
Parties' motivations for electoral reform under the democratic transition in South Africa

Las motivaciones partidistas para la reforma electoral durante la transición democrática en Sudáfrica

AINARA MANCEBO

Cómo citar/Citation

Mancebo, A. (2019). Parties' motivations for electoral reform under the democratic transition in South Africa. *Revista Española de Ciencia Política*, 50, 43-67. Doi: <https://doi.org/10.21308/recp.50.02>

Abstract

At the beginning of the 90s, South Africa initiated its political transition with the transformation of the electoral system being one of the key items on the negotiation agenda. Transition in these regimes is less a struggle over the right of political actors to hold diverse political beliefs than over the extension of the franchise to previously excluded sections of the population. Following the literature on party motivations, I analyze the various motivations of the political actors engaged in the process of institutional design for electoral change. In this case study, I identify explanations based on office-seeking and policy-seeking preferences in the strategies of the political parties that participated in the negotiation of the institutional change during the democratic transition. As a result, South Africa reformed the electoral law used under the authoritarian regime and moved from a low inclusive majoritarian electoral system to a high inclusive proportional electoral system in the new democratic regime.

Keywords: party motivations, institutional change, electoral systems, office-seeking strategies, policy-seeking strategies

Resumen

A principio de los años noventa, Sudáfrica inició su transición política en la que la transformación del sistema electoral fue uno de los puntos clave en la agenda de negociación. Las transiciones democráticas en este tipo de regímenes no son una lucha por el derecho de los actores políticos a mantener diversas ideologías políticas, sino sobre la extensión del sufragio que previamente había excluido a grupos de población. Siguiendo la literatura sobre las motivaciones de los partidos, analizo las razones múltiples de los actores políticos implicados en el diseño

institucional de la reforma electoral. En este caso de estudio identifico explicaciones basadas en preferencias *office-seeking* y *policy seeking* en las estrategias de los partidos políticos participantes en la negociación del cambio institucional durante la transición democrática. Como resultado, Sudáfrica reformó la ley electoral utilizada durante el régimen autoritario, transformando un sistema electoral pluralista poco inclusivo en un sistema electoral proporcional altamente inclusivo en el nuevo régimen democrático.

Palabras clave: motivaciones de los partidos, cambio institucional, sistemas electorales, estrategias *office-seeking*, estrategias *policy-seeking*

INTRODUCTION

South Africa underwent a negotiated democratic transition¹ among the ruling government and the liberation movements during the Huntington's Third Wave of Democratization (Huntington, 1991: 151). In a non-violent process where the main political players negotiate an acceptable deal for almost all the sides in the conflict, the nature of the electoral systems is at the centre of the institutional design in transitional states (Luong, 2000: 564). The democratization in South Africa provides an exceptional opportunity to analyze party motivations behind the institutional change under transitional processes. Following the rational choice approach to institutional change, this article analyzes how individuals create and maintain institutions through their choices and how early constitutional choices made in emerging democracies often have enduring consequences (Bawn, 1993; Lijphart y Aitkin, 1994; Nohlen, 1984). The process of a democratic transition is a valuable scenario to analyze the various motivations of the actors involved in the reform of the electoral systems. Considering that the transformation of an authoritarian regime into a democratic one means the replacement of known rulers with uncertain rules for unknown rulers with inclusive and certain rules (Colomer, 2005: 1-21), then uncertainty plays an important role in the choice of electoral rules by political actors.

Following the literature on party motivations (Bawn, 1993; Strom and Müller, 1999; Benoit, 2004, 2007), I argue that political parties' main motivations for institutional change under a political transition are office-seeking and policy-seeking preferences. South African political actors developed partisan motivations to maximize their share of seats share and influence on policy outcome during the institutional design in the democratic transition. That is, first of all we should expect that South African political actors who are motivated by self-interest and anticipate the varying effects of different electoral systems, choose institutions that maximize their share of seats. Second of all, these South African political actors should also be expected to act

1. South Africa falls into the *transplacement* category of negotiated transition when democratisation occurs from joint action by government and opposition groups.

towards bringing about the electoral system that increases their party's chances of entering government and being able to influence policy directly (Bawn, 1993: 968).

This article is divided into three sections. The first one presents a review of the literature on party motivations and the methodological approach used to analyze the party motivations under institutional change, which are paramount for the empirical testing of hypotheses. Follows a descriptive analysis of the chain of events and the decision-making process, using data from interviews with key actors involved in the institutional design of the South African electoral system. Finally, the results of the qualitative analyses and the alignment with the hypotheses are discussed in the conclusions.

THEORETICAL PERSPECTIVE

Institutional change and party motivations

Electoral systems are not a group of neutral mechanisms to translate voters' preferences into representation (Norris, 1997). Because the design of the electoral system is the gate for getting legislative seats, political actors try to impose their rational interest on it. Consequently, the design of electoral systems is not a kind of *inertia* that makes the institutional legacy persists, but rational actors' choices about whether or not to transform these institutions. Electoral rules have usually proved to resist change until the 1990s² (Nohlen, 1984: 218). Notwithstanding the succession of reforms in the 1990s and early 2000s, major electoral reforms remain scarce (Katz, 2005). Boix (1999) identifies four different phenomena that may lead to the transformation of the electoral arena, when the ruling parties attempt to maximize their representation in a changed electoral arena (Rokkan, 1970; Boix, 1999). South Africa constitutes one of these examples, with the enfranchisement of a large number of people who had been excluded from legitimate political participation under the British Empire and the Apartheid regime. In this scenario, whether or not the ruling parties embrace reforms depends on two conditions: the new parties' strength and the ruling parties' coordinating capacity; that is, whether they are tied in votes (*ibid.*: 611).

In general, the rational choice approach posits that the relevant actors have a fixed set of preferences and behave entirely instrumentally so as to maximize the attainment of such preferences; that is, they act in a highly strategic manner that presumes extensive calculation. In other words, first, that an actor's behavior is likely to be driven, not by impersonal historical forces, but by a strategic calculus; and second, that this calculus will be deeply affected by the actor's expectations about how others are likely to behave as well (Radnitzky, 1987; Ostrom, 1999; Peters, 1999). The model introduced here predicts that political parties involved in the reform of the electoral system during a negotiated democratic transition follow office-seeking and policy-seeking strategies. It also

2. Except the deviant case of France in 1986.

predicts that parties moved by partisan motivations use no partisan motivations as an instrument to generate popular support for their proposals (Bowler and Donovan, 2015: 4-6). This hypothesis, like all hypotheses within the rational choice paradigm, assumes a set of behavioral assumptions: The relevant actors have a fixed set of preferences and they behave entirely instrumentally to maximize the attainment of these sets of preferences in a strategic manner that presumes extensive calculation. In the determination of political outcomes, I assume that political parties evaluate electoral institutions based on the expected effect of each alternative for their own partisan interest.

This case study follows assumptions of partisan strategic rationality and models that operationalize power-maximization in terms of maximizing partisan shares of seats in the legislature (Brady and Mo, 1992; Boix, 1999; Colomer 2005; Benoit and Schiemann, 2001; Benoit, 2004; Farrell and McAllister, 2006). Recent contributions to the institutional change debate from the rational choice theory acknowledge its limitations (Vowles, 1995; Denmark 2001; Dunleavy and Margaretts, 1995; Sakamoto 1999; Shugart 2001; Siaroff 2003; Andrews and Jackman, 2005). Vowles (2008) notes at the intersection of normative critiques of the existing rules and rational interest of political actors that reform is most likely to occur. Rahat (2004) proposes a multistage historical comparative approach after analyzing the electoral reforms in Japan, Israel, Italy, and New Zealand. Following Rahat, party perceptions are to be understood as the product of a battle over interpretations between mainly two hard cores of reformers and opponents; party interests result from the adoption of certain perceptions of both the political consequences of the reform itself and the behavior towards it; and party motivations are the end results of these weighed calculations; and these different dimensions should be studied separately during the negotiations of drafting electoral systems (*ibid.*: 475).

Some recent works develop explanations of institutional change emphasizing the importance of taking account of coalition dynamics in the study of electoral reform in consolidated democracies (Strom and Müller, 1999; Bawn, 1993; Benoit, 2004, 2007; Renwick, 2005). In his analysis of the forces underlying the choice of a PR electoral system in Germany, Bawn presents a model in which preferences over institutions derive from preferences over policy (1993: 967). Using Bawn's model, Remington concludes that a theory of strategic choice based solely on preferences defined over policy outcomes cannot account for the adoption of the 1993 Russian electoral system or its 1995 successor (Remington and Smith, 1996: 1256). Uncertainty and miscalculation were critical to the choice of an initial electoral system. The degree to which political actors are motivated either by policy goals or ambition to hold office is not always too obvious Katz (2005). Actors might take into account factors other than their own partisan interest when deciding on institutional design. Budge and Laver argue that "office can be sought both as an end in itself and as a means to fulfil policy objectives Similarly, policy can be pursued both as an end in itself and as a means to achieve office" (1986: 486). Moreover, evaluations of the system fairness have been found to have had a strong impact on support for the change of the electoral system in the New Zealand in 1993 (Banducci and Karp, 1999).

POLITICAL TRANSITION IN SOUTH AFRICA

After 42 years of settled oligarchical government³ (Bratton and Van de Walle, 1994), South Africa went through one of the negotiated democratic transitions between the moderate leaders in the Government and opposition (*ibid.*: 487).

In February 1990, during the Opening of Parliament, the last President of the settled oligarchy's Government, F. W. de Klerk, unbanned the ANC, Pan-Africanist Congress (PAC)⁴ and the South Africa Communist Party (SACP), and announced the NP Government's intention to create a new non-racial South Africa, founded on the principles of democracy and universal franchise. It had taken nearly two years of talks⁵ almost exclusively between the ANC and the NP to address the obstacles preventing multi-party negotiations (Spitz and Chaskalson, 2000: 18). During this period of bilateral meetings, the major stakeholders had begun to prepare their negotiation positions and positioned themselves for the institutional outcome that would suit them best. The chief negotiator for the NP Government at that time, Roelf Meyer, observed: "The aim of the NP Government has always being that the system of representation that we had prior to the change would not work in the new constitutional system."⁶ . Maintaining the FPTP system could have been detrimental to the NP, that favored a change of the electoral system that would maximize its own share of legislative seats in a new electoral arena, where Nationalists would become a minority group in the country. The electoral reform was at the center of the institutional design and was debated early in the talks: "We knew early on that the Government was fiercely opposed to a winner-take-all Westminster parliament system, and advocated instead a system of Proportional Representation (PR) with built-in structural guarantees for the white minority." (Mandela, 1994: 692).

At that stage of the process, the NP was looking at five mechanisms to be addressed in bilateral talks: (a) a bill of rights; (b) the "evolution of power to regional and local government levels"; (c) decentralization of power; (d) checks and balances in the "division of power at the horizontal level"; (f) and a PR electoral system "to act as vehicles for minorities"⁷ . Therefore, a PR electoral system was, in an early stage of the transition process, a key arrangement⁸ for the NP Government (Sparks, 1995: 5). On

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3. A settled oligarchy refers to a system where the dominant racial group uses the instruments of law to deny political rights to ethnic majorities, usually through a restrictive franchise and emergency legislation.
 4. This party born after a faction of africanist nationalists broke away from ANC in 1959.
 5. The removal of obstacles to multi-party negotiation moved along extremely slowly, one narrative on the transition describing this period as *talking about talks*.
 6. Interview, Roelf Meyer, Chief Negotiator for the NP Government, Pretoria, 12-8-2014.
 7. Pdraig O'Malley, "Interview to Roelf Meyer", 17-12-1990. Available at: <http://bit.ly/2JwXaR0>.
 8. In speeches F. W. de Klerk made it clear he was strongly opposed to 'winner takes all' system. "Don't expect to me to negotiate myself out of power" he told Western diplomats, but a system of *power sharing* described as a government by consensus among the leaders of various race groups.

the other side, the ANC was demanding an electoral system that would bring peace and national reconciliation in the country. Despite that one of the points made by government officials and some scholars was that the ANC wanted to retain a majoritarian system (Gows and Mitchell 2005: 358) that would increase their vote share as the biggest party, following an office-seeking strategy. The ANC had already started to discuss the shifting to PR system in 1988. The ANC constitutional expert, Kader Asmal, presented a paper in an in-house seminar at the ANC headquarters, Lusaka, suggesting that the majoritarian system had considerable advantages for the ANC, but the main disadvantages of this system was that “it relies heavily on the even-handedness of those who delimit the boundaries of constituencies and who organize the registration of voters”⁹. At the same time, the PR national list system does not need constituency boundaries and delimitation or even voter registration, and “minority parties could continue to be represented, which is a demand from so many quarters” (*ibid.* : 4). Not only the potential winner in the post-Apartheid era, ANC, claimed the change of the electoral system as the only option; moreover, from the NP’s side “there was very little dispute about the PR or there was no dispute about the PR system was the best model for the country and the ANC agreed”.

In June 1990, an ANC discussion document on the structure of a constitution for a free South Africa, openly supported a parliament elected on the basis of PR because: “It encourages participation by groups which have significant followings. This is more satisfactorily than forcing political or subversive activity outside parliament. Fringe parties would be excluded by imposing a threshold of a 3.5 %” (ANC, 1990). The same document favors national and regional lists (200 seats each) to introduce some accountability into the electoral system. On April 12, 1991 the ANC unveiled its constitutional principles in a discussion document for the ANC 48th National Conference, where it envisaged a bicameral parliament composed of a senate and a national assembly elected by way of PR.

After two years of *talks about talks* between the two main contenders, an inclusive multiparty negotiation process started with almost all the political parties represented. In January 1991, the ANC and the NP Government agreed to convene a Multiparty Conference, not to draw up a new constitution, but to decide on the next stages of the transformation process: the multi-party constitutional talks called the Convention for a Democratic South Africa (CODESA)¹⁰. Despite the formal inclusiveness of the multiparty process, a bilateral channel had marked the agenda and the agreements (Meer,

9. Western Cape University. Robben Island Museum Mayibuye Archive: ANC Collection. Asmal, Kader 1-4 March 1988, *Kader Asmal: Electoral systems a critical survey*, p. 9, MCH01, Box 57.2.

10. The first CODESA was held on December 20 and 21, 1991; and the second CODESA in May 1992. The failure of this forum and after a negotiation crisis between the two main contenders, NP and ANC, negotiations continued inside a new multiparty negotiation process called Multiparty Negotiating Process, held in March 1993.

1993: 125). The bilateral negotiations occurred mostly away from the media's attention and away from the hurly-burly of the multiparty conference of CODESA.

Valli Moosa explains how "in many instances the ANC and the NP met each other directly and reached an agreement on a difficult issue and then it was brought into the multiparty negotiating process, and then when the NP and the ANC did agree, more often than not, the other parties did end up agreeing too. But they don't have any other choice because, in suite of the fact that the negotiation process was called a multiparty negotiation, the essence of the negotiation was between the Apartheid regime and the ANC"¹¹. Some parties that were excluded from the bilateral talks criticized the decisions reached in the bilateral agreements between ANC and NP, and a lack of transparency served to fuel mistrust among the participants¹². The standing rules about the decision-making mechanism prescribed that wherever consensus failed, a principle of *sufficient consensus* would be applied (Spitz and Chaskalson, 2000: 58). However, this did not help to build the necessary trust to achieve a negotiated settlement. Finally, an agreement was achieved known as Declaration of Intent of CODESA 1, that included the reform of the electoral system among the constitutional principles and made it explicit that "the basic electoral system shall be that of PR"¹³.

At that stage, the ANC proposed¹⁴ a detailed system for the election of the constitution-making body which should be an inclusive constitutional assembly allowing the entrance of small parties into the parliament. Seeking a high inclusive system, the ANC expressed its concern that a number of political organizations might not be able to reach the five% cut-off. And it emphasized the need to ensure that the inclusive character of the constitutional assembly was maintained, while avoiding an undue proliferation of tiny parties. More specifically, the ANC proposed a large rather than small assembly, on the basis that there should be one representative for every 50,000 voters; this would translate in a body of 400 representatives, for an estimated voting population of 20 million (ANC, 1992).

CODESA 2 failed to ratify any agreements and the dispute finished up in a deadlock around the percentage required for the adoption of the constitution. The resumption of multiparty negotiations came with a Negotiation Planning Conference that resolved that a new negotiation forum, the Multiparty Negotiation Process (MNP), should be established. Finally, NP and ANC entered bilateral discussions and

11. Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7-10-2014 .

12. See, for example, the PAC's position on the matter (Hansard, Constitutional Assembly, 1994, vol 1, p. 5). The Inkatha Freedom Party (IFP) also rejected the "Bipolar negotiations only between the Government and the ANC" (*Business Day*, 13-7-1990, p.3).

13. Declaration of Intent of CODESA 1, 21-12-1991.

14. "ANC proposals" to WG2, 31-3-1992, Colin Eglin Papers, University of Cape Town, BC1103, Z11.

submitted a common package of proposals to that multilateral negotiation forum. Among them, a Bilateral Understanding of Proposals on the Electoral System for the National Assembly and States, Provinces and Regions (SPR) legislatures¹⁵ that conveys their agreement on the electoral system law for the post-apartheid regime.

Explanations based on office-seeking and policy-seeking preferences in the South Africa

Following the categories of party motivations for choosing electoral institutions developed by Strom and Müller (1999), Bawn (1993) and Benoit (2004, 2007), I explore the transformation of the South African electoral system during the transition to democracy, identifying policy-seeking, office-seeking and general interest preferences, incorporating the insights of Bawn model. Bawn model (1993: 967-968) is based upon three assumptions: (a) parties preferences for electoral systems that result in the most desirable policy outcomes; (b) parties make use of all available information about the electoral's voting preferences; and (c) parties participating in the choice of electoral institutions know the preferences of the other parties involved in the choice of electoral system. By contrast, explanations based on office-seeking preferences are closely related to winning office. From this point of view, any party will prefer rules that maximize its own share of legislative seat over the share of seats other parties might gain, regardless of their compatibility in terms of policy goals or ideology (Benoit, 2004: 367-370). More difficult to identify is the general interest preference explanations according to the party's preferences for institutional outcomes that affect the general interest in contrast to the partisan interest. Among others, we can find: party preferences regarding the fairness of the electoral system that entails legislative seats for each group in the minority or majority of the population (inclusiveness); party preferences regarding governability with stable executives; and party preferences about choices that encourage conciliation and conflict management in divided societies.

During the processes of democratic transitions the variable of uncertainty, the absence of reliable knowledge about past, present, future, and hypothetical events facing actors engaged in making institutional choice, can be so great as to prevent choices exclusively based on expectations about the future. The inability to make informed choices is common to actors involved in the design of electoral systems during negotiated transitions to democracies. The absence of a relevant electoral record, rapidly

15. A detailed electoral law proposal with a national assembly of 400 seats filled in with 200 seats from regional lists and 200 seats from the national list; a closed party list; for the purpose of filling the 200 seats in the national assembly, the total number of votes cast in a region shall be divided by the number of seats plus one in that region and the result, disregarding fractions, shall be the quota of votes per seat: $S/V+1$. "Bilateral Understanding on Outstanding Constitutional Issues between the South Africa Government and the ANC", 17-11-1993, Seegers Collection, University of Cape Town, BC1055, D.2.1.7. a.

changing conditions, and other factors make estimates of the consequences of alternative electoral choices quite unreliable (Strom, 1990: 588-589; Remington, 1996: 1276). Under circumstances of regime change, political parties develop preferences about the electoral institutions based on office-seeking and policy-seeking explanations. Partisan motivations are usually justified on normative grounds regarding fairness, inclusiveness and governability; but it is very difficult to determine the real importance political parties give to these normative arguments in the negotiation of institutional change.

Consequently, the model identifies two categories of partisan motivations for electoral reform, namely, (a) maximizing the party's prospective share of legislative seats according to the different electoral rules, that is, motivations based on the office-seeking explanation; and (b) facilitating the most desirable policy outcomes, that is, motivations based on the policy-seeking explanation (Benoit and Hayden, 2004: 398). The empirical analysis that follows traces these two categories of partisan motivations in the strategies developed by the political parties involved in the democratic transition, during the process of negotiation of the institutional change in South Africa.

TABLE 1.
CENSUS MARCH 1991

Racial division	%	Census
Black African	76.4	27,400,000
White	11.8	4,238,000
Coloured	9	3,254,000
Indian	2.7	960,000
Total	100	35,852,000

Source: Statistics South Africa

In February 1990, and as part of the transitional process, the NP Government unbanned, ANC, PAC and SACP, while bringing new players to the electoral arena. The extension of suffrage in South Africa came into reality with the census carried out in 1991 that included previously excluded sectors of the population (see table 1). The black African group became the wide majority, representing more than 76% of the total population¹⁶. This new electoral scenario meant that the NP would become a minority political party associated with an Afrikaner nationalism ideology. Consequently, after the institutional change its political survival was subject to its capacity to maximize its share of seats in the new democratic parliament. The PR system provided for maximum representation, thereby ensuring the inclusion rather than the exclusion of minority

16. Katz (2005: 57) explains electoral change with reference to an external shock. And the shock most often cited in the literature was the enfranchisement of a large number of people who had been excluded from participation (Rokkan, 1970: 157).

parties and opinions. Overall, the idea of proportionality was seen as vital to allay suspicions that the electoral system would unfairly favor one party over another, as it had notoriously happened via the manipulation of constituency boundaries under the majoritarian systems used in South Africa during the authoritarian regime (Faure, 1999). The NP made use of normative arguments from the academic debate about the best institutions to develop under divided societies to justify its office-seeking strategy.

The transitional period was accompanied by a massive rise of crime on streets in key centers, much of it being extremely violent. Since the NP Government carried out an ideology of separate development after passing the Promotion of Bantu Self-Government Act (1959), the leaders of the former homelands increased the patronage and power in the administration of their territories. Organizations like the Inkatha Freedom Party (IFP), a direct continuation of the homeland-based Inkatha movement, still overwhelming supported by Zulu speakers located in KwaZulu-Natal, the second most populated province after Gauteng (former Pretoria-Witwatersrand-Vreeniging province). Political violence, mainly between IFP and ANC supporters, fostered an atmosphere of pre-civil war in the middle of the negotiations. The IFP, a Zulu ethnic-nationalist party led by the former homeland leader Chief Mangosuthu Buthelezi, strongly criticized the negotiation process and accused the ANC of playing a dangerous game by projecting itself as the sole authentic black political force¹⁷. This party claimed to boost its 1,7 million of memberships¹⁸. The mistrust atmosphere around the table of negotiations was fueled by the involvement of the NP Government in political violence after the publication of the Inkathagate case¹⁹.

During the mid-80s and beginning of the 90s, in an atmosphere of escalation of violence (Howe, 1994: 29-51), the proposals of constitutional engineering in divided societies were thoroughly debated by politicians in South Africa. The debate within constitutional engineering literature between two competing views (Lijphart, 1977, 1985, 1990; Lijphart and Aitkin, 1994; Horowitz, 1985, 1991) about the best government structures to attenuate racial and ethnic conflict in divided societies became a debate reflected in the political negotiation dialog with two competing approaches. The literature of ethnic divisions found a positive resonance among the NP party and Government and its idea of constitutional arrangements to protect the minorities and ethnic groups in a divided society. The normative arguments to defend constitutional arrangements for the protection of the South African minorities, were used to justify the NP office-seeking preferences. By contrast, the ANC committed itself to a non-racial society from the its endorsement to the *Freedom Charter*²⁰ in 1955, and characterized for retaining racial identity as an organizing feature of the electoral and

17. *Business Day*, 13-7-1990, p. 3: "Buthelezi rejects ANC demand for an interim rule".

18. *Ibid.*

19. The evidence published in the media about the involvement of the NP Government in the political violence, Inkathagate case, hit the trust between the principal negotiators.

20. *Freedom Charter* is the resolution approved by the *Congress of the People* in 1955.

parliamentary system, and the notion of power sharing, as just “being a mechanism to somehow preserve white privilege”²¹.

The academic debate around the ethnic divisions and party systems has often been focused on the choice between a proportional and a majoritarian electoral system (Norris, 1997; Reynolds, 1999). Various proposals have been put forward by academics as a solution to South Africa's ethnically and racially divided population. Lijphart measured his theory of Consociational Democracy²² against the reality of what would happen there and concluded that an ideal constitution would allow groups to define themselves. And that would be best done through proportional representation in the electoral system²³. The proponents of proportional systems have argued that a party list system of PR is the most suitable electoral system for divided societies because it allows a fair minority representation in the parliament and the consolidation of democracy. Critics of the use of the PR in divided societies as Horowitz, claim that societies driven along a strong ethnic cleavage tend to develop party systems that facilitate the escalation of ethnic conflict (Horowitz, 1985: 291), and conclude that majoritarian systems resist the inherent tendency of the proportional systems and consociational systems to produce ethnic divisions (Horowitz, 1991: 173).

In response to Horowitz's ethnic divisions literature, the Minister of Constitutional Development during the political transition, Gerrit Viljoen, admitted that the NP left its earlier position to protect constitutionally defined groups in racial or color terms, to protect groups defined in terms of constitutional arrangements, and finally to arrive to the protection of minorities through special accommodation of minority groups²⁴. In the same vein, the then President of the Republic, F. W. de Klerk, supported the electoral reform of FPTP, arguing that the Westminster parliamentary model was unworkable in a multiracial society, and its winner-takes-all-system had to be replaced by a *fairer* system of proportional representation: “Wherever whites are in South Africa they are a minority. Our call is to be part of a greater South African nation. There do not have to be winners and losers. A system in which everyone can win is possible”²⁵. After 1948, the NP had won decisive legislative majorities²⁶ under the FPTP system, however the new electoral scenario with the extension of suffrage

21. See note 9, *op. cit.*, p.3

22. The four pillars of Lijphart's concept of Consociation are: joint decision-making by representatives of all significant groups, autonomy for the different segments of a multi-ethnic or multi-cultural society, proportionality in the voting system, and a minority veto.

23. *Sunday Times*, 31-3-1991, pp. 5: “Negotiations on a democratic SA still on track, says expert”.

24. O'Malley, Pdraig. 1991. Interview to Gerrit Viljoen. Available at: <http://bit.ly/2XHrSzD>.

25. *Business Day*, 25-9-1991, “We can all pull through together, says de Klerk”, p. 4.

26. General elections outcome for the NP: 1953 won 94 (49.5% votes) of 156 seats; 1958 won 103 (55.5% votes) of 156 seats; 1961 won 105 (46.1% votes) of 156 seats; 1966 won 123 (58.3% votes) of 166 seats; 1970 won 118 (54.9% votes) of 166 seats; 1974 won 122 of 169 seats; 1977 won 134 (64.8% votes) of 165 seats; 1981 won 131 (53.3% votes) of 165 seats; 1987 won 124 (52.3% votes) of 167 seats; 1989 won 103 (48% votes) of 178 seats.

would place this political party as standard bearer of the minority rights, advocating for a proportional electoral system as inclusive as possible that would avoid to waste votes from the minority groups in the country.

The office-seeking strategy followed by the NP was aim to increase the party's seat share, but the NP party leaders justified its choice by normative arguments based on the academic discussion about the best institutions for divided societies. "The system of representation that we had prior to the change will not work in the new constitution system. Time was a concern, but [...] how be ensured that the minorities will be better represented, that was a general conclusion among the NP but also in the ANC side, PR would provide for a better overall representation for all communities and for all parties"²⁷.

The ruling party's main concern was to design constitutional mechanisms that would protect its future political position, as minority party, in the new electoral arena embracing office-seeking and policy-seeking preferences. "One of the big challenges we had during talks about talks and during the CODESA process was that the Apartheid regime was not really in favor of one person one vote, of equal value [...], because at that time the NP still had the hope that we could have so kind of divided country, they still had some kind of hope that we would had a, perhaps, some another kind of minority veto"²⁸.

The reasoning behind the ANC constitutional guidelines for a democratic post-Apartheid society was based on promoting "habits of non-racial thinking, instill the practice of anti-racist behavior"²⁹. Grounded in these basic values, it was argued that "the electoral system must encourage cohesiveness rather than parochialism; centrifugal rather than fissiparous tendencies; unity over narrowness in behavior"³⁰. In the same vein, a ANC Delegate stated "We wanted as many political parties as many diverse political voices to be represented in parliament and the only way you could do that was through the PR system"³¹. Nevertheless, a future electoral scenario where small parties could be leading to divisive strategies of the opposition, would erode the possibility of building coalitions. And that was a good prospective electoral outcome for the ANC. Despite the certainty of becoming the winner in a democratic election, the liberation movement was uncertain about its real electoral strength in its first electoral competition. Consequently, the ANC preferred a system that would open for political allies in the parliament and get the legislative support for policies in the process to transform the country.

The first democratic national elections extended the franchise to approximately 16 million black Africans, 76% of the total population. The expectations and uncertainties

27. Interview, Roelf Meyer, Chief Negotiator for the NP Government, Pretoria, 12 August 2014.

28. Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7 October 2014 (Interview by phone made by the author to Valli Moosa).

29. See note 9, *op. cit.*, p. 5

30. *Id.*

31. Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7 October 2014.

about the future competitive electoral arena were supported by reports and opinion polls. The ruling party was confronted by the loss of its political hegemony in the new democratic dispensation. Looking at some of opinion polls released by the media at that time, there was a strong uncertainty among the party's preference among the new minority communities, white, colored and Indians. While the NP built its electoral strategy support³² on these minorities. Meanwhile, the ANC was confronted by the challenge to turn itself from a liberation movement into an operative political party and take its constituencies with it. That turned to be a massive task with limited personnel, material and administrative resources (Waldmeir, 1997: 163-164).

Some of the polls on party electoral support affiliation published during 1991, had showed the uncertainty in the new electoral spectrum. The ANC itself is becoming increasingly aware of the fact that there are racial or ethnic problems, and this is underlined by the fact that the ANC has succeeded up to now in obtaining the support from the majority of Africans, but not the majority of Indians and coloreds and minimal support from Whites³³.

The polls published at that time showed 71 % of urban-based black Africans would vote for the ANC, 3 % for the IFP, 4 % for the NP and 4 % for the PAC, according to a poll conducted in the PWV, Durban, Port Elizabeth, East London, and Cape Town area. The ANC had solid support among the 14 million black African rural population, in areas such as the former Ciskei, Transkei, and border regions (now called Eastern Cape). However, the ANC support from the white group of the population -most of whom lived in urban areas- was low. Only 1 % indicated support for the ANC against the 58 % who said they would vote for NP, 21 % would vote for the right-wing Conservative Party (CP) and 10 % for the liberal Democratic Party (DP). From the 3,3 million colored community there were indications that 49,2% supported the NP, 10 % or 9,3 % the ANC. Consequently, uncertainties about the future electoral map were high. "Nobody was able to conduct accurate polls³⁴ until the eve of the elections, early in the 1994. In 1992 the predictions were that ANC would have the majority but just over 50%; and the NP even believed the ANC would make it under 50%. No opinion polls forecasted the ANC would get the 65 % majority that it did"³⁵.

32. A survey conducted at the University of Natal, which indicated that 47.2% of coloured and 58.3% of Indian voters would choose W. de Klerk as president, has prompted confident NP predictions of majority support among Indians and coloured (*Mail and Guardian*, 9 December 1991 to 2 January 1992, p.16: "Battle for the blacks 'Nats'").

33. O'Malley, Padraig. 1991. Interview to Fatima Meer. Available at: <http://bit.ly/2SkIirY>.

34. Polling in still in its infancy in South Africa, a country where over 80% of the adult population has never voted. Most of the leading polls have been regional or have excluded the homelands, and several have been devalued by problems with sampling, questionnaires, and language and racial difficulties (*Mail and Guardian*, 22/27-3-1991, pp. 1-2: "Who'd win if South Africa voted today?").

35. Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7-10-2014.

On the side, the NP could feel comfortable with an electoral system that maximizes its seat share.

There were polls that influenced the decision that it was general accepted overall that the NP with potentially came out as the second biggest party in the elections and that the PR would favor all the parties more than a constituency system. I think the general calculation was that the constituency system, FPTP, could lead in the ANC as a ruling party, the party gets the majority with up to 99% of seats in parliament, simply because the way which the votes would be distributed. That was a general presumption, there was very little dispute about the PR, or what is not dispute about the PR system was the best model for the country and the ANC agreed to that³⁶.

Those perceptions on their electoral strengths shaped the strategies and preferences for the different institutional alternatives. Although the opinion polls reflected a wide support for the ANC among the black African voters, this did not translate in a wide support among other groups of voters'. A sharp up to 50% of total voters was a tiny majority that did not bring a full confidence in the future electoral outcome and control of the decision-making process. If the low inclusive FPTP system, used under the settler oligarchy, was retained in the new democratic regime, the electoral future for the two main contenders could have been highly uncertain. By contrast, a highly inclusive proportional system with a high proportional electoral formula, a large district magnitude, a low threshold, and a single ballot structure, brought confidence for the two main contenders involved in the negotiation process. The NP evaluated alternative institutions in terms of the utilities they would derive from their share of distributive goods associated with each institution. The ANC, from its side, secured the future policy outcomes with a system that favors its allies in the Constitutional Assembly and shred the opposition party representation in the legislative institutions. The prospect of retaining the FPTP gave rise to challenges in the process to arrive to a settlement.

South Africa is a racially divided society geographically (Arenstein,1990). The Apartheid regime had created white exclusive residential areas and exclusive residential areas for other racial groups and this meant that the new constituencies would quite likely and de facto become race-based. The negotiation of new electoral constituencies, that is, the boundaries of approximately 400 constituencies, would have been a stumbling block to negotiations³⁷. The Convenor of the Technical Committee (TC) on the Independent Electoral Commission of the Multiparty Negotiating Process,

36. Interview, Roelf Meyer, Chief Negotiator for the NP Government, Pretoria, 12-8-2014.

37. Kader Asmal expressed concerns about the demarcation of single-member districts in an independent Namibia: "Should avoid single representative constituencies if the demarcation is to be done by South Africa authorities or Namibian puppets" (Western Cape University Archive. Kader Asmal Collection. 27 October 1981, *Principles concerning the Constituent Assembly and the Constitution for an independent Namibia*, F457, BOX 96.

Richard Rosenthal, confirms the serious concern about the logistics and timing without jeopardizing the settlement:

At higher level, there was a general acceptance of the principles of PR, and the argument for it have a lot to do with the fact of logistics: there was not ever a register roll, and therefore we had to summon having an election without an electoral roll and without constituencies. And there was also the pressing of time, we didn't have the luxury of several years in which you could take the map and roll's on and decide on new constituencies, the old constituencies had been defined by the political parties and had been manipulated³⁸.

Another serious concern for the ANC leaders was the new voters who would have the opportunity to exercise their votes for the first time. The easier and simpler the system was, better chances it would have to work. "PR system is a much easier system than the FPTP system because in the PR you can just tell the people to vote for the party, put the picture of the leader of the party, then even people who are illiterate or not very educated will find easy to vote", concludes Valli Moosa about some of the reasons behind the ANC support for a PR system³⁹.

The electoral formula chosen combined with a low threshold opened the legislative door to seven political parties out of the 19 ones that contested the elections. ANC won the first democratic general elections with 62.6% of votes, that translated into 252 seats out of 400. The ruling party, NP, reached 20.4% of votes and got 82 seats. The new democratic Constitutional Assembly in charge of drafting the final constitution had to review the interim electoral law⁴⁰. During the debates on the electoral system, all the parties expressed their concerns that their representatives were a 'little bit distant' from the voters and they needed to find a way of marrying PR with a constituency system that would bring the government closer to the people⁴¹. However, the final outcome of the Constitutional Assembly did not result in any major change in the interim electoral law because there was not consensus on this matter.

38. Interview, Richard Rosenthal, Convenor of the TC on the Independent Electoral Commission of the Multiparty Negotiating Process, Cape Town, 28-11-2014 (Interview face to face made by the author to Richard Rosenthal); Moosa and Meyer agreed with Rosenthal about the logistics concerns and the constituency demarcation (Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7-10-2014; Interview, Roelf Meyer, Chief Negotiator for the NP Government, Pretoria, 12-8-2014).

39. Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7-10-2014.

40. "Simple proportionality was not seen as a final or permanent approach". In Interview, François Venter, NP Chair of the Technical Committee on Constitutional Issues at the MPNP, Cape Town, 19-12-2014.

41. Hansard, Constitutional Assembly, 25-8-1995, vol. 2, 1-364, pp. 9-10.

There was no unanimity among the political submissions, or among individual submissions on this issue⁴².

When we draft the final Constitution we were still on the spirit of the settlement and still aim and finding maximum reconciliation, [...], so It was just a general feeling that we should not really go into something that could change the ready settlement drastically, it is for that why probably the Constitutional Assembly didn't touch the electoral system and left it down. Mandela himself was feeling strongly about the PR system as a tool for true reflecting of the wish of the people. It was too early to touch it.⁴³

TABLE 2

ELECTORAL RESULTS OF THE PARTIES WITH REPRESENTATIVES IN THE NATIONAL ASSEMBLY SINCE 1994

Party	1994		1999		2004		2009		2014		2019	
	votes%	seats	votes%	seats	votes%	seats	votes%	seats	votes%	seats	votes%	seats
ANC	62.6	252	66.4	266	69.7	279	65.9	264	62.1	249	57.5	230
NP/NNP*	20.4	82	6.9	28	1.7	7	-	-	-	-	-	-
IFP	10.5	43	8.6	34	7	28	4.5	18	2.4	10	3.4	14
FF	2.2	9	0.8	3	0.9	4	0.8	4	0.9	4	2.4	10
DP/DA**	1.7	7	9.6	38	12.4	50	16.7	67	22.2	89	20.7	84
PAC	1.2	5	0.7	3	0.7	3	0.3	1	0.2	1	0.2	1
ACDP	0.5	2	1.4	6	1.6	7	0.8	3	0.2	1	0.8	4

Source: South African Independent Electoral Commission.

* In 1999 the NP was renamed New National Party (NNP).

** In 2001 the DP was renamed Democratic Alliance (DA).

South Africa presents a one-party dominance system⁴⁴, despite its almost perfect proportionality (see table 2). During the first democratic legislature, 1994-1999, opposition politics in South Africa developed in a multipolar direction, rather than along purely race-based⁴⁵ lines (Barkan, 2005: 4). Upon withdrawing from the GNU in may 1996, F. W. de Klerk argued that his party would

42. Hansard, Constitutional Assembly, 25-8-1995, vol. 2, 1-364, pp 301-302.

43. Interview, Roelf Meyer, Chief Negotiator for the NP Government, Pretoria, 12-8-2014).

44. The opposition parties in South Africa are fragmented, the largest opposition party Democratic Alliance (former DP) won 20.7% of the vote in 2019 national elections.

45. South Africa is not a country whose peoples are mobilised politically on the basis of their local community of residence or ethnicity, but rather on the basis of race and class. However, ethnicity has been, at times, the basis for political mobilisation as in Kwazulu Natal.

consolidate its position⁴⁶ as a party based on values rather than ethnic affiliation (Reynolds, 1999: 50). Ethnic and racial parties drastically declined in both number and significance⁴⁷. The major ethnic parties, DP, NP, and IFP, attempted to shift their appeals into an ideological or multiethnic tier during the first ten years of democracy, and many of the smaller, purely ethnic parties, ceased to exist as credible parties (Piombo and Nijzink, 2005: 67). The Zulu ethnic-nationalist party, IFP, had declined in the number of votes and seats in the National Assembly (see table 2). In 1999, the NP, was renamed New National Party (NNP), was reduced to the third position. And in 2004, the NNP's electoral performance was disastrous. The NNP's involvement in a number of coalitions⁴⁸ confused its image among voters. The NNP turned away from the ethnic tie of Afrikaner mobilization, in favor of a social conservative approach based on community rights and Christian values. The NP/NNP that had dominated South Africa politics for 50 years by September 2005 had dissolved.

Six years after the ratification of the Constitution of the Republic of South Africa, the ANC Government established an Electoral Task Team in 2003 (ETT) to review the electoral system and suggest whether or not any changes should be made. The ETT considered three types of electoral systems: (a) the current party-list system of PR; (b) a mixed system with single-member constituencies balanced by proportional elements; (c) and a constituency system, including single and multi-member constituencies to ensure proportionality. Finally, the Cabinet decided to retain the current electoral system. The argument used by the ANC to reject the ETT recommendations came from its NEC meeting in July 2002, the country still needed "to harness our inclusive political system in the interest of nation-building and national unity" (*Ibid.*: 76). Since then, the calls for an electoral reform have been initiated primarily by academics and the civil society, not by political parties and not by the present ruling party, the ANC: "For a long time to come, it is not going to be reformed (electoral system), certainly for another generation will not be reformed and that simply because it works very well for us"⁴⁹. An important aspect of stability of electoral institutions is

46. In 1999, the renamed New National Party (NNP) was reduced to the third position. In 2004, the NNP's performance was disastrous. The NNP's involvement in a number of coalitions (in 2001 with the ANC in the Western Cape province Government) and alliance (in 2000 with the DP) had confused its image among voters. The NNP turned away from the ethnic tie of Afrikaner mobilization, in favour of a social conservative approach based on community rights and family values. The NP/NNP that had dominated South Africa politics for 50 years by September 2005 had dissolved.

47. The dominant form of political organisations in South Africa are those normally associated with industrial and urban societies (nearly 60% of South Africa's population is now classified as urban in the last census), where left-right politics is very prevalent.

48. In 2000 the NNP tried an alliance with the DP. Later, in 2001, NNP formed a coalition government with the ANC in the Western Cape province Government.

49. Interview, Valli Moosa, ANC Delegate for the Multiparty Negotiations, Cape Town, 7-10-2014.

that political actors who have the power to change them are those who benefit enough from the existing electoral system to hold seats in the legislature (Bawn, 1993: 987). Consequently, the electoral system will not reform as long as it suits the office-seeking and policy-seeking preferences of the main political actors.

The NP during the Apartheid regime was against any reform⁵⁰ of the electoral system that would have reduced their own legislative share of seats, instead they favored the FPTP system arguing that was a general interest for the governability factor in the political system (Faure, 1999: 2). The introduction of the universal suffrage in South Africa entailed the transformation of the ruling party under the authoritarian regime to a minority party in a future democratic regime. At that stage, because the NP needed to maximize its seat share, instead to favor the retaining of the old electoral regime, the NP shifted its position of defending the governability factor that a FPTP system produces, to defend the inclusive factor that a PR system produces. In both cases, against and for the reform of the electoral system, the NP used normative arguments to favor their proposals despite that they were moved by office-seeking strategies.

If the FPTP system was retained in the country, the delimitation of 400 single-member districts would have blocked the negotiation process, and “would have to argue for the next year or two on how to draw the map of boundaries and time was of essence”⁵¹. The ANC was concerned with the map of boundaries of districts and the possibility that NP could manipulated it. The design and implementation of the last census had revealed in evidence that the NP used any opportunity for maximizing its political outputs. Finally, the ANC chose an electoral system that maximized its allies’ seat share in the Constitutional Assembly, SACP, as well as small parties on the basis of the reform dimension’s alignment of MPs’ policy preferences. At the same time, a system that minimizes the likelihood that its main rival, NP, would increase the number of seats and its chances of leading an opposition coalition and shaping policy. In addition to the party list system -that allows party leaders to exercise a control over their electoral organizations by controlling the placement of candidates on the party list. An attribute that suited an ANC in an embryonic state of organization inside the country after almost half century in the exile.

50. Criticism of the pluralist system was expressed by most opposition parties at Parliament as well as political organisations not represented in Parliament under the settler oligarchy. The NP government justified the use of the pluralist system, by arguing that it afforded stable government. With regard to the distortion of the vote, the advantages of over-representation that it accorded the ruling party were conveniently ignored.

51. Interview, Richard Rosenthal, Convenor of the TC on the Independent Electoral Commission of the Multiparty Negotiating Process, Cape Town, 28-11-2014 (Interview face to face made by the author to Richard Rosenthal).

CONCLUSIONS

The case of South Africa shows that political party preferences over specific aspects of the new electoral system were based on each political actor's expectations of how the very electoral system would affect their ability to influence political decision-making. And how their own perceptions shaped by the level of accurate information available with regard to power shifts and the other actors' perceptions influence the standing positions for the political parties during the negotiations. Moreover, the case study confirms the maximizing principle, namely, any political party will advocate for the particular electoral system that grants them more benefits than any alternative institutional option. The parties likely to be in the opposition under any electoral systems behave according to partisan motivations that favor an electoral system that would increase their seat share. On these grounds, aware of its likely opposition position under the new regime, the NP advocated a proportional representation system. On the contrary, the ANC was likely to enter government and, thus, sought an electoral system that would increase inclusiveness and national reconciliation. In Asmal's words, ANC 'encourages cohesiveness rather than parochialism; centrifugal rather than fissiparous tendencies; unity over narrowness in behavior' (Asmal, 1988: 3). That is, ANC preferred an electoral system that would discourage ethnic political parties or those based on patronage like the IFP and would also reduce the chances of coalition strategies between the NP and its allies. The alternative FPTP system would have raised concerns on district demarcations and beside ANC's uncertainty of its future electoral support, a PR system appears to have been the best way to minimise the risk of a strong coalition's opposition forces blocking the draft of the democratic constitution in the Constitutional Assembly.

The extension of franchise and the party contenders in the electoral arena determined the level of threat facing political actors who participated in the negotiated democratic transition in South Africa. The uncertainty level was high for the ruling party; in fact, the NP was challenged by the transformation of the electoral arena that would include approximately 16 million black Africans. New voters that didn't belong to its constituency, in addition to a plausible punishment by the afrikaner nationalist voters for the democratic reforms launched by the party. Likewise, the time pressure to reach agreements on a transitional process, reduced the political actors' ability to analyze carefully the probabilities of maximizing benefits associate with each institutional alternative. Thus, uncertainty, combined with the particular institutional setting that they hoped would prevail after the elections, yielded a strategy that spread the potential gains and risks equally across the two systems of representation.

The NP's future electoral position in a democratic South Africa didn't include winning a national election. They entered negotiations aware of their relative bargaining power under the previous institutional setting, but without knowing the future institutional outcome; therefore, they opted for institutions that would introduce checks and balances and would maximize minorities group's share of votes in the legislative institutions. In that context, the ruling party envisaged an electoral system that

would maximize its own share of legislative seats. In practice, the NP strongly argued for a highly inclusive component in the electoral system in order to provide an impetus to minority groups. However, despite the party's office-seeking strategy, they also became a standard bearer of minority rights, advocating for a proportional electoral system as inclusive as possible. The proposals the NP Government brought into the negotiation table included a party list of PR with regional constituencies, so to maximize its support and its political allies' support in the Constitutional Assembly. ANC never conceded the creation of constituencies as part of the reform of the electoral system, because it was suspicious that the districts boundaries map of could be used as a manipulation mechanism in the NP's.

Early in the democratic transition process, ANC became aware that the perpetuation of the old electoral regime, FPTP, would have not been acceptable for the NP Government. Nevertheless, the certainty that ANC would become the most voted party and that, under any electoral system, they would win any elections, next to the uncertainty from the lack of accurate information and finally adding the challenge to transform a clandestine liberation movement in clandestinity to a contender party in the new democracy, incentivize the ANC to advocate for institutions as much inclusive to minimise the emerging of parties based on race or ethnicity . An electoral system that minimises the NP's likelihood of winning a close majority of seats in the Constitutional Assembly, at the same time that it increases its own chances of leading a government of national unity.

The final design of a PR party-list system with a national district and a *Droop* quota for the allocation of seats in the South African divided society, has resulted in a dominant party system, where the ANC dominates while the opposition forces are incapable of building any successful strategy to oppose the former. At the same time, the use of party lists has allowed the liberation movement leader to control the selection of list candidates, and consequently control its parliamentary caucus to facilitate the transformation of the authoritarian legislation into a democratic one. The strategy followed by the ANC correspond with the Bawn's (1993) policy-based model of party preferences that leads us to expect that the main political actors, involved in the negotiation of institutional change, prefer a system that produces desired policy outcomes; this, in the case of South Africa, entailed some policy reform to transform the apartheid regime into a democratic one. Since the dawn of democracy in South Africa, the good results that the electoral law has delivered for the ruling party and the minority parties have prevented any political initiative to reform the current electoral system, even if it has also gained criticism for its lack of accountability.

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Submitted for evaluation: September 27 2018.

Accepted for publication: June 5 2019.

AINARA MANCEBO

ainara.mancebo@gmail.com

PhD in Political Science from the National Distance Education University (UNED). She was an associate professor in the Department of Journalism at the University of Vic. She has published in *Revista Latinoamericana de Política Comparada* and has participated in several international conferences such as the Fifth and Eight European Conference on African Studies and the 25th World Congress of Political Science. Her research focuses on institutional change under political transitions, party systems, electoral systems, and democratic transitions in Africa.