government offered by constituency based electoral system is more or less important than the inclusion of minority voices offered by PR.⁶⁶

Under this section, an analysis of PR will be done to assess whether the electoral system can deliver in all the criteria which an electoral system should meet which are government stability, representativeness, reconciliation and accountability.

2.3.1 Government effectiveness/ stability

Proportional representation provides a clear correlation between the percentage of votes a political party obtains and the number of seats in the parliament it will get hence making sure that almost all parties that poll a certain percentage of votes get seats in the parliament.⁶⁷ This assures that even minor parties can get their representatives in the parliament unlike majoritarian systems like constituency based electoral system whereby minor parties are usually excluded.⁶⁸ As a result of this, proportional representation gives rise to coalition governments, which brings about arguments cited against the system. The arguments centre on the notion that coalition governments generate disadvantages such as party system fragmentation and government instability.⁶⁹

⁶² De Ville (n 37 above) 52.

⁶³ As above.

⁶⁴ De Ville (n 37 above) 53.

⁶⁵ As above.

⁶⁶ Norris (n 41 above) 304.

⁶⁷ Norris (n 41 above) 302.

⁶⁸ Norris (n 41 above) 303.

⁶⁹ A Reynolds & B Reilly *Electoral systems and conflict in divided societies* (1999) 22, available at <http://www.nap.edu/catalog/9434.html> (accessed 18 August 2011).

With an increased number of represented parties a majority for a single party becomes less probable because the government is based on too many small parties which may disagree when new issues emerge.⁷⁰ The situation is worsened because for the effective running of government, the parties in government are supposed to craft policies based on a consensus among the coalition partners and this is not possible at all times because coalition governments can lead to legislative gridlock and consequently can result into the inability to carry out coherent policies.⁷¹

This may endanger the political stability and causing anticipated elections absorbing the attention of politicians. If instability gets notorious in a country, the state as a whole will not be able to perform the tasks it should effectively.⁷²

However, some argue that this kind of pull is necessary in a consolidated democracy because it allows the opposition to play their roles of overseeing and criticising the actions of the government, ensuring transparency, integrity and efficiency in the conduct of public affairs and preventing abuses by the authorities and individuals, thereby ensuring the defence of the public interest.⁷³ Also, they contribute to the promotion and defence of human rights and fundamental freedoms, thus helping to ensure that democracy functions properly.⁷⁴ These are very important functions to be played by opposition especially in African countries characterised by corruption, unaccountability and human rights abuse. However, in most African countries, these roles of oppositions are impoverished by rivalry based on personal ambitions which not only disqualifies them in the eyes of public opinion⁷⁵ but also result into unnecessary gridlocks.

However, the proponents of PR argue that, although many people fear proportional representation because of believing that the system carries along with it problems related to stability, and though this may be factual, no democratic system, whether first-past-the-post or

⁷⁰ As above.

⁷¹ Reynolds (n 1 above) 98.

⁷² As above.

⁷³ Guidelines on the rights and duties of the opposition in parliament: Unanimously adopted by the participants at the Parliamentary seminar on relations between majority and minority parties in African parliaments, Libreville, Gabon, 17–19 May 1999.

⁷⁴ As above.

⁷⁵ As above.

mixed, can guarantee government stability.⁷⁶ Therefore, this should not be criterion enough to dismiss the system altogether.

2.3.2 Representativeness

Proponents of proportional systems argue that electoral systems, as the proportional representation based electoral systems do, should be representative of all the voices in the society. Therefore, an electoral system should promote a process of coalition-building within government.⁷⁷ Parties above a minimum threshold should be included in the legislature in rough proportion to their level of electoral support.⁷⁸ Moreover, the composition of parliament should reflect the main divisions in the social composition of the electorate, so that all citizens have voices articulating their interests in the legislature.⁷⁹

Proportional representation aims to counter the ‘unfairness’ which comes with majoritarian systems to minor parties which achieve a significant share of the vote, but they cannot win completely in a constituency due to the fact that their support is thinly spread geographically.⁸⁰ However, even under the circumstances, proportional representation allows them to get a few seats.⁸¹

Also, proportional representation has been advocated for in recent decades due to the increasing concern about the social composition of a parliament. Under most political systems, there is systematically underrepresentation of certain social groups in terms of class, race and gender.⁸² For example, in 1995, women were only 9.4 percent of national legislators worldwide, and this proportion has declined in recent years.⁸³ Countries using majoritarian systems concerned about this issue have considered various strategies including legally binding gender quotas, dual-member constituencies designated by gender, and most commonly affirmative action in party organisations.⁸⁴

However, there is a distinct gap in women’s representation in national legislatures between countries with majoritarian electoral systems and those with proportional representation electoral

⁷⁶ J Caron ‘The end of the First-Past-the-Post electoral system?’ (1999) 22 *Canadian Parliamentary Review* 21.

⁷⁷ As above.

⁷⁸ Norris (n 41 above) 311.

⁷⁹ As above.

⁸⁰ Norris (n 41 above) 305.

⁸¹ As above.

⁸² As above.

⁸³ Norris (n 41 above) 312.

⁸⁴ Norris (n 41 above) 306.

systems.⁸⁵ PR encourages women to have more of a representation in the national government than majoritarian systems. It has been proven that the representation of women has increased by at least 10 per cent in countries that use the PR electoral system.⁸⁶

PR is more effective at including the groups that are normally excluded in political systems because affirmative action is easier when applied to balancing the social composition of party lists for example, designating every other position on the list for male or female candidates, or balancing the list by region, occupation or religion.⁸⁷ Therefore, these mechanisms can also serve other political minorities based on regional, linguistic, ethnic, or religious cleavages.⁸⁸ Consequently, proportional systems are more likely to produce a parliament which reflects the composition of the electorate the main reason being that parties may have an incentive to produce a balanced list to maximise their support, whereas in contrast there is no such incentive where candidates are selected for single-member constituencies.⁸⁹

This particular characteristic of inclusivity brought about by the PR system is particularly important for African countries considering the fact that they are deeply heterogeneous and ethnic conscious. History has shown that marginalisation of ethnic minorities can result into grave conflicts.⁹⁰ Therefore, PR can assist in preventing potential conflicts in African countries.

However, in most countries with proportional elections, it is the parties which decide who will represent them in parliament and not the voters because the parties use closed lists that the voters have no other option rather than to 'take it or leave it'. They have no power to change the names on the list. This is a problem because there might be a difference between the party hierarchy deciding on the top places on the party's list of candidates and the voters' preferences.⁹¹

⁸⁵ DT Studlar & RE Matland 'The contagion of women candidates in single-member district and proportional representation electoral systems: Canada and Norway' (1996) 58 *The Journal of Politics* 707.

⁸⁶ Matland & Studlar (n 85 above) 709.

⁸⁷ As above.

⁸⁸ Norris (n 41 above) 306.

⁸⁹ As above.

⁹⁰ EE Anugwom 'Ethnic conflict and democracy in Nigeria: The marginalisation question' (2000) 15 *Journal of Social Development in Africa* 73.

⁹¹ As above.

2.3.3 Reconciliation for divided societies

Substantial lack of representation in a political system can spark many conflicts in a society.⁹² Many advocates of PR claim that it is the most appropriate electoral formula for heterogenic and post-conflict societies as most of the African countries are; where reconciliation among diverse groups is vital. Their arguments are based on the underpinning that PR is inclusive in nature because it ensures that all significant segments of the population are fairly represented in the legislature, which can be crucial to stability in divided societies.⁹³

Therefore, PR system has been found to be extremely useful as a conflict-resolution mechanism, especially for countries emerging from violent conflicts such as Mozambique, Namibia and South Africa which opted for the system to facilitate their transition to consolidation of democracy.⁹⁴

In addition to that, PR facilitates arrangements of grand coalition governments, which are a fundamental feature of the power sharing approach.⁹⁵ Power-sharing is the only viable option for societies with deep ethnic cleavages. Thus, a deeply divided society, or a post-conflict society with high levels of distrust and suspicion between the parties, and extensive security challenges, can reach a stable peace if its political institutions allow for power sharing.⁹⁶ These coalition governments are more reflective of the realities of African states which are extremely heterogeneous as discussed above.⁹⁷

2.3.4 Accountability

It is argued that proportional representation systems affect the level of accountability of public leaders due to various reasons. PR systems lead to the inability of the voter to enforce accountability by throwing a party out of power when governments are usually coalitions which is the case for most governments using the system of proportional representation.⁹⁸ In systems with coalition governments even if the public becomes dissatisfied with particular parties they

⁹² HJ Jansen & JL Hiemstra 'Getting what you vote for' in M Charlton and P Barker (eds) *Crosscurrents: Contemporary political issues* (2002) 295.

⁹³ A Reynolds, 'The case for proportionality' (1995) 6 *Journal of Democracy* 117-124.

⁹⁴ K Matlosa 'Ballots or bullets: Elections and conflict management in Southern Africa' (2001) 1 *Journal of African Elections* 14.

⁹⁵ B Reilly *Elections, democratisation and human rights* (2003) available at <http://www.unu.edu/hq/Japanese/gsj/gs2002j/okinawa4/reilly-full-e.pdf> (accessed 10 August 2011).

⁹⁶ A Lijphart *Democracy in plural societies: A comparative exploration* (1977) 25.

⁹⁷ Unpublished: MS Kawere 'Proportional representation electoral system and conflict management in divided societies: The case of Rwanda and Kenya' unpublished LLM dissertation, University of Pretoria, 2009 16.

⁹⁸ A Jarstad 'Power sharing for peace and democracy?: Paper prepared for presentation at the 47th annual meeting of the International Studies Association, San Diego, USA' (2006).

have less power to determine their fate because it is the process of coalition-building after the result, not the election per se, that determines the allocation of seats in the cabinet.⁹⁹

Also, accountability under proportional representation is affected due to the use of closed party lists. As a result of these lists, the MPs feel no obligation to perform their official tasks in accordance to the needs of the voters but rather to the needs of the party leaders which are capable of determining whether they are included in the list for the next election or not.¹⁰⁰ Therefore, the system does not provide incentives for members to engage with the communities. Also, since no member of parliament is allocated to a particular constituency as such, this results into limited opportunities for citizens to contact their representatives.¹⁰¹ Therefore, proportional representation in its pure form fails to preserve the connection between members and the voters.¹⁰² This lack of linkage between elected representatives and voters affects mostly agrarian societies which most of the African societies are¹⁰³ due to how peasants operate. Peasants have a high attachment to the place where they reside and their approach for elections is to focus on the basic needs of their local community that is whether they have adequate water, schools, good roads, health facilities and other social services.¹⁰⁴

Therefore, they normally vote depending on the individual who has been paying attention to the constituency and has been able to deliver their needs or at least some of them. The fact that in proportional representation there is no member of parliament attached to a particular constituency greatly frustrates the fulfilment of such voter expectations.¹⁰⁵

Therefore, the fact that MPs under proportional representation systems are not responsible for addressing the needs of specific localities because their political careers depend primarily on satisfying the expectations of their party's leadership which determines their ranking on the party's list for the next election greatly affects accountability of the MPs to the voters.¹⁰⁶

⁹⁹ As above.

¹⁰⁰ Norris (n 41 above) 308.

¹⁰¹ As above.

¹⁰² Caron (n 76 above) 21.

¹⁰³ Barkan (n 30 above) 58.

¹⁰⁴ As above.

¹⁰⁵ As above.

¹⁰⁶ Barkan (n 30 above) 59.

Some scholars argue that the use of PR in Africa risks the emergence of what Goran Hayden¹⁰⁷ has termed as the 'suspended state' that is a state that is disconnected from the population and eventually loses its authority and ability to govern.¹⁰⁸

2.4 Proportional representation: The case of Mozambique

The sudden withdrawal of the Portuguese and the independence of Mozambique under a one-party Mozambican Liberation Front (FRELIMO) government in 1975 ushered in a period of immense difficulty for the new state.¹⁰⁹ The country plunged into a civil war that lasted for more than a decade, the government facing the rebel group RENAMO.¹¹⁰

Early 1990s were marked by peace settlement negotiations between FRELIMO and RENAMO.¹¹¹ Also, in the course of 1990, the FRELIMO government unveiled its plans for a new Mozambique.¹¹² In early 1990 the Mozambique government issued a draft constitution for discussion providing for a multi-party democracy and human rights among other principles. RENAMO rejected the draft constitution, not because it did not agree with the broad principles, but because it would not have an opportunity to make inputs.¹¹³ The new multiparty constitution, which contained a bill of human rights, was endorsed by the Assembly of the Republic in November 1990 and came into force at the end of that month.¹¹⁴

In matters of elections, the 1990 Constitution defined democratic elections as the only route to obtaining political power in Mozambique.¹¹⁵ Article 107(1) stated that the representative bodies are to be chosen through elections where all the citizens enjoy the right to participate. Also, the Constitution further stated that elections will obey the principle of majority.¹¹⁶ According to this principle, the winner in each of the provincial constituencies would take up all the parliamentary seats allocated to the particular constituency.¹¹⁷

In the meantime, peace settlement negotiations between FRELIMO and RENAMO were going on in Rome which led to the signing of the General Peace Agreement (GPA) in Rome on 4

¹⁰⁷ As above.

¹⁰⁸ As above.

¹⁰⁹ J Crawford 'Mozambique timeline' (2002) available at http://crawford.dk/africa/mozambique_timeline.htm (accessed 22 August 2011).

¹¹⁰ T Lodge *et al* (eds) *Compendium of elections in Southern Africa* (2002) 195.

¹¹¹ <http://www.c-r.org/our-work/accord/mozambique/preface.php> (accessed 3 September 2011).

¹¹² As above.

¹¹³ JG Cravinho & E George 'Mozambique: Economy' in I Frame (ed) *Africa South of the Sahara* (2007) 797.

¹¹⁴ As above.

¹¹⁵ A Nuvunga (ed) 'Multiparty democracy in Mozambique: Strengths, challenges and weaknesses: EISA research Report No 14' (2005) 18.

¹¹⁶ Article 107(3).

¹¹⁷ Nuvunga (n 115 above) 18.

October 1990.¹¹⁸ During the GPA discussions, RENAMO took the opportunity to reject the majority system as the electoral system to be used in Mozambique provided for in the 1990 Constitution and defended the application of proportional representation because it thought that the 'winner-takes-all' system that comes with majority systems would benefit FRELIMO.¹¹⁹

Raul Domingos, president of the Party for Peace, Development and Democracy (PDD) and former RENAMO second-in-command, said the following in support of choosing proportional representation over majoritarian electoral systems:¹²⁰

We understood that the proportional system was the best, because the people would vote for the party lists and everyone in that list would be elected. Even if all the candidates in the list were not known to the voters, the party was well known. If we had accepted the majority system, FRELIMO would have brought well-known people and even people with money who could easily manoeuvre the voters and get the majority. As you may know, we were from the bush and no one except those in the rural areas knew us, and of course we were going to lose the elections ... the proportional system would be a guarantee that even if we lost the election we would get some representation in parliament.

Thus it was agreed in Protocol III of the GPA, in the chapter dealing with the electoral procedures that the Electoral Act should provide for an electoral system based on the principle of proportional representation for election to Parliament.¹²¹ In order to accommodate the GPA agreements, the 1990 constitution was amended to the effect that the determination of the parliamentary election results shall follow the proportional representation principle.¹²² Therefore, whereas the 1990 Constitution defined that Mozambique would adopt a majoritarian electoral system, this was changed and finally it led to the revised Constitution (1992) which established that elections would follow a proportional representation model.¹²³

The introduction of proportional representation has had the advantage of creating objective conditions for democratic consolidation in Mozambique.¹²⁴ The opposition (RENAMO) has enough time to learn how to act and behave in the new political arena of democracy mainly by

¹¹⁸ Cravinho & George (n 113 above) 798.

¹¹⁹ A Carrasco & F Naife 'The electoral experience in Mozambique: A paper presented at the Regional Workshop on Capacity Building in Electoral Administration in Africa Tangier, Morocco' (2001) 2.

¹²⁰ Nuvunga (n 115 above) 19.

¹²¹ As above.

¹²² Art 129(2).

¹²³ L de Brito 'A challenge for democracy: Low turnout in Mozambique, Lesotho and Zambia: A paper presented at the Conference on electoral processes, liberation movements and democratic change in Africa organised by IESE and CMI Maputo' (2010) 4.

¹²⁴ B Chiroro 'Electoral systems and electoral violence in the SADC Region' (2008) 13.

the confirmation of the idea that FRELIMO is no longer an enemy but a political adversary.¹²⁵ The electoral system seems to have successfully dealt with the conflicts and the excluded people who were fighting outside the system.¹²⁶

The proportional representation system has been commended for Mozambique because it rewards the votes of the small parties that would hardly win an entire constituency. This happened in the case of the União Democrática /Democratic Union (UD), a coalition of three small parties which in 1994 received 245,793 votes or about 5.2% of the total, giving it nine parliamentary seats.¹²⁷ This representative nature of the system is argued to be crucial for the stability of the political system of Mozambique because almost all existing interests in a society manage to be represented in parliament, reducing significantly the social exclusion that has triggered many conflicts in Africa, Mozambique included.¹²⁸

Also, generally, the Mozambicans and civil society are satisfied with PR because it has guaranteed representation of minorities by their inclusion in the party lists and therefore promoted respect for the democratic institutions. PR has allowed existing minorities to feel that their vote makes difference.¹²⁹

Analysts and civil society in Mozambique argue that PR is the best electoral system for the country because it offers the best solution in the context of post-war national reconciliation.¹³⁰ It has showed that Mozambicans were ready to share and it also, at least in theory, gave many political parties a role in society through participation in the country's democratic institutions.¹³¹

However, the operation of proportional representation in Mozambique has not been faultless. The critics of how the systems operate argue that it has not been able to guarantee the representation that is so desirable for the stability of the political system in the new democratic Mozambique.¹³² The criticisms were much facilitated by the fact that the GPA agreed that the

¹²⁵ B Mazula *Moçambique: Eleições, democracia e desenvolvimento* (1995) 146 as quoted in Nuvunga (n 115 above) 21.

¹²⁶ EISA 'Mozambique parliamentary and presidential elections 1-2 December 2004: Observer Mission Report No 17' (2005) as quoted by Chiroro (n 124 above) 13.

¹²⁷ Nuvunga (n 115 above) 21.

¹²⁸ As above.

¹²⁹ Nuvunga (n 115 above) 21.

¹³⁰ As above.

¹³¹ As above.

¹³² Nuvunga (n 115 above) 22.

political parties needed to have a minimum number of votes at national level for parliamentary elections, in order to obtain seats.¹³³

All political parties and civil society in general were in favour of the idea of a minimum threshold of votes to enter parliament in order to prevent people driven by personal interests and without any backing from society to become candidates, which would damage the credibility of the system, with the only disagreement being the size of the threshold.¹³⁴ Looking at the pros and the cons, the minimum was fixed at 5%, with the distribution of the seats between parties that exceeded the 5% barrier being allocated according to the d'Hondt method.¹³⁵ Setting the minimum threshold at 5% was not well received by the smaller parties, which knew that hardly any would meet that figure.¹³⁶

Supporting their claims, the critics of proportional representation in Mozambique assert that in the three general elections of 1994, 1999 and 2004, the 5% barrier has inhibited the consolidation of democracy: in each election, more than 12% of the voters elected no MPs because most of the smaller political parties polled fewer than 5% of the total vote.¹³⁷ In the 1994 founding multiparty parliament the three parties represented were FRELIMO, RENAMO and the UD, with FRELIMO having an absolute majority.¹³⁸ In the 1999 parliament only two parties were represented, FRELIMO and RENAMO-EU, with FRELIMO again having an absolute majority.¹³⁹ In 2004, RENAMO-EU fared poorly and FRELIMO achieved a two-thirds majority, giving it the right to alter the constitution.¹⁴⁰ None of the minor parties managed to reach 3%.¹⁴¹ It was argued that the two-party nature of the country's national politics and its parliament is the result of the 5% threshold. It is impossible for this two-party political system to lead to consolidation of democracy, because once one of the two parties collapses, the other one will dominate the country's political life and then marginalise other political forces.¹⁴²

¹³³ As above.

¹³⁴ As above.

¹³⁵ As above.

¹³⁶ As above.

¹³⁷ According to EISA, for example, 12 parties competed in 1999, but only FRELIMO and RENAMO-EU exceeded the threshold of 5% of the votes cast required to elect MPs, while of the other parties, the Labour Party polled 111,139 votes (2.7%) and the Liberal Party polled 101,970 votes (2.5%).

¹³⁸ Nuvunga (n 115 above) 24.

¹³⁹ As above.

¹⁴⁰ As above.

¹⁴¹ A Gloor 'Electoral conflicts: Conflict triggers and approaches for conflict management -case study Mozambique general elections 2004' (2005) 7 *Peace, Conflict and Development: An Interdisciplinary Journal* 285.

¹⁴² Nuvunga (n 92 above) 25.

Due to a lot of complaints by the minor parties, the 5% entry threshold was abolished in 2004.¹⁴³ The abolition of the 5% threshold allowed another party apart from the two dominant ones, MDM, to obtain seats in the parliament after attaining 3.72% of the votes in the 2009 elections.¹⁴⁴ However, the same pattern of dominance by the two major was observed, whereby, FRELIMO won 74.66% of the votes, RENAMO 17.69%. MDM won the 3.72% of the votes whereas 16 other minor parties which together had 3.71% of votes failed to win any parliamentary seats.¹⁴⁵

Another source of dissatisfaction with the operation of proportional representation in Mozambique and call for a change is the assertion that PR system in use in Mozambique does not guarantee the desired representation in parliament because of the use of closed party list system used for parliamentary elections.

The list system fails to contribute to the consolidation of democracy because it does not require MPs to be accountable to constituencies. The civil society in Mozambique believes that the list system fails because MPs are accountable to their political parties and not to their voters and hence do not represent the people but the political parties that elected them.¹⁴⁶ Therefore, there is no dialogue between MPs and voters as a result of no direct link (accountability) between an MP and a constituency.¹⁴⁷ The party, not individual MPs, is accountable to the citizens, and MPs feel more accountable to their party than to their voters' constituency. Citizens therefore have difficulty in expressing their voice and demanding accountability from MPs.¹⁴⁸

The list system can also encourage an exchange of favours in return for a high position on the list. People interested in becoming MPs even pay money to party bosses to secure a top position on the list.¹⁴⁹ These people know that being in a high position on the list is half-way to being in parliament, because even if voters do not like them, they will vote for the list.¹⁵⁰ The list system is therefore more important to political parties than it is to the voters.¹⁵¹ Therefore, it is

¹⁴³ Art 135 of the Constitution of Mozambique of 1990 as amended in 2004.

¹⁴⁴ <http://www.eisa.org.za/WEP/moz2009results2.htm> (accessed 20 August 2011).

¹⁴⁵ CNE 'Edital: Apuramento geral / Deputados da Assembleia da República' (2009) available at <http://www.stae.org.mz/media/APURAMENTO/APURAMENTO%20AR/GERAL/GERAL%20AR%20SUMARIZADO.pdf> (accessed 20 August 2011) as quoted by <http://www.eisa.org.za/WEP/moz2009results2.htm> (accessed 20 August 2011).

¹⁴⁶ Nuvunga (n 115 above) 26.

¹⁴⁷ DFID 'Citizens' voice and accountability evaluation: Mozambique country case study final report' (2008) 21.

¹⁴⁸ As above.

¹⁴⁹ Nuvunga (n 115 above) 26.

¹⁵⁰ As above.

¹⁵¹ As above.

suggested that the system should be based on individual candidates so that the voters can vote for a person not for a list, as happens now.

2.5 Conclusion

In light of the above discussion, it can be concluded that proportional representation is a functional electoral system especially for African countries due to its inclusion of all voices in the society. This is especially important for most African countries because of being deeply heterogeneous and also because of the fact that most of them are recovering from violent conflicts which are a result of exclusion and marginalisation. In post-conflict societies, proportional representation can assist in the consolidation of democracy due to the fact that it facilitates the formation of coalition governments. However, the main weakness of the system is the fact that it does not provide a direct linkage between elected officials and the voters which as a result can profoundly affect accountability of the officials to the voters. Therefore, this aspect of proportional representation needs to be revisited for the better functioning of the system.

Chapter three: An analysis of the First-Past-The-Post system

3.1 The meaning of the First-Past-The-Post electoral system

The First-Past-The-Post (FPTP) system is the simplest form and the most common type of plurality or majority electoral systems. The term was coined as an analogy to horse racing where the winner of the race is the first to pass a particular point on the track (in this case plurality of votes) after which all other competitors lose automatically and completely.¹⁵² In the system however, there is no post that the winning candidate must pass in order to win.¹⁵³ They are only required to receive the largest number of votes in their favour.¹⁵⁴ It is also called constituency based electoral system or Single Member Plurality (SMP).¹⁵⁵

Therefore, the winning candidate is the one who gains more votes than any other candidate, even if this is not an absolute majority (50% plus one) of valid votes. The system uses single-member constituents and the voters vote for a particular candidate to represent their constituency rather than political parties.¹⁵⁶ To date, pure FPTP system is primary used in the UK and those countries historically influenced by Britain.¹⁵⁷ In Africa 15 countries, mostly former British colonies use FPTP in parliamentary elections.¹⁵⁸ These countries are. Botswana, the DRC, Malawi, Tanzania, Swaziland, Zambia, Zimbabwe, Madagascar, Kenya, Uganda, Northern Sudan, Ethiopia, Nigeria, Ghana and Côte d'Ivoire.¹⁵⁹

The principal tenets of this system are many and varied. First, as noted above, a country is divided into relatively equal constituencies from which only one representative is chosen to occupy a parliamentary seat on behalf of that constituency.¹⁶⁰ It is as a result of this tenet that the FPTP is reputed for ensuring the accountability of the MP to his/her constituency. This is one of its major strengths vis-à-vis other electoral systems.¹⁶¹ It allows voters to choose between people rather than just between parties. Voters can assess the performance of individual

¹⁵² KK Suwal 'First-past-the-post' (2007) 1 available at http://www.ksl.edu.np/ca_students_article.asp (accessed 3 September 2011).

¹⁵³ As above.

¹⁵⁴ As above.

¹⁵⁵ As above.

¹⁵⁶ Lijphart (n 32 above) 35; Ellis, Reynolds & Reilly (n 32 above).

¹⁵⁷ Matlosa (n 8 above) 7.

¹⁵⁸ As above.

¹⁵⁹ As above.

¹⁶⁰ As above.

¹⁶¹ H Milner 'First-past-the-post? Progress report on electoral reform initiatives in Canadian provinces' (2004) 9 *Policy Matters* 12.

candidates rather than just having to accept a list of candidates presented by a party, as can happen under some List PR electoral systems.¹⁶²

Also, since the winner of an election contest in any constituency may secure a simple plurality of votes and not necessarily the majority of votes, this leads to winners by minority votes both at the constituency level as well as the national level.¹⁶³ Neither the candidates themselves, nor the parties that endorse these candidates, need an absolute majority of votes to form a government.¹⁶⁴ This situation leads to the all-pervasive problem of 'wasted votes' whereby a considerable proportion of votes does not form part of the calculation for the election outcome.¹⁶⁵

Furthermore, FPTP systems are particularly praised for being simple to use and understand. A valid vote requires only one mark beside the name or symbol of one candidate.¹⁶⁶ Also, FPTP offers the electorate a clear-cut choice for voters between broadly based competing parties, and the national vote clearly translates into winning and losing parties.¹⁶⁷ This clear-cut choice inherent in the system is argued to produce stable and effective single-party executive.¹⁶⁸

3.2 Analysis of the advantages and disadvantages of the FPTP system

3.2.1 Government effectiveness

For proponents of the majoritarian system the most important criterion is government effectiveness. For admirers, the system of first-past-the-post in parliamentary systems produces the classic 'Westminster model'¹⁶⁹ with the twin virtues of strong but responsive party government.¹⁷⁰ Strong in this sense means a single-party and not a coalition government.¹⁷¹ This is a strong feature because the proponents believe that the leading party should be empowered to try to implement their programme during their full term of office, without being interrupted by and depending upon the support of minority parties.¹⁷²

¹⁶² As above.

¹⁶³ As above.

¹⁶⁴ Matlosa (n 8 above) 8.

¹⁶⁵ As above.

¹⁶⁶ Ellis *et al* (n 32 above) 29.

¹⁶⁷ Reynolds & Sisk (n 26) 23.

¹⁶⁸ As above.

¹⁶⁹ The Westminster system is a democratic parliamentary system of government modeled after the politics of the United Kingdom. This term comes from the Palace of Westminster, the seat of the Parliament of the United Kingdom.

¹⁷⁰ Norris (n 41 above) 310.

¹⁷¹ As above.

¹⁷² As above.

The system allows parties with a majority of parliamentary seats to be able to implement their manifesto policies without the need to engage in negotiations with coalition partners hence allowing it to carry out its policies unhindered.¹⁷³ The government can pass whatever legislation they feel is necessary during their term of office.¹⁷⁴

This one party dominance is a result of an exaggerative bias in the electoral system which rewards the winner with a bonus of seats.¹⁷⁵ A 'manufactured majority' is created by translating a relatively small lead in votes into a larger lead of seats in parliament.¹⁷⁶ This is the result of the simple majority system rather than absolute majority.

3.2.2 Accountability

At the heart of democratic theory lies the relationship between national legislators and their voters/ constituents.¹⁷⁷ The legislator-constituency relationship offers a critical proving ground for questions related to electoral accountability.¹⁷⁸

FPTP is defended most on the grounds that it promotes a link between constituents and their representatives. Since members of parliament (MPs) have a defined geographical area for which they and they alone, are responsible, they have a closer affinity with their district, hence can be more combative on its behalf, and be responsive to its needs.¹⁷⁹ This is enabled because the close affinity allows MPs to fulfil certain roles which are beneficial to the voters and the constituent. These roles are:

First, the parliamentarian as a constituency MP acts as a local case worker and ombudsman who acts as an intermediary between the public and the bureaucracy.¹⁸⁰ Secondly, the MP as a legislator, as an individual member of parliament fights for the economic and other interests of his or her constituents and pays close attention to the majority views of his or her constituents on policy issues.¹⁸¹ The system allows a close link between an MP and the voters and hence allows the MPs to fulfil these roles.¹⁸²

¹⁷³ Lakeman & Lambert (n 54 above) 37.

¹⁷⁴ As above.

¹⁷⁵ Norris (n 41 above) 304.

¹⁷⁶ As above.

¹⁷⁷ As above.

¹⁷⁸ DJ McCrone and WJ Stone 'The structure of constituency representation: On theory and method' (1986) 48 *The Journal of Politics* 956.

¹⁷⁹ Reynolds & Sisk (n 26 above) 67.

¹⁸⁰ P De Vos 'Constituencies: Limitations and prospects' in De Ville & Steytler (n 9 above) 56.

¹⁸¹ As above.

¹⁸² As above.

The MPs are always in fear that if they do not fulfil these roles they might face electoral sanctions. This means that they risk the chance of being re-elected by the constituency which determines who gets elected under FPTP as opposed to PR whereby it is the party that determines who gets to be a member of parliament.¹⁸³ Thus, voters can assess the performance of individual candidates rather than just having to accept a list of candidates presented by a party.¹⁸⁴ It has been said that under proportional representation, the bond involving the voter and the MP is lost.¹⁸⁵ Also, the voters have a problem identifying the representative responsible for instituting a policy or getting benefits for the district.¹⁸⁶ The representative thus has little incentive to serve the interests of individuals in the constituency. Under the FPTP system however, the constituents have no problem determining whom to approach with their problems.¹⁸⁷ Therefore, a representative in FPTP has a higher probability of recognition and reward since the constituents know who to approach with their problems and who to reward for obtaining benefits for the district.¹⁸⁸

The proponents of the FPTP system argue that it may be unreasonable to expect legislators to learn about and respond to constituency preferences in the absence of compelling electoral sanctions.¹⁸⁹ Although governments have a parliamentary majority to take tough and effective decisions, they know that their power could easily be withdrawn at the next election.¹⁹⁰

3.2.3 Representativeness

Majoritarian systems over-reward the winner and penalises the losing parties.¹⁹¹ The unfairness and disproportionate results of the electoral system means that some voices in the electorate are systematically excluded from representative bodies.¹⁹²

There is an increasing dissatisfaction with these majoritarian systems such as the FPTP because of being considered as unfair to minorities. Small political parties are effectively barred

¹⁸³ Ellis et al (n 32 above) 29.

¹⁸⁴ As above.

¹⁸⁵ P Barker 'Voting for trouble' in M Charlton & P Barker (eds) *Crosscurrents: Contemporary political issues* (2002) 307.

¹⁸⁶ EL Scholl 'The electoral system and constituency-oriented activity in the European Parliament' (1986) 30 *International Studies Quarterly* 317.

¹⁸⁷ As above.

¹⁸⁸ As above.

¹⁸⁹ Barker (n 185 above) 309.

¹⁹⁰ Norris (n 41 above) 305.

¹⁹¹ Norris (n 41 above) 311.

¹⁹² As above.

from having any representation in the parliament whenever their adherents are distributed throughout many constituents.¹⁹³

Small parties find themselves barred from having any representation in the parliament because, as a rule, under FPTP, parties put up the most broadly acceptable candidate in a particular district so as to avoid alienating the majority of electors.¹⁹⁴ Thus it is rare, for a party to pick a candidate from a particular group of minorities to stand for election anywhere. Therefore, minorities are far less likely to be represented in legislatures elected by FPTP. This is referred to as the most broadly acceptable candidate syndrome.¹⁹⁵ In consequence, this voting behaviour associated with majoritarianism leads the exclusion from representation of members of minority groups and can be destabilising for the political system as a whole.¹⁹⁶

Generally, the FPTP system leads to exclusion of minorities from parliaments. This exclusion can operate as follows:

First, in countries where different ethnic groups dominate different areas of the country most likely their regions of origin, the FPTP system encourages the development of political parties based on clan, ethnicity or region, which may base their campaigns and policy platforms on conceptions that are attractive to the majority of people in their district or region but exclude or are hostile to others.¹⁹⁷ This results into the country being divided into geographically separate party strongholds, with little incentive for parties to make appeals outside their home region and cultural political base.¹⁹⁸ The decision by voters on where to cast their vote is mainly informed by which region they come from and consequently, whose stronghold that region belongs to.¹⁹⁹ In these countries, the minority group members from these regions can forget about parties as well as parliamentary representation.²⁰⁰

Second, it can lead to the exclusion of women from the legislature. Research and statistics have shown that countries applying proportional representation systems have a higher proportion of women in their parliaments than those with majority systems such as FPTP.²⁰¹ According to the

¹⁹³ Balinski & Young (n 34 above) 80.

¹⁹⁴ As above.

¹⁹⁵ Ellis *et al* (n 32 above) 61.

¹⁹⁶ Kawere (n 97 above) 14.

¹⁹⁷ Ellis *et al* (n 32 above) 42.

¹⁹⁸ As above.

¹⁹⁹ As above.

²⁰⁰ Kawere (n 97 above) 15.

²⁰¹ Kawere (n 97 above) 16.

International IDEA,²⁰² in 2004, the number of women representatives in legislatures elected by List PR systems was 4.3% points higher than the average of 15.2% for all legislatures, while that for legislatures elected by FPTP was 4.1% points lower.²⁰³ This trend can be also attributed to the 'most broadly acceptable candidate' syndrome because it also affects the ability of women to be elected to legislative offices as they are often less likely to be selected as candidates by male-dominated party structures.²⁰⁴

Third, majoritarian systems like FPTP are essentially unfair as far as 'genuine' representation is concerned.²⁰⁵ They tend to create situations in which one party, through winning a majority of votes in the region, wins all, or nearly all, of the parliamentary seats, excluding minorities from access to representation.²⁰⁶ Additionally, the system yields a great number of wasted votes and thus creates potentially dangerous feelings of alienation by minority parties or ethnic groups and the likelihood that extremist will be able to mobilise anti-system movements.²⁰⁷ Reynolds argues that, in Africa, approximately one-fifth of votes are wasted under majority systems, while only 2 to 5 percent are wasted under PR systems.²⁰⁸

Critics of the system also argue that this exclusionary tendency of the FPTP system is more fatal in divided societies where there is no real consensus on institutionalised competition for control of the state.²⁰⁹ Therefore, the FPTP system is fatal in divided and heterogeneous countries like most African countries are because the system encourages ethnicity to the expense of nationalism. This means that persons from minority ethnic groups will not be able to get any representatives in the parliament due to the fact that under FPTP, majoritarianism is the only determinant of who gets representatives in the parliament. This seems to favour majority ethnic groups and excludes by minority ethnic groups.²¹⁰ This exclusion tendency can lead to some serious and grave conflicts.

²⁰² International Institute for Democracy and Electoral Assistance.

²⁰³ Ellis *et al* (n 32 above) 61.

²⁰⁴ As above.

²⁰⁵ B De Villiers 'An Electoral system for the new South Africa: Paper presented at the conference on South Africa's choice for the 1990' Leicester, United Kingdom' (1991) 5.

²⁰⁶ Reynolds & Sisk (n 26 above) 24.

²⁰⁷ M Harrop & WL Miller *Elections and voters, A comparative introduction* (1987) 63.

²⁰⁸ Reynolds (n 1 above) 97.

²⁰⁹ http://www.lawcom.mw/docs/electoral_system.pdf (accessed 20 October 2011).

²¹⁰ http://www.cibera.de/fulltext/2/2664/publications/democracy_and_deep_rooted_conflict/ebook_chapter4_4.html (accessed 20 October 2011).

3.3 The First-Past-the-Post system: The case of Tanzania

At the time of the establishment of the Union between Tanganyika and Zanzibar in 1964, Tanganyika was governed by the Tanganyika African National Union (TANU), while Zanzibar was being governed by the Afro Shiraz Party (ASP).²¹¹ In 1977, TANU and ASP merged to form the *Chama Cha Mapinduzi* (CCM), or party of the revolution.²¹² After being under a single party rule, the multiparty democracy was re-established²¹³ in 1992 and the first elections under the new system were held in 1995.²¹⁴ So far, Tanzania has held elections under the multi-party system in 1995, 2000, 2005 and 2010 with a constitutional two-term presidency rule since 1985, when President Julius Nyerere left office after leading the country since independence.²¹⁵

The Constitution defines the United Republic of Tanzania as a democratic, secular and socialist state, which adheres to multi-party democracy.²¹⁶ Similar principles apply to the Revolutionary Government of Zanzibar since it is an integral part of the Republic. Zanzibar enjoys an autonomous status with its own Constitution pledging to uphold the rule of law, human rights, peace and justice.²¹⁷ A dual principle of power is in place with two parallel sets of institutions vested with legislative, executive and judicial powers, one applicable to mainland Tanzania and the other to Zanzibar.²¹⁸

This Tanzanian system is a unique arrangement in Southern Africa.²¹⁹ This arrangement is designed to allow for a degree of autonomy for Zanzibar, due to the island's size in comparison to the Mainland, along the lines of a federal state.²²⁰

²¹¹ C Rwechungura (ed) 'Democratic practices in Tanzania' (2011) 9 *Civics and General Studies Journal* 23.

²¹² Rwechungura (n 211 above) 27.

²¹³ When, in 1961, Tanzania became independent, the Constitution provided for a multi-party system. In the first elections, TANU won all seats in parliament except one won by an independent candidate. The country was theoretically a multi-party system but there was *de facto* no opposition to the ruling party. The one-party state was formally introduced in the interim Constitution of 1965, adopted despite strong opposition from the army and unions. In 1977, the Tanzanian Constitution was promulgated, reinforcing the one-party state by making the supremacy of one party the central element of the text. In 1992, the multi-party system was re-established after 27 years as a single party state.

²¹⁴ See generally G Hayden 'Top-down democratisation in Tanzania' (1999) 10 *Journal of Democracy* 142-155.

²¹⁵ Julius Nyerere was succeeded by Ali Hassan Mwinyi (1985-1995), Benjamin Mkapa (1995-2005) and Jakaya Kikwete (2005-present).

²¹⁶ Art 3.

²¹⁷ EU EOM 'Tanzania: Final report general elections October 2010' (2010) 7.

²¹⁸ Rwechungura (n 211 above) 32.

²¹⁹ G Masterson 'The Tanzanian electoral system' (2005) 27 *EISA Election Talk* 8.

²²⁰ As above.

In Tanzania, the First- Past-the-Post (FPTP) system is used to elect parliamentary representatives in each constituency.²²¹ The country also conducts concurrent presidential elections in which the candidate with the highest percentage of votes is elected President.²²²

The Union president and the 239 members of the National Assembly are elected for a five-year term.²²³ A system of proportional representation further allocates 102 reserved seats for women to the National Assembly.²²⁴ Besides the 239 directly elected seats and the 102 reserved seats for women, the president appoints ten members and two *ex-officio*²²⁵ members. Also, five members are elected among the Zanzibar House of Representatives to form the National Assembly of the United Republic of Tanzania.²²⁶

Similarly to mainland Tanzania, the Zanzibar president is elected through direct popular vote.²²⁷ The House of Representatives (HoR), with a total of 81 members, elects 50 seats directly through the FPTP system for a five year term. Another 11 seats are filled by presidential appointees, including two from the opposition party and the Zanzibar Attorney General in *ex-officio*. The tenth amendment²²⁸ to the Constitution of Zanzibar introduced a new provision for women's quota, raising their reserved seats from 30 to 40%, which are distributed proportionally among parties that obtain more than 10% of the directly elected seats.²²⁹

After the 2010 elections in Zanzibar, there was the formation of the Government of National Unity²³⁰, whereby two vice-presidents were appointed by the Zanzibar president. The first vice-president is from the ruling party, CCM and second vice president is from the opposition.²³¹

The current electoral map of Tanzania has 239 constituencies; seven new constituencies were added to the 2010 electoral process in a redrawing of boundaries by the National Electoral

²²¹ NEC *A handbook of Tanzanian electoral laws and regulations* (2000) 65.

²²² As above.

²²³ <http://www.africanelections.tripod.com> (accessed 1 October 2011).

²²⁴ As above.

²²⁵ The attorney-general and the speaker of the National Assembly, if not elected among the members.

²²⁶ EU EOM (n 217 above) 12.

²²⁷ 'Country profile of Tanzania' available at <http://www.unpan1.un.org> (accessed 3 October 2011).

²²⁸ 10th Amendment of the Constitution of Zanzibar of 1984, sec 64(c) states that women members of the House of Representatives...have been increased from 30 to 40%.

²²⁹ EU EOM (n 217 above) 12.

²³⁰ 10th Amendment of the Constitution of Zanzibar of 1984, sec 39(1) states that '...there shall be two vice-presidents who shall be known as first vice-president and second vice-president.'

²³¹ Constitution of Zanzibar 1984, arts 26, 39 & 41. The Constitution was amended after a referendum in July 2010 to give effect to these arrangements which would govern the distribution of executive power following the 2010 elections in October 2010. The post of Chief Minister, who was responsible for the day-to-day functioning of the government, was abolished.

Commission.²³² Based on official population data and total number of voters, there is a profound imbalance among certain constituencies.²³³ Differences in the number of votes needed to be elected to the National Assembly showed variations ranging from less than 1,000, as in the Zwani constituency, to more than 100,000 in Njombe Magharibi.²³⁴ This means that the weight of the vote in Zwani is 100 times that of Njombe Magharibi. In 61 constituencies (or 26%), a candidate would need less than 10,000 votes to be elected while in other constituencies it would be necessary to have more than 100,000.²³⁵ The national average is 84,294 voters per constituency.²³⁶ This component of the electoral framework falls critically short of the requirement that all votes be equal, as established in Article 25 of the International Covenant on Civil and Political Rights (ICCPR).²³⁷

Of the 18 official opposition parties, only CHADEMA (*Chama cha Demokrasia na Maendeleo* Party for Democracy and Development) and CUF (Civic United Front) have managed to consistently get seats in the parliament.²³⁸ Even so, CCM has always dominated in the composition of the national assembly since the first multiparty elections in Tanzania.²³⁹ In 1995 it had 79.55% of the seats, 87.5% for 2000, 85.1% for 2005²⁴⁰ and in 2010 CCM won 70% of the seats.²⁴¹

Even though there are other reasons, the most critical institutional design that favours CCM is the electoral system, which has thus far, has guaranteed it an overwhelming majority in parliament even though the party's share of the vote has not always been equally as large.²⁴² As stated above Tanzania uses a single-member, the FPTP electoral system for presidential, parliamentary, and local elections, the same electoral system CCM utilised prior to Tanzania's democratic transition.²⁴³ The plurality system allows parties that fail to receive a majority of votes

²³² EU EOM (n 217 above) 5.

²³³ As above.

²³⁴ As above.

²³⁵ As above.

²³⁶ As above.

²³⁷ Article 25 states that '...within the framework of each State's electoral system the vote of one elector should be equal to another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group'.

²³⁸ S Reith 'Tanzania after parliamentary and presidential elections 2010' (2011) 1 *Kas International Reports* 104.

²³⁹ M Nyirabu 'The multiparty reform process in Tanzania: The dominance of the ruling party' (2002) 7 *African Journal of Political Science* 109.

²⁴⁰ M O'Gorman 'Why the CCM won't lose: The roots of single party dominance in Tanzania' (2009) 6 available at www.csae.ox.ac.uk/conferences/2009-EDiA/.../457-OGorman.pdf (accessed 1 October 2011).

²⁴¹ T Dagne 'Tanzania: Background and conditions, CRS congressional report' (2011) 2 available at www.fas.org/sgp/crs/row/RS22781.pdf (accessed 1 October 2011).

²⁴² B Hoffman & L Robinson 'Tanzania's missing opposition' (2009) 20 *Journal of Democracy* 11.

²⁴³ As above.

to still win office.²⁴⁴ The FPTP system has permitted CCM to win approximately 20% more seats in parliament than its share of the popular vote in every one of the four parliamentary elections since the country's democratic transition.²⁴⁵ In 1995, the CCM received 59% of the vote and almost 80% of the seats, in 2000, 65% and 87%, and in 2005, 70% and 90%.²⁴⁶ These disproportionate results have allowed CCM to retain the two-thirds majority of the assembly that it needs to pass constitutional amendments, even though its popular vote share only reached this level once, in 2005.²⁴⁷ This dominance has led to other effects too.

In the parliament, it has led to a continued failure to fully separate the functions of state and party.²⁴⁸ This is because the ruling party has the ability to control the legislature due to its overwhelming majority and also the use of party discipline.²⁴⁹ The ruling party capitalises on its majority of elected seats, and the use of a party authority to enforce party discipline.²⁵⁰ Also, the limited independence of elected representatives vis-à-vis their parties is an effective controlling mechanism.²⁵¹ MPs hold their seats on behalf of their respective parties, which severely restricts their ability to go against the party line. Party dominance was compounded, of course, by the fact that the tabling of private member's bills conditional upon party approval.²⁵² Fortunately, this has been revised.

What is more concerning is the practice, which comes from the days of one-party rule, to refer to government and party policy interchangeably, as if the two were of equal status.²⁵³ Although it needs to be acknowledged that the technocrats have been accorded a much bigger say in policymaking in the present government than before, the party may have the final say in all major policy decisions.²⁵⁴ This, however, can be more of an expression of the effective control by a handful of decision makers, who have allegiance both to party and government. Although the party, as an institution, exercises fairly effective control over its own affairs, notably party

²⁴⁴ Milner (n 161 above) 12.

²⁴⁵ Hoffman (n 242 above) 11.

²⁴⁶ EISA 'Tanzania: Election archive' available at <http://www.eisa.org.za/WEP/tanelectarchive.htm> (accessed 27 September 2011).

²⁴⁷ One can argue that since single member districts are the systems most likely to create two parties, the electoral system will not benefit CCM in the long-run as it will hasten the creation of a national opposition. While this is certainly a possibility, thus far it has magnified CCM's victories, not caused the opposition to coalesce.

²⁴⁸ B Killian & L Mitchell *Tanzania political party assessment* (2006) 7.

²⁴⁹ ARD 'Democracy and governance assessment of Tanzania transitions from the single-party state: Report submitted to the United States Agency for International Development' (2003) 25.

²⁵⁰ As above.

²⁵¹ As above.

²⁵² As above.

²⁵³ As above.

²⁵⁴ As above.

elections and nominations, it does not have a formal role in the formulation of government policy beyond the ratification of the party manifesto at election time.²⁵⁵

Government leaders frequently refer to the party manifesto as the guide for government policy and even the government technocrats commonly list the CCM manifesto among the government policies, for example along with Vision 2025 and the Poverty Reduction Strategy Paper.²⁵⁶

The Parliament is therefore inhibited from fully exercising its constitutional powers in core functional areas of constituent representation, law making and oversight.²⁵⁷ The dominant position of the CCM makes it likely that the Parliament will remain supportive of and responsive to the overall legislative and policy priorities of this party.²⁵⁸

The merging of government and party becomes more apparent at the local government level. Regional and district commissioners (RCs and DCs) are political appointees of the president, and they are often referred to as representatives of the party.²⁵⁹ At the same time, the CCM Constitution explicitly states that RCs and DCs are the party's representatives in the region and the district.²⁶⁰ Since RCs and DCs have both government and party roles, their positions clearly blur the lines between party and state.²⁶¹

In 2002, Benjamin Mkapa, the president by then made front page news when he condemned RCs and DCs who had not made sufficient efforts to ensure implementation of the CCM manifesto in their respective regions and districts.²⁶² Although the RCs and DCs do not have a formal role in the policy process under the local government legislation, they retain the responsibilities associated with peace and security. They have considerable discretionary powers, including the authority to arrest and detain without trial. The impact of the latter should not be overstated, as this prerogative is not habitually used. Nevertheless, it is not unheard of that they do make use of these powers.²⁶³

²⁵⁵ As above.

²⁵⁶ ARD (n 249 above) 26.

²⁵⁷ ARD (n 249 above) 32.

²⁵⁸ J Biddle, M Cassidy & R Mukandala 'Assessment of the operations of the Union National Parliament of Tanzania: Report prepared for USAID/Tanzania' (2002) 3.

²⁵⁹ ARD (n 249 above) 25.

²⁶⁰ The Constitution of CCM (2005), secs v & vi.

²⁶¹ Hoffman (n 242 above) 19.

²⁶² ARD (n 249 above) 25.

²⁶³ ARD (n 249 above) 26.

RCs and DCs have been known to act inappropriately but no action is being taken against them. Some examples of this are as follows:²⁶⁴

In Serengeti,²⁶⁵ the DC barred operation of one of the most vocal NGOs, *HakiElimu*, an educational rights organization that has a highly regarded program of capacity building and awareness raising at the local level. *HakiElimu* seeks to empower local school committees to demand accountability.²⁶⁶ The Serengeti DC is also under investigation for having ordered the burning of a village to clear people from a designated park area. In the Tarime district also in Mara region in 2002, the DC arrested and detained seven journalists that attempted to report on a local feud between marijuana cultivators. In 2003, the Mara DC allegedly ordered the harassment of a group of CUF leaders, who had established a growing presence in the area (which is regarded as a potential stronghold for the opposition).

None of these DCs have been sanctioned or received an official reprimand for their acts.²⁶⁷

The dominance by CCM also affects the opposition parties profoundly. The opposition parties have to struggle with very limited resources because the government provides a subsidy to the parties, but proportionate to the number of seats they have in Parliament.²⁶⁸ Since the subsidies are the primary source of income for these opposition parties and that they normally have very few seats in the parliament, they never have sufficient income for effective operation.²⁶⁹

The lack of sufficient funds and resources in general affects the ability the opposition parties to go out to the villages, where the majority of Tanzanians live. As a result, the opposition fails to command nationwide support.²⁷⁰ Consequently, there is a persistent poverty in rural areas, and CCM is not being held accountable for it.²⁷¹ To foster more accountability and responsiveness, there is need to increase the level of awareness in rural areas of the major political changes; this may also assist in widening people's choices in the political process.²⁷² The opposition cites a large, unmet demand for civic education at the grassroots level as one of the main obstacles to improving the structures and practices of democracy in the country.²⁷³

²⁶⁴ As above.

²⁶⁵ The Serengeti District is one of the five districts in the Mara Region of Tanzania.

²⁶⁶ [http:// www.hakielimu.org/hakielimu](http://www.hakielimu.org/hakielimu) (accessed 1 October 2011).

²⁶⁷ As above.

²⁶⁸ ARD (n 249 above) 30.

²⁶⁹ As above.

²⁷⁰ ARD (n 249 above) 31.

²⁷¹ KA Kayunze *et al* 'Explanation for poverty mobility in Tanzania in the light of governance: Global governance and poverty reduction paper' (2009) 5.

²⁷² ARD (n 249 above) 31.

²⁷³ As above.

The introduction of a system of proportional representation is often raised as a means of dealing with the dominance of CCM and getting a more even distribution of seats in Parliament, because the FPTP system disproportionately favours CCM.²⁷⁴ However, caution has been called for because of fear that a proportional system will place more power in the party machine, at the expense of the individual candidates.²⁷⁵ Thus, even if a proportional system may succeed in doing away with one-party dominance, it could also further undermine the independence of individual MPs.²⁷⁶

As for the women political participation, women in Tanzania still face many challenges, when it comes to elections and political participation in general²⁷⁷ and the FPTP system did not help the situation at all. The problems faced by women when it comes to political participation are as follows:

The environment in which elections take place is retrogressive and male dominated. The revised Election Act of 2010, for example, still shows male bias in the language, composition of electoral commission, and very high expenses required for contesting seats.²⁷⁸ There is no level playing field socially and economically since in general, women in Tanzania have less access to resources than men in all aspects of life, including education, and therefore have fewer economic opportunities than their male counterparts.²⁷⁹ In a context where marginalised women own few resources, everything to do with money has a gender and class implication.²⁸⁰ The issue of election deposits, for example, is an obstacle for many women candidates. Women candidates are more likely to be unable to raise the required sum, and therefore unable to go forward, than their male counterparts.²⁸¹ In Tanzania, the presidential candidate is required to deposit up to 5,000,000 Tsh. while a parliamentary candidate will need to deposit up to Tsh. 1,000,000.²⁸² For those women who manage to go through the deposit steps, they will then incur costs to deploy people to monitor, protect and count their votes during election day in different polling stations within wards or in the constituencies they are contesting.²⁸³

²⁷⁴ ARD (n 249 above) 34.

²⁷⁵ Barkan (n 30 above) 59.

²⁷⁶ ARD (n 249 above) 34.

²⁷⁷ AJ Mushi 'Achieving gender parity in political participation in Tanzania' (2011) 2.

²⁷⁸ As above.

²⁷⁹ A Ellis *et al* *Gender and economic growth in Tanzania: Creating opportunities for women* (2007)30.

²⁸⁰ See generally Ellis *et al* (n 279 above).

²⁸¹ Mushi (277 above) 3.

²⁸² As above.

²⁸³ As above.

Also, structures within political parties are not conducive to women's participation, and lack of political support and leadership impact on their abilities to climb the electoral ladder.²⁸⁴ It is widely known that political parties use women in mobilising membership, fundraising and campaigning for contestants who are mainly men.²⁸⁵ However, this is not reciprocated into supporting women in attaining leadership positions within political parties or standing for elections.²⁸⁶ Decision-making within the existing political parties in Tanzania is also male dominated. Starting from the nomination process, most women are screened out through unclear criteria set by party central committees, who, according to those who participated in the process, are mainly men.²⁸⁷ Those few who managed to get through are left with little or no party support.²⁸⁸

To run for a constituency, aspirants must be party members and must apply to be endorsed by a political party.²⁸⁹ Parties will inevitably endorse those individuals most likely to defend their ideological interests.²⁹⁰ In a situation where the interests of promoting gender equality and women's empowerment conflict with ideological interests that are informed by belief systems embedded in people's cultures, this works in the disfavour against women candidates.²⁹¹ It is equally important to note that most of the women's wings or women's sections of political parties; where they exist are not autonomous, and do not decide on or even fully participate in the development of criteria, screening or nomination processes.²⁹²

As a result of all the problems facing women which paved way to their underrepresentation, 'special' parliamentary seats for women had to be introduced in form of a quota system. The special seats were first introduced during the one party era.²⁹³ Women, though, were not the only group to be allocated special seats. Other groups that received them included the youth, the army and workers.²⁹⁴ The idea behind special seats was to ensure that the voices of special categories of citizens were heard in parliament. The driving force was not to bring about

²⁸⁴ As above.

²⁸⁵ R Meena 'Women participation in positions of power and influence in Tanzania' (2009) 14 available at http://www.redet.udsm.ac.tz/documents_storage/2009-8-19-11-34_23_womenparticipationinpositionsofpower.pdf (accessed 1 October 2011).

²⁸⁶ As above.

²⁸⁷ Mushi (n 277 above) 3.

²⁸⁸ As above.

²⁸⁹ Meena (n 285 above) 15.

²⁹⁰ As above.

²⁹¹ As above.

²⁹² Mushi (n 277 above) 3.

²⁹³ R Meena 'The politics of quotas in Tanzania: A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference in Pretoria, South Africa' (2003) 2.

²⁹⁴ As above.

balance, but to incorporate these voices, which otherwise would have been at a disadvantage in the normal electoral process.²⁹⁵ These parliamentary representatives were known as national members of parliament who represented national interests.²⁹⁶

According to Article 66 of Tanzania's Constitution, a quota system allocates 30 % of the seats in parliament as 'special seats', which are allocated to women who are selected from a list of party candidates on the basis of proportional representation.²⁹⁷ There is a 5% threshold for parties to qualify to nominate women for the special seats. Therefore, only those political parties that gain at least 5 % of the votes in the general election can nominate women for special seats. However, women can still run for election in the normal way in the constituencies.²⁹⁸

As a result of this quota system, the numbers and percentage of women elected as MPs increased from 21.5% in 2000 elections to 30.3% in the 2005 elections and 35% in 2010.²⁹⁹ In 2005, out of the 323 seats, 97 were held by women, of whom 17 were elected from the constituencies (an increase from 12 in 2000, and only 8 in 1995), while a further 75 women were elected to the special seats (an increase from 48 in 2000) and 3 women were appointed by the President (an increase from 2 in the 2000 elections).³⁰⁰ In the current parliament after the 2010 elections, there are a total number of 339 MPs, out of which 125 are women, of whom 20 were elected from constituencies.³⁰¹ Therefore, high level of women in parliament has been achieved mainly through the special seats programme.

However, there are some concerns about the consequences of reserving seats for women in Tanzania. Only a small percent of women now enter politics as a result of contesting seats in the main constituency-based elections.³⁰² According to Anna Makinda, Chairperson of the Tanzania Women's Parliamentary Group (TWPG) as she then was,³⁰³ this has created a hierarchy among female politicians, with those who contested the elections being more highly regarded than those who gained special seats. However, on-the-job training³⁰⁴ to those female MPs who acquired

²⁹⁵ As above.

²⁹⁶ As above.

²⁹⁷ Reith (n 238 above) 107.

²⁹⁸ Mushi (n 277 above) 2.

²⁹⁹ As above.

³⁰⁰ As above.

³⁰¹ As above.

³⁰² CL Morna 'Beyond numbers: Quotas in practice' A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference Pretoria, South Africa (2003) 7.

³⁰³ The current chairperson of TWPG is Anna Margareth Abdallah.

³⁰⁴ By TWPG.

'special seats' is being provided to empower them so that they can stand in constituency elections.³⁰⁵

Another concern is that each of the victorious political parties sets out its own mechanisms for appointing candidates, some of which are not included in the constitution of the party.³⁰⁶ In the 2000 general election, only the ruling party made its mechanism a little more competitive by allowing women party members to elect their representatives and also by broadening the base of representation also to include, for example, representatives of NGOs and female intellectuals.³⁰⁷ Other political parties have not yet defined a mechanism for electing or appointing members to these positions. This introduces into the political system the potential for corruption, including sexual corruption, thereby undermining the integrity of female candidates, even those who entered through a more transparent system.³⁰⁸

Furthermore, the special seats arrangement seems to be more beneficial to the ruling party than to any other party in terms of increasing numbers.³⁰⁹ This is because of awarding seats to the parties proportionally to the number of seats won in the constituencies where CCM always has the majority. For example, in the 2000 elections CCM won the 85.42% of the special seats, CUF 8.34%, CHADEMA 2.08%, UDP 2.08% and TLP 2.08%. Therefore, out of the 48 special seats available, they got 41, 4, 1, 1, and 1 respectively.³¹⁰ The special seats arrangement seems to increase the voice of the ruling party in a multi-party parliament.³¹¹ The special seats seem to have indeed just helped the ruling party to continue enjoying an overwhelming majority in the parliament. Also, The 5% threshold has eliminated the possibility of minor parties from having a share of the special seats. In the 2005 elections, only three parties met the 5% threshold in 2005, and the 75 seats were proportionately divided among those three parties.³¹² The same happened in 2010.³¹³

Also, the quota system seems to have brought up concerns that it is a special arrangement to engage women without necessarily threatening the chances of their male competitors in regard

³⁰⁵ Morna (n 302 above) 7.

³⁰⁶ Meena (n 293 above) 4.

³⁰⁷ As above.

³⁰⁸ As above.

³⁰⁹ Meena (n 293 above) 4.

³¹⁰ National Electoral Commission 2001.

³¹¹ Meena (n 293 above) 5

³¹² Meena (n 285 above) 16.

³¹³ <http://africanelections.tripod.com/tz.html> (accessed 4 October 2011).

to accessing parliament. It is a safe way of involving women without transforming the male dominated culture of parliamentary politics.³¹⁴

However, the quota system is facilitating Tanzania to attain the parity, in line with international, regional and national commitments with regard to women's political participation. Following Tanzania's endorsement of the Beijing Platform for Action, it was agreed to prioritise women's political empowerment in line with Southern African Development Community (SADC) Declaration, which had set a benchmark of 30% female representation in parliaments.³¹⁵ The 2000 amendment to the Tanzanian Constitution resulted in the percentage of special seats being increased to 20% in parliament and 33.3% in local councils, which was below the SADC benchmark.³¹⁶ A further constitution amendment in 2005 increased the target to 30%, in line with the 1997 SADC benchmark, while the motion was towards achieving 50% women representation in line with SADC goal and African Union Constituent benchmark of 50/50 by 2010.³¹⁷

It should be noted that although Tanzania has reached the benchmark of SADC by 2005, and the constitutional benchmark of the 30% critical minority. However, this is still below the African Union Constituent benchmark of 50/50 in parliament.³¹⁸ Additionally, the discourse on 30% or 50% has not gone hand in hand with a discourse of transforming the broader picture and addressing the general condition of women in the economy.³¹⁹

Despite all the downsides of the FPTP system in Tanzania, the system is being praised for promoting a bond between MPs and their constituencies.³²⁰ MPS are known to perform the functions expected of MPS which are getting information and lodging demands on behalf of people, seeking ways to benefit constituencies through existing or proposed national programs and legislation, voicing out views or concerns of constituents regarding national policy and attending social events which is particularly important in rural constituencies as a key means of

³¹⁴ Meena (n 293 above) 7.

³¹⁵ Meena (n 285 above) 11.

³¹⁶ As above.

³¹⁷ Mushi (n 277 above) 5.

³¹⁸ As above.

³¹⁹ As above.

³²⁰ 'The Legislature and constituency relations' available at <http://www.undp.org/governance/docs/Parl-Pubconstrelat.ht> (accessed 4 October 2011).

maintaining close personal ties with their constituents.³²¹ However, MPs operate with limited resources which potentially restrain MPs' legislative efforts to assist the needs of constituents.³²²

3. 4 Conclusion

This chapter has analysed the meaning and operation of the FTPT electoral system. It has analysed the advantages and the disadvantages of the system. It has been revealed that the system is very good at promoting a majoritarian government which promotes smooth running of the government and stability because a government can implement the policies it needs to implement without having to resort to negotiations with minor parties. Also, the system is good at promoting accountability of MPs as it fosters a close link between the MPs and their constituents. However, it has also been revealed that the system is not good at promoting representativeness as it allows the dominance of major parties and can lead to the exclusion of minor parties from having representatives in the parliament as well as some vulnerable groups of the society such as women. When it comes to African countries which are deeply heterogeneous, this system can promote more ties to the ethnic group at the expense of nationalism.

Finally, the chapter has analysed how the system has been working in Tanzania and revealed that whereas it has promoted closer ties between MPs and the voters, it has led to the dominance of one party CCM to the disadvantage of the opposition parties. It has also led to the exclusion of some groups of the society from representation such as women which led to the establishment of a quota system using a proportional representation to promote representativeness of the parliament.

³²¹ On the front lines: The new MP and constituency work' available at http://www.parlcent.ca/publications/Omnibus/frontlines_e.php (accessed 4 October 2011).

³²² 'Constituency Development Fund in Tanzania: The right solution?' available at www.policyforum-tz.org/files/ConstituencyDevelopmentFund.pdf (accessed 4 October 2011).

Chapter four: Conclusion and recommendations

4.1 Overall conclusion

This research on the assessment of the two electoral systems proportional representation and First-Past-the-Post system was motivated by the fact that electoral systems are very important in a country as they have immeasurable effects to the citizens of a particular country. Electoral systems are important because they have the ability to shape the nature of the government, the kind of choices voters have at elections, the ability of voters to hold their representatives personally accountable and the composition of the parliament. Elections and electoral systems might not only be the only prerequisite for political stability but they are very crucial to it and generally democratic governance in Africa.

Considering the fact that PR and FPTP are the most predominantly used electoral systems in Africa, and considering that there is really no consensus as to which of the two systems is better than the other. Also, considering the fact that most African countries are practicing unconsolidated democracies, this research aimed to uncover the best practices from the two systems so that they can be integrated. This integration is aimed at facilitating African countries towards the consolidation of democracy in their countries.

As for proportional representation, it has been uncovered that the system is opposed because of its characteristic of giving rise to coalition governments whereby even minor parties are being represented. As much as this is a bonus to the minor parties, it can also lead to disagreements between parties on various issues and hence can lead to difficulties in implementing policies which consequently affects governance. PR also affects the level of accountability of MPs because the system does not provide for incentives for MPs to be accountable to the voters as under PR it is the party that determines who gets to become an MPs through a party list and not the voters directly. Under PR, party members are likely to prioritise the party leaders who have the power to include them in the list or exclude them rather than prioritising the needs of the voters. However, on the other side, PR is efficient for the promotion of the representativeness of the Parliament of all the voices in the society from the major parties, to the minor ones and the vulnerable groups in the society such as women. This feature is especially useful for African countries which are tremendously heterogenic and some of them are recovering from dreadful conflicts where reconciliation among diverse groups is critical.

Mozambique being a post-conflict society, PR has worked tremendously to promote reconciliation in the country as well as the consolidation of democracy. It has given the

Mozambicans a chance to deal with exclusion tendencies predominant in other electoral systems. However, there are still debates in the country as to how the electoral system can be improved to promote a closer link between the MPs and the voters, a feature that is currently not experienced in Mozambique.

As for the FPTP system, the system is opposed mostly due to its exclusion tendencies. The system over rewards major parties while penalising minor parties. Also, the system is seriously disadvantageous to vulnerable groups such as women and also minor ethnic groups due to the 'most acceptable syndrome' tenet. This is potentially dangerous for divided societies as most of the African countries are because it can result into severe conflicts. On the other hand, the system is very effective in promoting government stability because it produces a majoritarian government hence the ruling power is capable of enacting and implementing legislations and policies it deems necessary for the governance of the country. Also, the system is very efficient for the fostering accountability between MPs and the voters because every MP is elected by a particular constituent and they personally cater for their needs specifically by voicing their views in the enactment of policies and legislations. Also, they make sure that the concerns of their constituents are incorporated in the national programmes.

Tanzania having practiced the system for a long time has enjoyed the benefits of close ties between the MPs and their constituents and a stable majoritarian government. However, the country has been unable to fully blossom into a fully functioning multiparty democracy because among other things, the FPTP system has promoted the dominance of the ruling party CCM which has been in power since the country got independence five decades ago. The exclusion tendency of the system led to the introduction of quota systems which now uses PR to supplement the missing voices in the parliament. This shows that Tanzania realised that the FPTP system alone is inadequate to consolidate democracy in the country and hence had to supplement it with PR but just for specific groups such as women. However, the quota system is not without its flaws. It is more or less a tool used by the ruling party to increase its numbers in the parliament rather than addressing the underlying weaknesses of the system.

Therefore, these two systems are fundamentally different in terms of their features and operation. Whereas the FPTP system prioritises government effectiveness and accountability, proportional representation prioritises representativeness by the promotion of greater fairness to minority parties and more diversity in social representation.

4.2 Recommendations: The merging of the two systems

For African countries which have chosen either one or the other of the two electoral systems, it has been duly noted that the systems cannot stand on their own. Separately, they both have weaknesses that can be addressed by learning from the other system.

Considering the heterogeneous nature of African countries, first and foremost, it is recommended that African countries should vote using the List PR system. This will allow the utilisation of the best practices from PR system which are inclusivity and representativeness. This is because of the fact that under PR, voters vote for a party list that is usually very inclusive. PR is better at including the groups that are usually excluded in political systems because affirmative action is easier when applied to balancing the social composition of party lists for example, designating every other position on the list for male or female candidates, or balancing the list by region, ethnicity, occupation or religion.³²³ Parties are more willing to come up with a diverse list so as to maximise their support. Also, since under PR every party that gets a certain percentage of votes gets the proportional number of seats in the legislature, it ensures that even minor parties get representation in the legislature. Considering the heterogeneous nature of African countries, these tenets of PR are invaluable and should be aimed for in an electoral system. They will help preventing ethno and other conflicts which have been so predominant in African societies as well as consolidation of democracy in post conflict societies.

It is also recommended that voters should be given a chance to vote on the names candidates in the party lists and be able to affect the ranking of the candidates. This will give more power to the voters and will also be an incentive for elected candidates to serve the needs of the voters. This will deal with the problem arising from the closed lists in the PR system of watering down the accountability expected by voters from their representatives. MPs concentrate more on pleasing party leaders rather than their voters under closed lists PR system.

Furthermore, it is recommended that, after elections have been conducted using open electoral lists PR system, each MPs should be assigned to a particular constituency as the case worker for it. This tenet is borrowed from the best practice from the FPTP electoral system which is the fact that there is a close link between the MPs and voters because of MPs having a geographical area (constituency) they are responsible for. Considering the realities of underdevelopment, poverty and economic backwardness in Africa, voters need a personal

³²³ Matland & Studlar (n 85 above) 709.

caseworker who will cater for the African desires for affordable food, health care, education, shelter, transport, clean water and real employment opportunities not just in urban areas but also, in all other constituencies. As a caseworker, members of a particular constituency will know who to approach for their problems. Also, they will have specific people who will air their opinions during the formulation of policies, enactment of legislations and other national programmes to facilitate the realisation of their desires.

Moreover, this tenet enhances accountability for the fear of electoral sanctions. When an MP fails to deliver on what is expected from him/her, the voters will not vote for him/her and hence will not be able to rank very high in the party list.

It is also recommended however that, this model of electing representatives should just be used for the elections of MPs and other lower officials. There should be a separate and independent election for the president. Rather than the elected MPs electing the president, the voters should be allowed to elect the president directly. This should be done in order to afford voters an opportunity to vote differently if they want to. This will also make the voters feel confident that their vote has a genuine say upon government formation and not just upon the composition of the legislature alone.³²⁴ This will promote legitimacy, acceptance of the president as well as ownership by the voters of the choice they made.

Considering this research recommends the application of proportional representation to elect MPs, it still leaves the concern for the requirement of promotion of government stability expected from electoral systems. Despite the concern that PR promotes instability, scholars have noted that multiparty coalitions are usually quite stable, and have found no widespread or systematic evidence of persistent instability in countries that use proportional representation voting.³²⁵ The record of PR use in a great number of countries over many decades shows only a few instances where instability has been a serious problem.³²⁶ The vast majority of PR countries have enjoyed stable and efficient governments. Even though there have been several parties in these legislatures, in practice the parties have tended to form into two broad coalitions of the left and the right--and thus operate much like a two-party legislature.³²⁷

³²⁴ Ellis *et al* (n 32 above) 60.

³²⁵ DJ Amy 'Common criticisms of PR and responses to them' available at http://www.mtholyoke.edu/acad/polit/damy/articles/common_criticisms_of_pr.htm#gridlock (Accessed 9 October 2011).

³²⁶ For example in Italy.

³²⁷ Amy (n 325 above).

Also, the PR system of voting brings about the concern that the presence of multiple parties can lead to unstable coalitions that would make it more difficult to pass bills in parliament. This is because it is believed that having so many different parties increases the danger of creating legislative gridlock.³²⁸ However, PR proponents note that gridlock has not been a common problem in the multiparty legislatures found in PR countries.³²⁹

Therefore, considering the above discussion, it is recommended that the ideal electoral system for African countries should follow proportional representation for the election of MPs as to promote representativeness and inclusivity, but the list should be open to allow voters a say as to who among the candidates will make the list. Also, MPs should be assigned constituencies as to facilitate accountability of the elected officials. This will allow the electoral system to deliver all the positive attributes expected from electoral systems.

Word Count 16 269

³²⁸ As above.

³²⁹ As above.

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