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# EISA ELECTION OBSERVER MISSION REPORT

# LESOTHO



PARLIAMENTARY ELECTIONS  
26 MAY 2012



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26 MAY 2012

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LESOTHO



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EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa.

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## LIST OF ACRONYMS

AU	African Union
ABC	All Basotho Convention
ACP	Alliance of Congress Parties
ADC	All Democratic Corporation
ACF/ BAENA	Areka Covenant Front for Development
AUM	Africa Unity Movement
BAC	Basutoland African Congress
BBDP	Basotho Batho Democratic Party
BCP	Basutoland Congress Party
BDNP	Basotho Democratic National Party
BNP	Basotho National Party
DC	Democratic Congress
CCL	Christian Council of Lesotho
CSO	Civil Society Organisation
ECF	Electoral Commission Forum of SADC Countries
EMB	Electoral Management Body
EOM	Election Observer Mission
FIDA	International Federation of Women Lawyers
IEC	Independent Electoral Commission
KBP	Kopanang Basotho Party
LCD	Lesotho Congress for Democracy
LCN	Lesotho Council of Non-governmental Organisations
LDF	Lesotho Defence Force
LEP	Lesotho Education Party
LENA	Lesotho News Agency
LMPS	Lesotho Mounted Police Service
LPC	Lesotho People's Congress
LMM	Lekhotla La Mekhoa Le Meetlo
LWP	Lesotho Workers' Party
LTTU	Lesotho Teachers Trade Union
LTV	Lesotho Television
MFP	Marematlou Freedom Party
NDP	National Democratic Party
NGO	Non-Governmental Organisation
NIP	National Independent Party
NLFP	New Lesotho Freedom Party
NPP	National Progressive Party
NUL	National University of Lesotho
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC Region
PFD	Popular Front for Democracy
PO	Presiding Officer
SADC	Southern African Development Community
SADC-PF	Southern Africa Development Community Parliamentary Forum
SDP	Social Democratic Party
SDC	Sefate Democratic Congress
SDU	Sefate Democratic Union
SSD	Lekhotla la Senkatana
TOR	Terms of Reference
TRC	Transformation Resource Centre
UP	United Party
WHP	White Horse Party

## EXECUTIVE SUMMARY

In response to an invitation from the Independent Electoral Commission of Lesotho, EISA deployed a mission to observe and assess the integrity of the parliamentary elections held in Lesotho on 26 May 2012.

The EISA Mission was led by His Excellency Mr Rupiah Banda, former President of Zambia, supported by the Deputy Mission Leader, Mr Vincent Tohbi, the EISA Director of Programmes.

EISA deployed an 18-member mission consisting of members drawn from Civil Society Organisations (CSOs) and Electoral Management Bodies (EMBs) from 11 countries, namely, Burundi, Ivory Coast, Kenya, Madagascar, Mozambique, Namibia, Rwanda, South Africa, Tanzania, Uganda and Zambia (see Appendix 1). The Mission's advance team arrived in Maseru on 16 May 2012, and was followed by the arrival of the rest of the observers on 19 May 2012. The Mission remained in the country until 28 May 2012. The Mission's advance team observed the advanced voting of special category of voters in various polling centres in the Maseru District conducted on 19 May 2012. Besides this, the overall Mission activities were conducted in three major phases. These included courtesy calls to the Royal Palace and to the Prime Minister by the Mission Leader, attendance of stakeholder briefings from 20 to 21 May where the Mission was addressed by different electoral stakeholders, political rallies (pre-election phase), observation of the poll (election phase) and counting of votes and announcement of results (post-election phase).

The 26 May 2012 parliamentary elections in Lesotho were no different from previous elections in terms of tensions between and among political parties. Three points need to be highlighted to describe the environment in the run-up to, and during and after the polling. Firstly, there were outstanding disputes pertaining to the 2007 snap elections. These include the protracted contest over the allocation of parliamentary seats between the then ruling Lesotho Congress for Democracy (LCD) and the opposition parties. Added to this was the squabble over the position of "Leader of the Opposition in the National Assembly" between the National Independent Party (NIP),

which had entered into a pre-election pact with the LCD, and the All Basotho Convention (ABC), which had also struck a pre-election deal with the Lesotho Workers' Party (LWP). Neither of the two parties had secured the requisite 25% of the total number of seats to secure this position. The SADC mediation efforts in relation to the allocation of seats and leader of opposition stalemate were not successful, hence the tensions in the run-up to the elections.

The second major issue ahead of the 2012 elections was the umpteenth split of the ruling LCD following tensions between the party leader, the then Prime Minister Pakalitha Mosisili, and the party's Executive Committee led by the Secretary General Mothejoa Metsing. Subsequently, the Prime Minister formed a new party, the Democratic Congress (DC) and was declared by the Speaker of Parliament, Ms Ntlhoi Motsamai, as Prime Minister, arguing that Mosisili's new party had the majority support of the Members of Parliament. This turn of events created tension between the DC and opposition parties and between the DC and the LDC in particular, ahead of the elections. There were reported incidents of violence and intimidation during the 2012 campaign period involving supporters of the DC and opposition parties.

The third factor that influenced the 2012 election environment was the repeal of the National Assembly Elections 1992 Act, and its replacement with the enactment of National Assembly Elections Act 2011. While the National Assembly Elections Act 2011 retains the major features of the Mixed Member Proportional electoral system (MMP), it brought about a change in the number of ballot papers to be used in the election. Whereas two ballot papers were used for the First Past the Post (FPTP) and Proportional Representation (PR) respectively under the repealed National Assembly Elections Act 1992, the new Act prescribed the use of one single ballot for voting in the 2012 elections for both the national lists and the constituencies. A party's FPTP national votes now also determine its share of the PR compensatory seats (details of the electoral system are provided in section 2.3 below). These changes, among others, meant that the political environment and electoral system had been significantly altered, affecting also parties' electoral strategies.

A consequence of the changes in the number of ballots was heightened competition for campaign space often accompanied by acts of violence. This state of affairs led to the Christian Council of Lesotho (CCL) and Lesotho

Council of Non-Governmental Organisations (LCN) facilitating a dialogue between political parties which culminated in a joint public pledge by 19 political parties to commit themselves to abide by the electoral code of conduct.

The EISA Observer Mission noted the efforts of all stakeholders in working together towards the improvement of the Lesotho's electoral process to further strengthen and consolidate democracy. It found that despite the political environment sketched above, the elections were, overall, conducted professionally, and in a peaceful environment. Most importantly, unlike in previous elections, all stakeholders accepted the election results, a positive sign that the country is maturing politically.

The Mission noted with satisfaction that the IEC collaborated with civil society organisations to carry out voter education throughout the country. This included door-to-door and public gathering sensitisation. These commendable efforts were clearly manifested through the massive mobilisation of voters and low number of spoiled ballot papers, which constituted 0.017% of the total cast ballot papers. It also observed that most polling stations opened and closed on time as provided for in the electoral procedures. That was also adequate presence of party agents in all polling stations visited, which ensured the transparency of the polling process. The Mission further observed that Lesotho provides campaign funding to political parties to ease their financial constraints during campaigning.

Despite these positive developments, there were still issues of concern raised by political parties, and among these voter registration ranked high. It took a long time for the number of registered voters to be finalised, partly due to the weakness of the civil registry process from which the IEC draws information in order to update the voters' register. There were 1,128,782 registered voters out of an estimated 1.8 million population in the 2012 elections. This number led to questions about the accuracy of the voters' roll, with some saying it was too high and arguing that it could never be that only difference of about 678,165 people was under the voting age. A total of 551,726 people voted in the 2012 elections, that is a 49% voter turnout.

The other area of concern was that while there was a remarkable representation

of women as polling personnel (70 per cent) and party agents (85 per cent) in all polling stations visited, female participation was low among candidates. Out of the 1038 candidates in 80 constituencies, only 257, constituting 25% of the total number of candidates, were females.

The Mission observed that voting in all the visited polling stations went well, and that the electoral staff, party agents and the police worked together as a team in solving problems such as where a voter did not appear on the voters' roll. Yet the Mission noted that there was anxiety among sections of the population regarding the perceived or real involvement of the army in the electoral process. The fears were triggered by the statement in which the army instead of the police called upon perpetrators of violence to desist or face consequences.

The Principles for Election Management, Monitoring and Observation (PEMMO) were used as the basis for the election assessment by the EISA mission. PEMMO is a document that was developed under the auspices of EISA and the Electoral Commissions forum of SADC Countries (ECF) and outlines standards and best practices for the conduct and assessment of elections in the SADC region. The EISA Mission also assessed the elections in terms of the African Union Declaration on Principles Governing Democratic Elections Africa, the Declaration of Principles on International Election observation and the Code of Conduct for International Observers and the SADC Principles and Guidelines Governing Democratic Elections.

The Mission concluded that based on PEMMO and other instruments, the 2012 parliamentary elections in Lesotho were conducted in a credible and transparent manner, thus allowing the people of Lesotho to express their will freely.



# 1

# Political and Historical Overview



- I.1 Political and Electoral Background
- I.2 Main Electoral Trends since 1999
- I.3 The 2007 Parliamentary Elections
- I.4 Political and other Developments ahead of the 2012 Polls

## **I.1 POLITICAL AND ELECTORAL BACKGROUND**

Upon its independence from Britain in 1966, Lesotho adopted the British Westminster parliamentary system. Under this arrangement the monarch is the Head of State by virtue of his/her hereditary traditional status. The Head of Government is the prime minister, who is the leader of a political party with the majority of seats in Parliament. The prime minister is appointed by the King on the advice of the State Council. Currently, Parliament consists of the 120-member Lower House (with the number having been increased from 80 in 2001 ahead of the 2002 elections) and a 33-member Upper House. The Lower House, commonly referred to as the National Assembly (NA), is made up of democratically elected representatives from whom the majority members of the executive are appointed. The Upper House (the Senate) is made up of 22 Principal Chiefs and 11 appointed distinguished persons. Despite having the 11 appointees, the Senate has over the years been regarded as the domain of the chieftaincy institution. The legislating powers are vested in the NA, while the Senate holds the NA accountable and can delay and critically review bills before they are finally submitted to the King for royal assent.

A look at any point in the history of parliament in Lesotho points to competition between the elected Members of Parliament and the Senators. Thus, one of the challenges that Lesotho has had to contend with over the past four decades has been to strike a careful balance in order to manage the co-existence of the traditional and modern institutions of governance represented by the monarchy and chieftaincy on the one hand and elected

representatives on the other. Relations between these two institutions have oscillated between cordial and hostile for over four decades.

The country's political historical epochs range from multiparty democracy (1965-1970) to a one-party state (1970-1986), all under the Basotho National Party (BNP), a military dictatorship (1986-1993) and back to a multiparty dispensation from 1993 to the present day, firstly under the Basutoland Congress Party (BCP) and then its progenies, the Lesotho Congress for Democracy (LCD), the Democratic Congress (DC) and now the coalition of ABC, BNP and LCD (Shale 2012).

Lesotho's 1965 independence elections were won by the BNP instead of the BCP, which had spearheaded the struggle for independence. The BNP was a breakaway group from the BCP and its election victory led to fierce rivalry between the two parties. Although the BNP had won the elections, the BCP's support did not wane, as it enjoyed significant grassroots support. With evident grassroots support for the BCP, the country's second elections in 1970 were annulled midway by the BNP government after it discovered that the BCP was winning most of the constituencies. The BNP also suspended the country's constitution and declared a state of emergency during which time it ruled by a decree and embarked on an onslaught, purging the BCP leadership and the party's supporters.

During the period 1970 to 1986, Lesotho did not hold democratic elections. The only elections which took place were organised by the BNP in 1985, with the BNP contesting these elections alone, as opposition parties refused to take part on the basis that the conditions under which the elections were to be held were not free and fair. The BNP went ahead with the elections and claimed to have won. Soon after these elections there was mounting pressure on the BNP regime to open up the democratic space and this, coupled with its almost broken relationship with apartheid South Africa, led to it being overthrown by the military under the leadership of Major General Metsing Lekhanya in January 1986. The army indicated that it was going to hand over power to a civilian authority as soon as peace and stability were attained. However, seven years passed before the army relinquished power in 1993 after concerted efforts from local politicians and civil society organisations buttressed by pressure from the international community.

This pressure on the military to relinquish power was against the background of a general democratisation wave sweeping through the rest of the SADC region and the African continent at large. New governments had come to power through multiparty elections in the early 1990s. In Namibia, Sam Nujoma's SWAPO emerged as winners in 1990, ending the 22-year Namibian war of independence. In Zambia, the Movement for Multiparty Democracy (MMD) led by Frederick Chiluba replaced the United National Independence Party (UNIP) of Kenneth Kaunda after the latter had been in power from 1964 to 1991. In Malawi Hastings Kamuzu Banda's Malawi Congress Party (MCP) lost to Bakili Muluzi's United Democratic Front (UDF). It was to be expected, therefore, that with all these changes taking place in the SADC region and beyond, the Lesotho military had little option but to hand over power to civilian authority.

Multiparty democracy was therefore re-introduced in 1993, with the BCP claiming a landslide victory at the polls by winning all 65 constituencies at the time, as shown in Table 1 below. The BCP leadership and some of the party's members had prior to the elections been in exile in Botswana, South Africa and different parts of the world, fleeing from what they saw as the BNP's purge and extrajudicial killings of their members. The BCP's 1993 triumphant victory was to be expected against the democratisation wave referred to above. By all indications, the BCP could have won the 1970 parliamentary elections had it not been for BNP's usurption of power.

**Table 1: Lesotho 1993 General Election Results**

Party	No of votes	% of votes	No of seats
BCP	398 355	74.7	65
BNP	120 686	22.6	0
MFP	7 650	1.4	0
OTHER	6 287	1.2	0
<b>TOTAL</b>	<b>532 978</b>	<b>100*</b>	<b>65</b>

Source: Lodge T, Kadima D and Pottie D, (eds) 2002 *Compendium of Elections in Southern Africa*, EISA p. 180

## 1.2 MAIN ELECTORAL TRENDS SINCE 1993

Lesotho has conducted elections every five years since the return to multiparty democracy in 1993. However, these elections have often been marred by political tensions due to factionalism within parties, which has led to successive party splits. A common trend is the splitting of the ruling party and formation of a new party on the eve of every election since 1993. For instance, the Basutoland Congress Party (BCP), which won a resounding victory (as shown in Table 1 above), suffered a first split ahead of the by-elections in the Qeme constituency when a candidate, Mr Bofihla Nkuebe, who won the party primaries, was barred from standing by the party leadership in order to make way to its preferred candidate. The people's candidate contested the by-election and won against the BCP, reducing the BCP seats in the NA to 64. Mr Nkuebe subsequently formed a new party, the Sefate Democratic Union (SDU).

The BCP suffered yet another setback when it was toppled in parliament by a second splinter party, the Lesotho Congress for Democracy (LCD). The LCD was formed by Prime Minister Ntsu Mokhehle, who left the BCP under pressure from the party's Executive Committee to relinquish power. Instead of giving in to the pressure he left the BCP and formed the LCD, immediately claiming that he was still Prime Minister because he had a larger number of MPs, with 41 out of 80 MPs joining his party, leaving the BCP with only 21 MPs. Prime Minister Mokhehle's popularity with the electorate handed him victory in the May 1998 elections, where his party won 79 out of 80 seats in the NA, as shown in Table 2 below.

**Table 2: Lesotho 1998 General Election Results**

Party	No of votes	% of votes	No of seats
LCD	355 049	60.7	79
BNP	143 073	24.5	1
BCP	61 793	10.5	0
MFP	7 460	1.3	0
OTHER	16 244	2.9	0
<b>TOTAL</b>	<b>583 619</b>	<b>100*</b>	<b>80</b>

Source: Matlosa 2002

The LCD election victory was fiercely contested by the BCP and other opposition parties, leading to violent conflict which the country had not seen before. The regional body, the Southern African Development Community (SADC), had to intervene militarily to restore law and order after the Lesotho army and police failed to take control of the situation due to some mutineers in the army supporting the protesting parties and briefly taking control of the army until SADC forces intervened.

The 1998 election conflict led to electoral reforms, which saw the introduction of the mixed member electoral system (MMP). This system is a combination of the first past the post system (FPTP) which had been in use since independence and proportional representation (PR). Under the MMP system, the country increased the number of National Assembly seats from 80 to 120. In other words, the 80 constituency seats were retained and an additional 40 compensatory PR seats were introduced (see section 2.3 for details of the allocation of seats). A fresh election under the new electoral system was held in 2002. As could be expected, tempers were still high among competing political parties, with the LCD wanting to prove beyond doubt that it was the force to reckon with, while the opposition wanted to show that the LCD's 1998 victory was not deserved. As with the previous elections, the ruling LCD experienced internal leadership battles, which led to the Deputy Prime Minister Mr Kelebone Maope crossing the floor, taking with him 27 out of 79 LCD MPs. A new party, the Lesotho People's Congress (LPC), was formed and became the official opposition, albeit briefly given that it was formed on the eve of the elections planned for early 2002.

Table 3 (p6) shows that in 2002 the LCD once again attained a sweeping victory in all but one constituency, reducing the BCP to the third-largest party in the country. This time, however, a greater number of political parties were represented in the National Assembly owing to the compensatory PR seats provided for in the MMP electoral system.

The incessant leadership battles within political parties in Lesotho create highly tense elections contests, and are often accompanied by acts of intimidation and violence, leading to a degree of political instability. As a result of its political instability, Lesotho has always been on the agenda of most SADC Heads of State and Government summits, along with the Democratic Republic of Congo (DRC), Madagascar and Zimbabwe.

As mentioned above, Lesotho's political and election-related conflict even warranted the intervention of the SADC armed forces in 1998 following the LCD's landslide victory. Although military intervention put an end to anarchy in the aftermath of the 1998 elections, it did not entirely address the root causes of the problem that has been at the core of election-related conflicts in the country. This is evidenced by the fact that election disputes were rekindled again in 2007.

**Table 3: Lesotho 2002 General Election Results and Seat Allocation Summary**

Party	Total votes	% votes	FPTP seats	PR seats	Total seats	% seats
Lesotho Congress for Democracy (LCD)	304 316	54.8	79	-	79	65.8
Basotho National Party (BNP)	124 234	22.4	-	21	21	17.5
Lesotho People's Congress (LPC)	32 046	5.8	1	4	5	4.2
National Independent Party (NIP)	30 346	5.5	-	5	5	4.2
Basutoland African Congress (BAC)	16 095	2.9	-	3	3	2.5
Basutoland Congress Party (BCP)	14 584	2.7	-	3	3	2.5
Lesotho Workers' Party (LWP)	7 788	1.4	-	1	1	0.8
Marematlou Freedom Party (MFP)	6 890	1.2	-	1	1	0.8
Popular Front for Democracy (PFD)	6 330	1.1	-	1	1	0.8
National Progressive Party (NIP)	3 985	0.7	-	1	1	0.8
Others	7 772	1.4	-	-	-	-
<b>Total</b>	<b>554 386</b>	<b>99.9</b>	<b>80</b>	<b>40</b>	<b>120</b>	<b>99.9</b>

Source: EISA 2009

### 1.3 THE 2007 PARLIAMENTARY ELECTIONS

The 2007 National Assembly elections were again held in a tense political environment, a characteristic of elections in Lesotho. The ruling Lesotho Congress for Democracy (LCD) party was engaged in leadership battles ahead of the elections that triggered a split in the party. The party's then Minister of Science and Technology, Mr Thomas 'Tom' Thabane, left the LCD in late 2006 to form the All Basotho Convention (ABC). The formation of the ABC led to changes in the National Assembly as 17 LCD MPs crossed the floor to the ABC. They were joined by one independent MP, Mr Lehlonolo Tšehlana, who had been expelled from the LCD earlier. Under the Lesotho system, an MP elected under the FPTP electoral system cannot lose his/her seat when expelled by a party that endorsed his/her election candidature. The ABC formation increased the number of combined opposition MPs to 59 against LCD's 61 MPs. The LCD lost its two-thirds majority, as the opposition gained more seats. This led to the LCD calling for early elections to prevent more MPs from joining the opposition. Parliament was therefore adjourned *sine die* in late 2006 and subsequently dissolved by the King on the advice of Prime Minister Mosisili. Elections were held in February 2007 in line with the constitutional provisions. The LCD won 61 of the 80 constituency seats and the newly formed ABC won 17, reducing the LCD's urban support. Table 4 (p 8) shows the 2007 election results.

Following the 2007 parliamentary election, Lesotho was plunged into another crisis as parties disagreed over the distribution of seats as illustrated in Table 4 above. Prior to the elections, the LCD entered into an election pact with the National Independent Party (NIP). The LCD/NIP alliance was a 'strategy' employed by the LCD to gain access to the PR seats, which it would not be entitled to under the MMP system, which compensates parties which have not secured FPTP seats. Similarly, the ABC entered into an alliance with the Lesotho Workers' Party (LWP), with the same view to accessing PR seats. The key feature of the proportional element of Lesotho's electoral system is that it does not allow parties which have won more votes under the constituency-based system to be given PR seats. In other words, the more FPTP seats a party gets, the less chance it stands of winning PR seats. Conversely, the fewer FPTP seats a party secures, the more it stands to be compensated with PR seats. Therefore, in both cases the LCD and the ABC were desperate to have these seats through alliances with the NIP and LWP

respectively (Shale and Kapa 2011). In practical terms, the LCD and the ABC asked their supporters to vote for them in the FPTP ballot and to cast the PR ballot for their respective electoral alliance partners.

**Table 4: Lesotho 2007 General Election Results and Seat Allocation Summary**

Party	FPTP seats	% of FPTP Seats	Total party (valid Votes)	% of Total Party Votes	Party's allocation of compensatory (PR) seats	Total no. of seats	% of PR Seats +FPTP Seats
All Basotho Convention	17	21.3%	None	0.0%	0	17	14.3%
Alliance of Congress Parties	1	1.3%	20,263	4.6 %	1	2	1.7%
Basotho Batho Democratic Party	0	0.0%	8,474	1.9%	1	1	0.8%
Basutoland Congress Party	0	0.0%	9,823	2.2%	1	1	0.8%
Basotho Democratic National Party	0	0.0%	8,783	2.0%	1	1	0.8%
Basotho National Party	0	0.0%	29,965	6.8%	3	3	2.5%
Lesotho Congress for Democracy	61	76.3%	None	0.0%	0	61	51.3%
Lesotho Workers' Party	0	0.0%	107,463	24.3%	10	10	8.4%
Marematlou Freedom Party	0	0.0%	9,129	2.1%	1	1	0.8%
National Independence Party	0	0.0%	229,602	51.8%	21	21	17.6%
New Lesotho Freedom Party	0	0.0%	3,984	0.9%	0	0	0.0%
Popular Front for Democracy	0	0.0%	15,477	3.5%	1	1	0.8%
<b>Total</b>	<b>79</b>	<b>100%</b>	<b>442,963</b>		<b>40</b>	<b>119</b>	<b>100%</b>

Source: IEC, Lesotho 2007

As can be seen in Table 4 above, the LCD received 61 FPTP seats and the NIP received 21 PR seats by virtue of its alliance with the LCD, despite the fact that it had not won a single FPTP seat. This meant that the LCD had a parliamentary majority of 73 seats, as the LCD and NIP had agreed that they would share the number of PR seats equally. Therefore the 21 PR seats received by the NIP were shared between the LCD and the NIP, with the former getting 11 and the latter 10 (Makoa 2008). The ABC was allocated 17 seats under the FPTP, and therefore did not qualify for the PR seats. Its partner the LWP received 10 PR seats. Similar to the LCD and NIP case, the ABC received eight out of the 10 PR seats which were allocated to the LWP. At the end of the day, the big parties circumvented the MMP system by sharing the PR spoils with the smaller parties with whom they had entered into alliances. The allocation of parliamentary seats was contested by the opposition parties, which argued that the alliances had unfairly benefited from the allocation and that such allocation contradicted the spirit of the MMP model.

#### **1.4 POLITICAL AND OTHER DEVELOPMENTS AHEAD OF THE 2012 POLLS**

The 2012 parliamentary elections in Lesotho were characteristic of previous elections in terms of tensions between and among political parties. Three political developments are worth highlighting, as they describe the overall environment in the run-up to, during and after the polling. These are the outstanding disputes pertaining to the 2007 snap election's allocation of seats, another split in the ruling LCD and the electoral reforms.

The post-2007 election-related dispute highlighted in section 1.3 above led to SADC mediation under the leadership of the former President of Botswana, Sir Ketumile Masire. The Masire-led mediation ended in 2009 without breaking the deadlock after the mediator recused himself from the process due to lack of cooperation by the opposing parties (Matlosa 2012). Following the unsuccessful mediation efforts by SADC, the mediation was resuscitated by the Christian Council of Lesotho (CCL) in collaboration with non-governmental organisations (NGOs) under the Lesotho Council of Non-governmental Organisations (LCN). The SADC had decided not to abandon the mediation initiative, and provided support to the civil society initiative with technical expertise and funding. The United Nations Development Programme also provided technical support to the local mediation efforts.

The CCL/LCN mediation could not address some of the key issues of contention such as the distribution of seats. The government would not agree to the opposition demand that the allocation of seats be revisited and that seats be allocated afresh, a matter which would have had far-reaching implications, particularly in terms of which political party or group of party would govern. For instance, it would mean that all MPs who were 'wrongly' sworn in would have to be removed from the NA. Were this to happen, the new MPs would demand to be paid their salaries and allowances retrospectively, stretching the country's budget to the limits. The ruling party argued that any recommendations from the mediation exercise had to be contributions to reforms ahead of the 2012 parliamentary elections. Added to the seat allocation dispute was the squabble over the position of 'Leader of the Opposition in the National Assembly', which the ABC claimed should have been given to it by virtue of having the second-highest number of FPTP seats it occupied in the National Assembly after the LCD. The ABC even entered into an agreement with other opposition parties in the National Assembly who then nominated its leader Mr Thomas Thabane as their leader in parliament in order to reach the 25% threshold required for official leader of opposition. This move was dismissed by the Speaker of Parliament, Ms Ntlhoi Motsamai, on the grounds that such an alliance ought to have been formed prior to elections.

These disagreements aside, the parties were able to reach an agreement on electoral reforms ahead of the local government elections which were to be held in 2011 as well as the National Assembly elections in 2012. Three pieces of legislation were promulgated, namely: the Local Government Amendment Act No. 2 of 2011, the Local Government Elections Amendment Act 2011 and the National Assembly Electoral Act of 2011. One of the changes brought about by the reforms as far as the local government elections were concerned was the removal of clauses reserving some electoral divisions for women. In its place, the Local Government Amendment Act 2011 now provided for the inclusion of one-third of women in every Community Council where contesting parties would be given seats proportional to the votes received. In the case of parliamentary elections, the National Assembly Electoral Act introduced the use of one ballot paper in the parliamentary elections instead of two, as was the case previously under the repealed National Assembly Electoral Act 1992. Another major achievement of the CCL/LCN-led

mediation was that all the parties signed a pledge in which they committed themselves to peaceful elections in 2012.

The second major issue ahead of the 2012 elections was once again the split of the ruling LCD, following tensions between the party leader, Prime Minister Pakalitha Mosisili, and the party's Executive Committee led by the Secretary General Mothejoa Metsing. Seeing no way out of the leadership battle, the Prime Minister formed a new party, the Democratic Congress (DC) in February 2012 ahead of the elections scheduled for May of the same year, two months before the elections. Mr Mosisili was declared Prime Minister by the Speaker of Parliament, who argued that Mosisili's new party (of which she was also a member) had the majority support of the Members of Parliament. This was seen by the LCD and opposition parties as a parliamentary coup, as a democratically elected LCD was overthrown by what it regarded as political manoeuvring by the Prime Minister aided by the Speaker of Parliament. This turn of events precipitated tensions between the DC and LCD leaders. The LCD split and the subsequent takeover of government by the DC happened shortly after the 2011 local government elections in which the LCD won 69 of the 77 contested local councils (Community Councils) countrywide. The formation of the DC was therefore not only limited to the national leadership but also had a domino effect on the composition of the Community Councils as Councillors aligned themselves either with the LCD or the DC. The LCD split led to heightened levels of tensions between the DC and LCD. In an unprecedented move, Prime Minister Mosisili, to ensure his security, increased the number of cars in his motorcade and surrounded himself with heavily armed soldiers. This was interpreted by opposition parties as a misuse of state resources, as they saw no reason for such heavy security when Lesotho was not in a state of war (*Sunday Express* April 2012).

The third factor that influenced the 2012 election environment was the amendment (actually, repeal) of the National Assembly Elections 1992 Act and its replacement with the National Assembly Elections Act 2011. While the National Assembly Elections Act 2011 retains the major features of the Mixed Member Proportional System (MMP), it brought about a change in the number of ballot papers to be used for voting. Whereas previously two ballot papers were used for the FPTP and PR respectively under the repealed National Assembly Elections Act 1992, the new Act prescribes the use of

one ballot for voting beginning with the 2012 elections. The party's FPTP national votes now also determine its share of the PR compensatory seats (details of the electoral system are provided in Section 2.3 below). The law further dictates that all political parties that form alliances should register such alliances with the IEC if they intend to contest elections under these alliances. This provision thwarted alliances similar to the LCD/NIP and the ABC/LWP alliances formed on the eve of the 2007 elections, resulting in seat allocation disputes. However, an unintended consequence of this change is the marginalisation of smaller parties, which may not be able to field candidates nationally. Related to the issue of fielding of candidates nationally, the new law also treats independent candidates like political parties, as it requires them to submit PR lists along with their nomination. This change is meant to thwart parties from benefiting from constituencies where they don't contest elections, as it compels parties to contest elections in all 80 constituencies in order to benefit from the PR component of the electoral system. In effect this change requires that independent candidates, who tend to contest in only one constituency, submit PR lists in the same way as political parties contesting in more than one constituency do.

All these political developments combined with the electoral reforms mentioned above heightened competition for campaign space, which was often accompanied by acts of violence. The capturing of power from the LCD by Prime Minister Mosisili's Democratic Congress also added to tensions in the build-up to the 2012 elections, setting the stage for a bitter contest between these two parties. At the same time opposition parties anticipated that the LCD split might also work in their favour.

# 2

## Legal and Institutional Framework



- 2.1 The Constitutional and Electoral Framework
- 2.2 The Lesotho Independent Electoral Commission
- 2.3 The Electoral System and the Constituencies
- 2.4 Funding of Political Parties

### **2.1 THE CONSTITUTIONAL AND ELECTORAL FRAMEWORK**

The 1993 Constitution of Lesotho (as amended) guarantees fundamental rights and civil liberties. It also provides principles of the electoral system, including universal adult suffrage in a multiparty dispensation (Musanhu 2010). The constitution therefore creates the democratic space for people to enjoy the right to participate in elections on their own behalf or through their freely chosen representatives. Section 66 of the constitution also establishes the Independent Electoral Commission (IEC).

Section 66A (1) of the Constitution gives the Electoral Commission the following functions:

- a) Ensure that elections to the National Assembly and local authorities are held regularly and that every election or referendum held is free and fair;  
Organize, conduct and supervise elections in an impartial and independent manner; elections to the National Assembly and Referenda under the provisions of this Constitution and any other law;
- b) Delimit the boundaries of constituencies in accordance with provisions of this Constitution and any other law;
- c) Supervise and control the registration of electors;
- d) Compile a general register of electors and constituency registers of

- electors for the several constituencies and to maintain such register or registers up to date;
- e) Promote knowledge of sound democratic electoral processes;
  - f) Register political parties;
  - g) Ascertain, publish and declare the results of elections and referenda;
  - h) Adjudicate complaints of alleged irregularities in any aspect of the electoral or referenda process at any stage other than in an election petition; and
  - i) Perform such other functions as may be prescribed by or under any law enacted by Parliament.

Besides the constitution, the National Assembly Electoral Act, 2011 provides guidelines on how the Electoral Commission should conduct and manage elections.

## **2.2 THE LESOTHO INDEPENDENT ELECTORAL COMMISSION**

### **2.2.1 Background and composition of the Commission**

The IEC was established in 1997 as a body responsible for the management of elections. It is made up of a three-person Commission and the Directorate. The Commission consists of the chairperson and two commissioners. This structure is mainly responsible for policy-making and oversight. Each commissioner is appointed by the King to serve a maximum of two three-year terms. In appointing the IEC, the King is advised by the State Council and selects the prospective commissioners from a list of no fewer than five names that are jointly nominated by all registered political parties. The Commission is empowered to organise the credible, fair and impartial National Assembly and local government elections as well as referenda in line with the Electoral Act and the Constitution of Lesotho.

The IEC has a Directorate which comprises civil servants and is headed by the Director of Elections, who is also a civil servant on government's full employ in the Ministry of Public Service. The Directorate is charged with the implementation of the functions of the Commission and in line with the provisions of the Electoral Act. The IEC appoints all the electoral staff. The position of the Director of Elections as a full employee of government is sometimes questioned by political parties, which hold the view that as

the CEO he/she can compromise the independence of the IEC, as his/her loyalty lies with the employer and not the Commission.

The current members of the Commission, which oversaw the 2012 National Assembly elections, are shown in Table 5 below:

**Table 5: IEC Lesotho Commissioners**

Commissioners	Position
Mrs Limakatso Mokhothu	Chairperson
Mr Malefetsane Nkhahle	Commissioner
Dr Fako Likoti	Commissioner

### **2.2.2 Functions of the Commission**

The Commission's main responsibilities are:

- registering electors
- supervision of the preparation, publication and maintenance of a general register of electors
- registering political parties
- demarcating constituency boundaries
- conducting elections

Pursuant to its mandate, the IEC put in place various consultative structures to ensure ownership of the electoral process by all stakeholders and also to serve as conflict management mechanisms, given the country's history of election-related conflict. These structures are:

- a) **Party Leaders' Forum** – this is the forum of leaders of all parties contesting elections which the IEC consults on matters which require decisions on the electoral process. The Forum meets as and when necessary in between elections and more frequently during election time.
- b) **Party Delegates Forum** – this is a forum similar to the Multiparty Liaison Committees. Representatives of all parties registered with the IEC meet on a monthly basis with the Commission to be briefed

on the electoral process. They in turn take the information to their parties. This has been a useful consultative forum, as it ensures that developments pertaining to the electoral process are communicated to the parties timeously.

- c) **Logistics Committee** – in an effort to ensure transparency during elections, the IEC has established the Logistics Committee, which consists of representatives of parties nominated jointly by the parties to plan all election logistics with the Commission. The responsibilities of this Committee include, among other things, ensuring that all election materials are bought, safely kept and distributed according to a plan jointly arrived at with the Commission. The Committee also witnesses the tendering process and procedures for all election materials and it also observes the printing of ballot papers and ensures their security in collaboration with the Commission and the Lesotho Mounted Police Service. In effect, the Committee becomes involved in the movement of the ballot papers from printing (which is usually done in the Republic of South Africa) to the IEC warehouse for safekeeping.
- d) **Data Committee** – the Data Committee is involved in the compilation of the voters' roll. It works with the Commission on the entire voter registration process and also on all voter registration complaints which may arise during the voter registration process.
- e) **Monitoring Committee** – This is a committee made up of representatives of the parties contesting elections (18 parties in this election) whose role is to ensure that all election operations are carried out without problems. The committee, jointly with the IEC, deals with all challenges which may arise during the electoral processes.

### **2.3 THE ELECTORAL SYSTEM AND THE CONSTITUENCIES**

Lesotho operates a Mixed Member Proportional Representation model (MMP). The model was negotiated and adopted in 2001 under the Interim Political Authority (IPA) dialogue process in which parties that had participated in the 1998 disputed elections sought to find a solution to the country's election-related conflicts. The adoption of the MMP was in preparation for the 2002 parliamentary elections. The MMP system is a mixture of the FPTP electoral system and proportional representation system

(PR), where the country's 120 seats are allocated along an 80:40 ratio between the FPTP and the PR components of the MMP. This means that there are 80 constituency seats (constituency vote) and 40 party-based seats (party vote). Two ballot papers were initially used, one for the constituency vote (FPTP) and the other one for the party vote (PR). However, as indicated in section 1.4 above, the Electoral Law was amended in 2011 and only one ballot is now used to determine both the FPTP and the PR seats.

**Table 6: The MMP Seat Allocation Formula**

<b>Step one</b>	Total valid votes cast is divided by total number of legislative seats = quota of votes
<b>Step two</b>	Party votes divided by quota of votes = party quota
<b>Step three</b>	Subtract the summation of party quotas from the total number of legislative seats
<b>Step four</b>	Any remaining vacant seats are allocated in the order of the parties with the highest decimal fraction arising from the calculation in step three
<b>Step five</b>	Subtract constituency seats won by each party from the total number of seats won by the party to get the party's compensatory seats.
<b>Step six</b>	Summation of the compensatory seats to ensure that the total tallies with the stipulated number of PR seats.

Source: IEC 2001

Below is an example of how seats are allocated in practice.

If after counting, the party results are as follows:

Red Party: 101,237 votes

Blue Party: 132,679 votes

Pink Party: 268,103 votes

**Total Votes** 502,019

– 502,109 will be divided by 120 to get the quota of votes

– 502,109 divided by 120 = 4,183,491

– Rounding off to the next whole number gives 4,184, and therefore 4,184 will be the quota of voters.

The provisional allocation of votes will therefore be:

Red Party: 101,237 divided by 4,184 = 24.19622  
Blue Party: 132,679 divided by 4,184 = 31.71104  
Pink Party: 268,103 divided by 4,184 = 64.07815

Without taking into account the decimal points, the seat allocation will be:

Red Party: 24 seats  
Blue Party: 31 seats  
Pink Party: 64 seats  
**Total 119**

120 Seats – 119 = 1 seat still to be allocated.

If there are fewer seats provisionally allocated than the total number of seats in the National Assembly, the first remaining seat will be allocated to the political party with the highest decimal fraction and so on.

Taking the above example, the Blue Party will be allocated an additional seat and will have 32 seats.

Each party's provisional allocation of proportional representation seats will be calculated by deducting the number of seats won by the party in the constituency elections.

If constituency seats are as follows:

Red Party: 15 constituency seats  
Blue Party: 20 constituency seats  
Pink Party: 45 constituency seats

Provisional allocation of compensatory seats will be as follows:

Red Party: 24 provisional seats less 15 seats actually won = 9 compensatory seats  
Blue Party: 32 provisional seats less 20 seats actually won = 12 compensatory seats  
Pink Party: 64 provisional seats less 45 constituency seats won = 19 compensatory seats

In this example, the provisional allocation of seats is also final, as there are no further complications.

## 2.4 FUNDING OF POLITICAL PARTIES

The laws of Lesotho allow for private and public funding of political parties. Section 70 of the National Assembly Electoral Act 2011 provides for private and state funding for election campaigns. Section 70 (1) allows for private funding of parties, which could include funding that the parties get from their rank and file membership fees, corporate contributions and donations from members in and outside the country. The Act also allows for foreign funding, but requires that sources of funding should be disclosed. Section 70 (2) reads:

‘A source of funds or donations exceeding M200,000 or such amount as the Commission may, by notice published in the Gazette, determine, shall, within a period of 7 days of its receipt, be disclosed to the commission by the treasurer of the political party concerned’.

This provision does not, however, cover disclosure of sources of funding outside the election period. In other words, the Act does not adequately deter illicit funding of political activities beyond the electoral period. Although it directs that there should be a separate bank account for purposes of campaign funds, the law does not also place any caps on the amount of money that a party may receive from donors. Neither does it place spending limits for parties during campaigns. This means that parties can spend as much as they wish. This leaves the possibility of undue influence of money on Lesotho’s politics and its effect on the economy, as having no limits on spending opens the door for the financiers of parties to push them to spend more money. Section 70 (2) of the Act, however, demands full disclosure of sources for all monies exceeding M200,000. Disclosure of sources of funding is important because it enhances fair political competition, empowers voters and strengthens parties as effective democratic actors (Fogg et al 2003:170).

Section 70 (4) of the National Assembly Electoral Act 2011 provides for state funding for campaigning. This funding is available both to parties which participated in the last elections as well as those that did not take part in elections previously. The allocation of the money to the parties which took part in the previous elections in 2007 will be determined by the number of votes received by each party in the National Assembly provided that such number of votes is not less than the 500 required for the registration of a party with the Commission.

The allocation to all parties that did not contest the 2007 parliamentary elections is based on the 500 membership threshold requirement for registration of political parties with the IEC. This means that the allocation of the campaign funding will be proportional to the membership threshold. It follows therefore that all parties that were not involved in the previous elections will receive an equal amount of campaign funds. Some political parties raised concerns ahead of the 2012 elections about the proportional allocation formula of the campaign funds, arguing that it disadvantages smaller parties, as, under such an arrangement, they will be unable to challenge the ruling party. They claimed that this formula creates an uneven playing field for parties.

The National Assembly Electoral Act 2011 also provides for the funding of parties represented in the National Assembly. The Electoral Commission is entrusted with the management of these funds. The Act not only governs the eligibility of parties for funding, but also stipulates how the funds are to be distributed and how the parties should account for the funds as well as for what the funds may be used for. Section 72 (3) of this Act is reads as follows:

Any funds received by a political party registered with the Commission in terms of Section 71 for contesting elections –

- a) May be used only to defray expenses incurred in contesting elections, including the propagation of the political parties or candidates' views and elector education and;
- b) May not be used to-
  - i Defray personal expenditure not related to contesting elections;
  - ii Pay a fee, reward, benefit or remuneration to any candidate or officer of a political party;
  - iii Reward any elector in order to vote or to vote in a certain manner;and
  - iv Directly or indirectly invest in any business or property.

Political parties are legally required to open a separate bank account for the consolidated fund and report annually on the administration and management of the fund. This requires financial statements to be submitted for audit by the IEC for the financial year.

# 3

## The Pre-Election Phase



- 3.1 Delimitation of Constituencies and Polling Districts
- 3.2 Voters Registration
- 3.3 Nominations Processes
- 3.4 Women and Political Representation
- 3.5 Civic and Voter Education
- 3.6 The Election Campaign and Code of Conduct
- 3.7 Media Coverage of the Electoral Process

### **3.1 DELIMITATION OF CONSTITUENCIES AND POLLING DISTRICTS**

The delimitation of electoral boundaries is conducted in line with Section 67 of the Constitution of Lesotho. This is further provided for in Section 153 of the National Assembly Electoral Act 2011, which dictates that in delimiting constituency and or district boundaries, the Electoral Commission should invite representation from the people and political parties. The Act further provides that the Commission should publish the proposed boundaries in a government gazette for the public in the prescribed time, during which the public may object to the proposed boundaries. The Commission is bound by the Act to consider the objections and furnish reasons to the objector in the event that it does not accept the objection. The National Assembly Electoral Act 2011 makes provisions for the High Court to review the Commission's decisions if the objector is not satisfied with the reasons advanced by the Commission in its refusal to consider objections to the proposed boundaries.

The Constituency boundaries were reviewed in 2010 in preparation for the 2012 parliamentary elections. The IEC reviewed the boundaries in line with population movements within the 80 constituencies, among other things. This led to a merger of some constituencies that existed in 2007 and the creation of new ones in some districts. For instance, the Thaba-Tsoeu Constituency No. 49 was cancelled, and areas that fell under this constituency were merged into the neighbouring constituencies within the Mafeteng District. Similarly, the Seqonoka Constituency No. 27 was cancelled in the Berea District and

its areas absorbed into the Thupa-Kubu Constituency No. 26, while a new constituency, Khubetsoana No. 28, was created in the same district. In the capital city of Maseru a new constituency, Thetsane No. 33, was also created.

### **3.2 VOTER REGISTRATION**

Voter registration in Lesotho is mandatory and a continuous process. The National Assembly Electoral Act, 2011, gives the IEC powers to suspend the registration of voters during the elections only. Section 12 (2) indicates that the suspension shall be effective from the eighth day of the commencement of the election period and shall end 90 days after the last day of the election period, unless the IEC decides to end the suspension earlier than the 90-day period. Any new applications for registration during the election period are kept by the IEC, which will process them only after the lifting of the suspension period.

The National Assembly Electoral Act 2011 provides that the IEC through the office of the Director of Elections shall prepare and display the list of registered voters 30 days in advance of the voting day. The public display of the voters' roll is done in two phases, namely the provisional list and the final list. The former is subjected to public scrutiny so that any objections can be raised with the IEC in good time for corrections. All sections of the population, including political parties, are entitled to access the voters' roll for inspection. The final list is produced after corrections of the provisional list.

The IEC announced that out of a total of a population of 1.8 million it had registered 1 121,835 voters for the 2012 parliamentary elections. This total number of registered voters announced by the IEC led to some questioning regarding the accuracy of the voters' roll. Some parties that met with the EISA Mission during the stakeholders briefing argued that the figure was too high and that it suggested that only 678,165 people were below the voting age. They also argued that this figure did not take into account the number of people who were either in the diaspora or who may have not been able to register for various reasons. The IEC could not provide a clear answer to the Mission with regard to what could explain the unusually high number of registered voters in relation to the population size. However, the IEC indicated two factors which could have affected the voter registration process. The first challenge it encountered during the registration process

was that of 'multiple registrations', whereby some voters registered as new voters even though they were already on the voters' roll. The IEC explained that the introduction of new coloured cameras led to the already registered voters discarding their old cards and presenting themselves at the registration centres to get the new colour registration cards. Although the IEC had gone through the voters' roll to identify these individuals and announced through the media that these voters should bring the new cards on voting day, some of the people did not heed this call. As a result they were denied the right to vote on election day, as they either appeared as multiply registered (which is not permissible by law) or did not appear at all on the voters' roll. The second challenge was that the IEC could not entirely clean the voters' roll of the names of the deceased persons, which it attributed to the weakness of the civil registry process from which the IEC draws information in order to update the voters' register accordingly.

There was a general concern from various stakeholders, including political parties, regarding the voter registration process ahead of the 2012 elections. The main concern was the delay in the finalisation of the voters' roll, which was reported to contain a significant number of deceased people. There were also allegations of foul play regarding the registration process. For instance, the Basotho National Party (BNP) alleged that there were incidents of bulk transfer of voters from one constituency to another in the Hlotse No. 13, Mahobong No. 8 and in the Mohale's Hoek No. 58 constituencies. The BNP and other parties also alleged that voters were being transferred from certain constituencies to others in order to ensure higher numbers for the ruling Democratic Congress.

Local newspapers reported that the IEC official was related to one of the candidates in the Mohale's Hoek Constituency (Lesotho Times 9 May 2012). The EISA Mission followed this matter up with the IEC, which confirmed at least one incident in Mohale's Hoek where an IEC official was found to have transferred voters illegally (the transfer period had come to an end). This official was suspended with immediate effect.

The other concern raised with regard to voter registration was the issuing of passports to minors. Both the BNP and LCD reported to the EISA Mission that minors in the Mahobong Constituency No. 8 were being issued with

passports by the DC government so that they could register to vote. The IEC confirmed that it had received reports on this issue and indicated that it had been able to verify only one such case, and requested anyone with more evidence to forward it to the Commission. In the one case in relation to which the IEC established evidence, the matter was handed over to the police.

### **3.3 PARTY REGISTRATION**

Political parties in Lesotho are registered twice. Firstly, they are registered with the Registrar of Societies and secondly they are registered with the IEC. The Societies Act 1966 requires all organisations operating in Lesotho to be registered by the Registrar of Societies. While parties are no exception to this requirement, registering here does not automatically qualify them to contest local or parliamentary elections. Section 24 of the National Assembly Electoral Act requires all parties intending to contest elections to register with the IEC after they have been registered under the Societies Act 1966.

In addition the Act demands that membership of the party should be voluntary and open to all citizens of Lesotho without discrimination. The Act further requires a party to have no less than 500 members (signatures) who are registered with the IEC as voters in order to qualify for registration. Over and above this, the party is also required to provide information regarding its requirements for membership admission and fees, leadership selection, manner of decision-making, banking details and purposes for which its money may be used.

The IEC is empowered to refuse registration of a party if it does not comply with the above conditions. It is also empowered by the law to de-register a party if it finds out that such a party no longer complies with its terms of registration as set out in the National Assembly Electoral Act 2011. The EISA Mission noted that ten parties were de-registered ahead of the 2012 elections due to their failure to comply with the conditions set out in the law. These were:

- Alliance of Congress Parties (ACP)
- Basutoland African Congress (BAC)
- Kopanang Basotho Party (KBP)
- Lesotho Education Party (LEP)

- National Democratic Party (NDP)
- National Progressive Party (NPP)
- New Lesotho Freedom Party (NLFP)
- Sefate Democratic Congress (SDC)
- Social Democratic Party (SDP)
- United Party (UP)

### **3.4 NOMINATION OF CANDIDATES**

The nomination of parliamentary candidates is done in accordance with the provisions of the constitution of Lesotho and the National Assembly Electoral Act 2011. The Act provides conditions which must be met by any citizen aspiring to become a Member of Parliament. These are and not limited to:

- being registered as an elector
- having no criminal record
- being able to speak, read and write Sesotho or English well enough to take active part in the proceedings of the National Assembly, unless the person is unable to do so as a result of physical disability
- not being a member of the Defence Force, Police Service, National Security Service and Correctional Service or;
- holds, or is acting in a public office

The nomination of candidates is informed by the MMP electoral system in that, firstly, individuals are nominated through party primary elections to contest constituency seats under the FPTP component of the electoral system. In most parties, party branches elect individuals from within their constituencies and the party's central committee endorses the elected individuals. Secondly, the nomination is done at the central committee level of the party where the party leadership draws up a list of individuals to be submitted to the IEC for purposes of PR seat allocation.

In terms of procedures to be followed, the National Assembly Electoral Act 2011 provides that the nominees will be accepted by the Returning Officer only if they are nominated and seconded by persons who are accordingly registered with the Electoral Commission as voters. This means that the people who would have won primary elections within their parties still need to be formally nominated and seconded by duly registered voters appearing

in the voters' roll in order to be accepted as election candidates. According to Section 41 (3) of the Act, such nominations should be accompanied by an amount of M200 and:

- a) a statement signed by the person consenting nomination;
- b) if the person is a candidate of a political party-
  - i. a certificate signed by the office-bearer of the party certifying that the person is the party's candidate for elections in the constituency; and
  - ii. a representation, which shall be in black and white, of the political party's symbol

In the case of the nominations for the proportional representation, section 47 (1) provides that a political party intending to contest an election shall nominate and submit a list of nominated candidates to the Director of Elections. This list should:

- a) Include the names, electors' registration numbers, and addresses of at least 40 candidates but not more than 120;
- b) Arrange the candidates in order of preference from top to bottom, with female or male candidate immediately followed by a candidate of the opposite sex; and
- c) Include equal numbers of women and men.

Such a list may also include any candidate who is nominated for election for a constituency seat. The Electoral Law also requires that all lists should be accompanied by an undertaking from the Secretary General of the party committing the party to adhere to the Electoral Code of Conduct. It further requires an undertaking from the Secretary General that the nominated individuals in the list are qualified to stand for election and that there should be a statement of consent from such individuals that they agree to be on the lists. Finally, the Electoral Law requires that all lists shall be accompanied by a deposit in the amount of M8,000.00.

### **3.5 WOMEN AND POLITICAL REPRESENTATION**

*Participation* in the affairs and institutions that shape one's community directly or indirectly is a basic human right enshrined in the Constitution of

Lesotho 1993 as amended. The National Assembly Electoral Act 2011 Section 30 also requires political parties to ensure participation and representation of women, youth and disabled persons. Yet, participation and representation of women in political parties and therefore in elections remains a challenge in Lesotho and falls well below the SADC quota of at least 50% of women in decision-making positions in both the public and private sector terms of the SADC Protocol on Gender and Development. The electoral and political culture as well as the keen competition for positions within parties has made it difficult for women to gain access to the political realm (Matlosa and Shale 2008). Because of this, and given the political developments described in section 1.4 above, most primary elections within parties have produced more male candidates (75%) than females (24.75%) under the FPTP in the run-up to the 2012 elections (see Table 7).

**Table 7: FPTP Candidate Lists Per District**

District	No. of constituencies	No. of Male candidates	No. of Female candidates	Total	% of female candidates/district
Botha-Bothe	5	55	19	74	26
Leribe	13	148	41	189	22
Berea	11	120	26	146	18
Maseru	18	176	67	243	28
Mafeteng	8	92	27	119	23
Mohale's Hoek	8	67	26	93	28
Quthing	5	29	16	45	36
Qacha's Nek	3	14	5	19	26
Thaba-Tseka	5	46	14	60	23
Mokhotlong	4	34	16	50	32
<b>TOTAL</b>	<b>80</b>	<b>781</b>	<b>257</b>	<b>1038</b>	<b>24.75</b>

One of the important aspects of the electoral reform is that the National Assembly Electoral Act, 2011, now requires parties to ensure a 50% inclusion of women in party lists as indicated above. The EISA Mission observed that all 18 political parties that contested the 2012 election parties had adopted a zebra list for their PR candidates. Although this is commendable, the

reality, as can be seen in the election results from 2002, 2007 and now 2012 parliamentary elections (Tables 3, 4 and 10), is that most parties stand little, or no chance, of garnering sufficient votes in order to benefit from the PR component of the electoral system.

**Table 8: Nomination of Candidates by Gender**

Year	Total Candidates FPTP	Female candidates FPTP	% Female candidates FPTP	Total candidates PR	Female candidates PR	% Female candidates PR
1998	537	56	10.43	N/A	N/A	N/A
2002	605	12.5	20.66	984	437	44.41
2007	617	107	17.34	606	197	32.51
2012	1,038	257	24.75	1,848	924	50

Source: EISA Compendium of Elections 2009

As reflected in Table 8, the adoption of the zebra lists for the PR candidates has significantly increased the number of female candidates compared to previous elections in 1998, 2002 and 2007. However, increasing women candidates in the PR lists while not increasing their representation in the FPTP component gives a distorted picture regarding the empowerment of women, as not many parties receive enough support to garner seats to the National Assembly under the FPTP component of the electoral system.

### **3.6 CIVIC AND VOTER EDUCATION**

Civic and voter education is one of the mandates of the IEC, even though it is normally undertaken by various stakeholders, including political parties. Whereas civic education is supposed to educate citizens on democracy, human rights and governance, voter education is focused on educating citizens about their right to choose their leaders, the process for choosing their leader and what is required to enable them to enjoy this right. Civic and voter education have not been very effective in past elections in Lesotho due to a number of factors, including limited funds both for CSOs and the IEC, lack of uniformity in the civic and voter education methodology with CSOs adopting their own approach while the IEC also used its own outreach strategies and poor or lack of coordination between the various civic and voter education providers.

A comprehensive approach to civic and voter education was adopted by the IEC and NGOs both during the 2011 local government elections and the 2012 parliamentary elections to ensure an effective outreach to voters. Under this arrangement, the IEC partnered with the larger NGOs such as the Transformation Resource Centre (TRC), Action Aid, Development for Peace Education (DPE), International Federation of Women Lawyers (FIDA), Justice and Peace and Lesotho Teachers Trade Union (LTTU), where the NGOs spearheaded the civic and voter education process, while the IEC provided oversight. The NGOs mobilised 700 voter educators countrywide to carry out voter education during the 2011 local government elections (Nyane 2012), while the IEC had made available M25 million for voter education (IEC Lesotho 2012). The partnership between the IEC and CSOs has been crucial, particularly following the electoral reforms at both the local and national levels.

The partnership between the IEC and CSOs continued in the run-up to the 2012 parliamentary elections. CSOs carried out an aggressive voter education drive throughout the 10 districts of Lesotho within 40 days, using various methods ranging from house-to-house visits, public gatherings and public activities, to candidate debates, workshops and the production and distribution of voter education material (LCN 2012). This partnership was highly commended by both voters and political parties who met with the EISA Mission. The Mission noted, however, that the time allocated for civic and voter education was too short and, as a result, voter educators in some case shortened their programme in order to cover more areas.

### **3.7 THE ELECTION CAMPAIGN**

#### **3.7.1 The Legal Framework and Code of Conduct**

Political party campaigns in Lesotho are regulated under the National Assembly Electoral Act 2011. Section 122 of the Act provides a code of conduct to be complied with by parties as a mechanism to ensure a credible and transparent democratic election that promotes political stability. This code of conduct is binding to:

- a) A political party registered with the Commission;
- b) An office-bearer, member and supporter of a political party registered with the Commission; and

- c) A candidate and supporter of the candidate.

The National Assembly Electoral Act 2011 gives the IEC punitive powers in the event that the code of conduct is violated. The IEC may prescribe a fine to the offender, and prohibit the offending party or individual for a specified period from utilising any media time made available by the commission to the political party for electoral purpose. The offending party or individuals may also be barred by the IEC from holding public rallies, publishing and distributing campaign materials. The IEC may even cancel the registration of a party if the infringement involves violence.

Besides the code of conduct, the National Assembly Electoral Act 2011 also establishes a Tribunal whose role is to enforce the electoral code of conduct. Section 123 provides that if there is a complaint concerning the violation of the code of conduct, the Director of Elections, who shall receive such a complaint, shall also refer such a complaint to the Tribunal for adjudication. The Tribunal may impose a sanction or make a recommendation to the IEC on the appropriate sanction against the offender. The EISA Mission noted that the Tribunal dealt with a number of cases concerning violations of the code of conduct ahead of the 2012 elections. One incident that reflects that the Tribunal has the power to act against transgressors was when it suspended the ruling party campaigns following a written complaint received by the IEC from the LCD, which claimed that the DC had seized some of its property when the DC broke from the LCD, thus impeding its campaigns. The Tribunal established that the DC was at fault and therefore violated the Code of Conduct and imposed a suspension of the ruling DC campaign rallies in 19 constituencies (*Lesotho Times* 17 May 2012).

Besides the legal framework, 18 political parties that participated in the CCL/ LCN mediation process signed a peace pledge on 27 April 2012 in which they undertook to honour the constitution, observe the electoral code of conduct and accept the outcome of the election once it had been declared credible and transparent by independent observers. The South African Nobel Laureate Archbishop Desmond Tutu added his words of encouragement to the party leaders to accept the election results and renounce violence when he attended a prayer meeting organised by the CCL at the National Convention Centre during the signing of the peace pledge ahead of the elections.

### 3.7.2 Rallies

The EISA Observer Mission arrived in the capital Maseru at the height of campaign rallies. It has become a tradition in Lesotho's election calendar that the main parties organise 'star' rallies on the same day and weekend in Maseru as a 'show of force' just prior to election day. On 20 May the Mission members observed four major rallies within the city of Maseru organised by the ABC at the Maseru Race Course, BNP at Ha-Mabote Village, DC at the Foso Agricultural show grounds and LCD at Mathokoane village (commonly known as Lepereng).

In the run-up to the rallies, the opposition parties complained that the ruling DC had booked all the main public transport facilities to carry its supporters on that day. While this was not in itself illegal, their complaint was also that the ruling party blocked the opposition's access to alternative transport from neighbouring South Africa, which is usually used to cater for parties in every previous elections, by not granting these companies permits to cross the border and ferry party supporters. The parties alleged that the Lesotho Ministry of Public Works denied South African transport operators permission to cross into Lesotho, despite the fact that the Lesotho Road Transport Board had given the green light to political parties to use South African public transport. This decision allegedly by the ruling DC was seen as a clear strategy to obstruct other parties from having successful rallies to demonstrate their respective electoral strength.

The shortage of public transport and privately hired buses notwithstanding, thousands of supporters of the respective parties descended on Maseru at the different venues in full party regalia. The EISA Mission was pleased to note the high levels of political tolerance displayed by the different supporters as they came across each other on the highways and all over town when going to and coming from their respective party rallies. A peaceful and jovial atmosphere prevailed at all the rallies as supporters cheered their leaders.

The Mission further observed a number of buses and trucks ferrying opposition parties' supporters who, as it became clear to the Mission, used the same transport even though they were going to different rallies. This was an indication that there was unity among opposition ranks against the DC, not previously observed in previous Lesotho elections.

Unlike in the previous 2002 and 2007 elections, where parties had extensively used posters and billboards in their campaigns, the 2012 election campaigns were unique in that these traditional methods were conspicuously absent in the streets and on lamp posts. Only a few billboards and posters of the ruling DC were seen in Maseru, while a few posters of other opposition parties were seen hanging on a few lamp posts in the city. Some opposition parties indicated that they did not have enough funds to print posters and/or put up billboards, while others claimed that there was no need to flood the streets with posters, as the people of Lesotho had already decided that they were going to vote with their heads and would not be swayed by colourful billboards and posters.

### **3.7.3 Public Debate**

The climax of the election campaigns was a two-hour public debate at the Lehakoe Recreational Centre between the leaders of the four major parties, namely the ABC, BNP, DC and LCD. This debate was jointly organised by the Transformation Resource Centre (TRC) and Lesotho National Broadcasting Service (LNBS) and the UNDP, the first of its kind in elections in Lesotho. It was broadcast live on *Lesotho Television (LTV)* and its sister radio station Radio Lesotho. The National University of Lesotho's political science department representative participated in the debate as a discussant. Members of the Mission who attended this debate once again observed high levels of political tolerance, as the respective party supporters cheered their leader on during the debate in a manner which was respectful of their opponents.

### **3.8 MEDIA COVERAGE OF THE ELECTORAL PROCESS**

In keeping with the critical role that the media plays in the election process by ensuring that the public is informed about relevant electoral matters such as the political parties, candidates, campaign issues and voting processes, the Lesotho IEC cooperated with the media throughout the electoral process. The media encouraged people to register and to vote. The IEC also used the state and private media outlets for its public outreach campaign, in that it bought airtime to convey election messages to the population. The IEC accredited 15 media houses, which included 157 journalists, to cover the 2012 parliamentary elections. Unlike in the past where only one state media existed, Lesotho has seen a rapid growth of print and electronic media. Table 9 reflects media houses that covered the 2012 elections. The EISA Observer Mission also received a great deal of media coverage during the elections.

**Table 9: Media Houses in Lesotho as at May 2012**

Media	Name	Comment
Television	Lesotho Television	State
Radio stations	Catholic Radio FM	Private
	Harvest FM	Private
	KEL FM	Private
	MoAfrica FM	Private
	People's Choice FM	Private
	Radio Lesotho	Private
	Ultimate FM	State
Newspapers	<i>Business Edge</i>	Private
	<i>Informative</i>	Private
	<i>Lesotho Times</i>	Private
	<i>Moeletsi Oa Basotho</i>	Private
	<i>Sunday Express</i>	Private
	<i>Lesotho Today</i>	State
	<i>Lentsoe La Basotho</i>	State
Institutes	Media Institute of Southern Africa (MISA)	Regional
Agencies	Lesotho News Agency (LENA)	State

Similar to previous elections, where the state-owned print and electronic media was accused by opposition parties of serving the interests of the then ruling LCD, the state media was yet again criticised by opposition parties, including the LCD, which had just been overthrown for becoming the mouthpiece of the DC. The country's only television station, LTV, was particularly criticised for providing unlimited coverage of Prime Minister Mosisili's political rallies and broadcasting this on prime time while not affording the same to other party leaders. Where coverage of opposition parties was done, the footage material was censored and at times there would just be a mention of the opposition parties' rallies without the actual tapes of the rallies being played.

On the other hand, the DC accused the private print and electronic media of being biased and more friendly to the opposition parties, while always

reporting negatively about the ruling party. Private radio stations hosted a number of opposition politicians giving them a platform to air their party's policies and manifestos, with most of these radio stations charging the parties for the airtime. The private radio call-in programmes seemed to attract more listeners than the state radio due to their robust discussions on topical electoral issues. The disproportionate coverage of the political rallies by the state media changed slightly after an outcry from the combined opposition parties calling on the IEC to intervene.

Criticism about the coverage of the rallies and news content notwithstanding, the state media public broadcaster and the IEC, in accordance with Section 67 of the National Assembly Electoral Act, 2011, provided airtime for political party campaigns. The IEC and the state media put together a programme from 5 to 24 May where all parties contesting the 2012 elections were allocated equal airtime of one hour and thirty minutes on LTV and Radio Lesotho, taking turns to talk to the population about their parties' manifestos. Two rounds of interviews were provided to all the parties prior to the polling day. Access to Radio Lesotho became a great opportunity for all parties to reach their supporters and members throughout the country, as the radio station frequency reaches the whole country. During these programmes on LTV and Radio Lesotho, the parties were allowed to package their messages as they saw fit, with the anchors of these programmes asking a few questions for clarity.

As for the print media, the main daily and weekly newspapers carried election-related news, which provided useful information to the voters. The newspapers were, however, not necessarily neutral in their reporting, and the Mission noted similar patterns, where the state-owned newspapers published more news about the ruling party, while the private newspapers were more accessible to all parties and clearly critical of government.

# 4

## The Election Phase



- 4.1 Opening of Voting Stations and Election Materials
- 4.2 Polling Stations and Voting Process
- 4.3 Closing of Polling Stations
- 4.4 Voting Staff, Party Agents and Security Forces
- 4.5 Observers

The advance team of the EISA Observer Mission observed advanced polling at the IEC TEBA Constituency Office within the Maseru Constituency No. 32 on 19 May 2012. Members of the security and health sectors as well as the IEC personnel were observed casting their votes in the presence of party agents from various political parties. The EISA Observer Mission deployed six observer teams ahead of the polling day which was on Saturday 26 May 2012. Upon arrival in the districts, the teams held consultative meetings with local electoral stakeholders and other international observers. During this period, the teams also familiarised themselves with the local context and continued to observe the concluding stages of the campaigns and the pre-polling preparations. On polling day these teams visited a total of 242 polling stations spread across the ten districts of Lesotho. In all polling stations visited, there was a remarkable representation of women as polling personnel (70 per cent) and party agents (85 per cent). All the teams reported that voting in their respective areas progressed well without incidents of violence. The following subsections provide specific details of the election phase.

### **4.1 OPENING OF VOTING STATIONS AND ELECTION MATERIALS**

The Mission noted with satisfaction that the election materials were distributed to all polling stations well in advance of the polling day. The Lesotho Defence Force Air Wing assisted in the distribution of the election materials, using helicopters and airplanes to reach the inaccessible areas in the mountain districts of Lesotho. As a result of this well-organised distribution plan by the IEC in collaboration with the Air Force, most polling centres and

polling stations around the country opened at 7.00 am as stipulated by the National Assembly Electoral Act 2011. There was close cooperation between the IEC personnel, party and independent candidates and party agents in all the polling stations observed by the members of the Mission, and this ensured a smooth opening process.

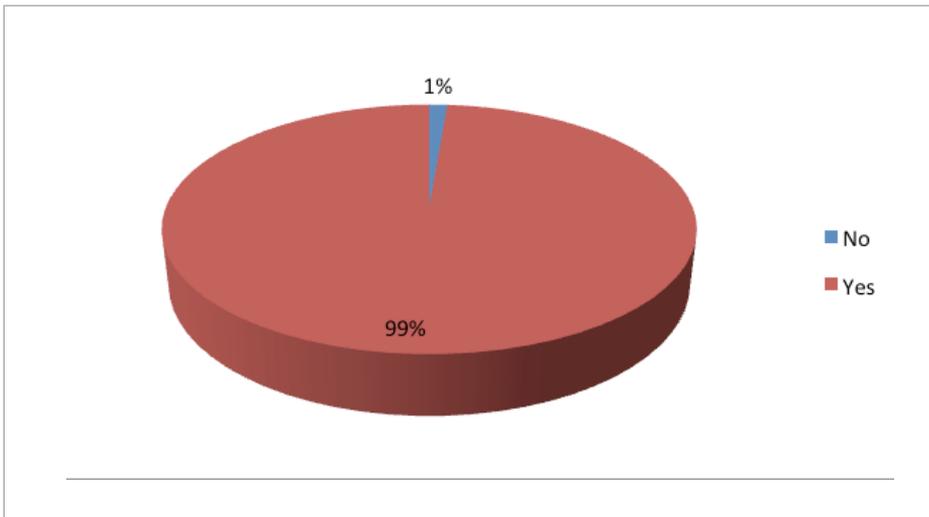
The Mission observed that besides the IEC personnel, party agents and police at every polling station, there were local chiefs who acted as official witnesses in the event that a voter's identity had to be authenticated beyond the documents stipulated in the National Assembly Electoral Act 2011. The local chiefs seem to be suitable to carry out this function as they are the only authority in the villages who can certify citizenship and register births as well as deaths and any other official act that requires proof that a voter is a citizen of Lesotho (Shale 2012). As a procedure stipulated in the Electoral Law, Presiding Officers verified that all the electoral materials were supplied by the IEC before opening of the polling stations. These materials included ballot papers, indelible ink markers, seals certified voters register, a self-carbonated booklet of Form 11 G (for results recording), ballot paper marking pens, stamp and stamp pad, attendance list forms, armbands for Official Witnesses as well as lighting equipment. There were reports from some polling stations that some of the materials, such as ordinary lamps and ultraviolet lamps, were defective.

Once the materials had been checked, the Presiding Officer showed all people who are permitted by law to be present in the polling station prior to the opening of the station that the ballot boxes were empty. These boxes were then sealed. The Mission noted that the IEC personnel explained the voting procedure to the voters as they came into the voting stations in all the polling stations visited by the Mission teams.

#### **4.2 POLLING CENTRES, POLLING STATIONS AND VOTING PROCESS**

The IEC had established sufficient polling stations to enable smooth voting in all the constituencies. There were 1,565 voting centres across the country and 2,667 polling stations. An additional 17 external polling stations were established in all Lesotho embassies around the world. As is usually the practice in most SADC countries, the polling centres were established in schools, churches and other public buildings. Although some of these facilities

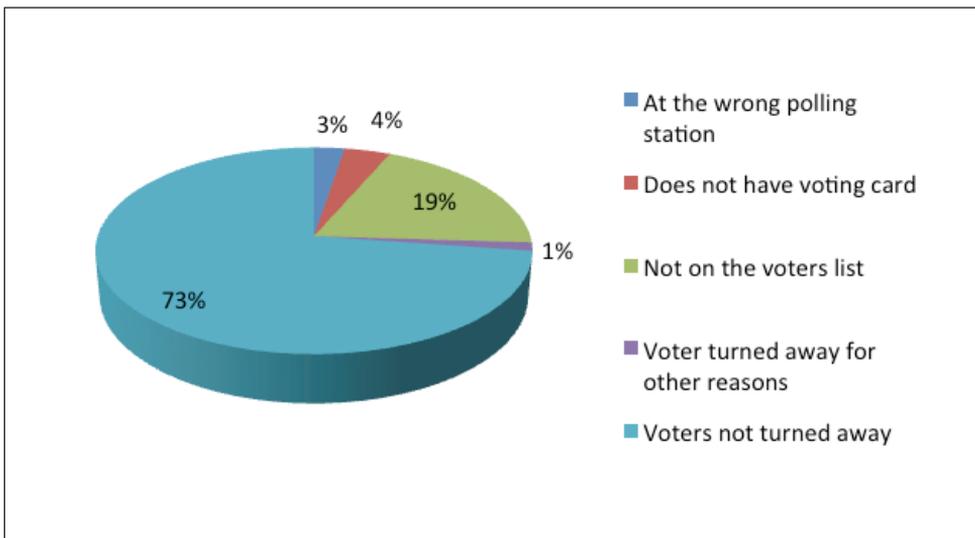
are old and lacked some of the modern requirements such as ramps for the disabled people, they were generally suitable for the voting process. Where such access challenges existed, the IEC staff, assisted by the members of the community, were on hand to assist disabled voters to access the polling stations. Electronic data received from the Mission teams showed that 98% of polling centres and stations visited were free from obstruction and that there was free movement of voters, poll workers and other people (Figure 1).



**Figure 1:** *Is the polling centre and its surrounding environment free from obstructions to the free movement of voters, poll workers and others?*

The Mission noted that inside the polling stations the polling booths were placed facing the direction opposite the party agents and polling personnel. From that position, voters could be seen marking their ballot papers. The explanation provided by the IEC was that this was a decision made by all competing parties and independent candidates. The parties held the view that if the voting booths were facing the opposite way, as in the past, it would not be possible for the polling staff and party agents to see if a voter did something illegal. The Mission was told that the reason behind this decision is that there was a lot of suspicion among parties and, given the previous elections where election results have been disputed, it was agreed that everyone had to be satisfied that there was no foul play in the polling stations.

In terms of the actual voting process, the Mission noted that voting in all the stations visited went well, although it was a little slow at the beginning, usually caused by the fact that the polling staff had to familiarise themselves with the procedures. Secondly, there were incidents where voting was delayed because some voters were turned away for a number of reasons. As Figure 2 below shows, our teams in various areas observed that some voters did not have their voter's cards, others were not on the voters' list, while others were at the wrong polling station.



**Figure 2:** *Were voters turned away?*

The Mission also observed that, as one of the voting procedures, the Polling Officer is supposed to remove the top counterfoil from the ballot papers after the voter has put a mark on the ballot paper and before the voter casts his / her vote. It is the view of the Mission that this practice could compromise the secrecy of the ballot.

#### **4.4 CLOSING OF POLLING STATIONS**

The EISA teams observed the closing of the polling stations at the same polling stations where they had observed the opening. The Mission noted that all

polling stations where EISA teams were deployed closed at 5.00pm in line with election procedures. Voters who were in the queues at this time were duly allowed to vote. Once the voting had been completed, the Presiding Officers followed the closing procedures and invited party agents, observers and candidates to observe the reconciliation of ballot papers and counterfoils ahead of the counting process. There were no incidents reported during the verification exercise in all observed stations.

#### **4.5 VOTING STAFF, PARTY AGENTS AND SECURITY FORCES**

The IEC had ensured that they deployed sufficient personnel. A total of 2,667 Presiding Officers consisting of 1,878 females and 789 males were deployed. There were also 80 Returning Officers deployed in each of the 80 constituencies made up 46 females and 34 males. Polling stations were staffed with a total of 10,744 Polling Officers. A total of 6,897 of these Polling Officers were women and 3,847 men (IEC Lesotho 2012).

Party agents and independent candidates' agents were present in all the polling stations visited by the Mission. Party agents and independent candidates' agents were provided with a copy of the voters' roll for ease of reference during the voting process. The EISA teams observed them cross-checking that the voters entering the polling stations were duly registered to vote there. The Polling Officer who was responsible for checking the voters in the voters' roll called out the name of the voter so that the party agents could also check their copy and verify that such a voter indeed appeared on the voters' roll for that particular polling station. Once a voter had been identified on the voters' roll, the party agents' crossed the voter's name out on the voters' roll, indicating that the voter had voted. The party agents appeared to be well prepared and familiar with the process and what to look out for during the voting process. There was a visible presence of police officers in all polling stations visited, and this ensured that law and order were maintained throughout the voting process. The police also assisted in managing queues at the polling stations.

Most importantly, the police dealt with cases such as the one mentioned under section 3.2 of this report, where certain individuals manipulated the registration process by facilitating the issuing of passports to minors so that they could vote.

On arrival in Lesotho, the Mission had noted that there was anxiety among sections of the population regarding the perceived or real involvement of the army in the electoral process. The fears were triggered by a statement in which the army, rather than the police, called upon perpetrators of violence to desist or face the consequences. The army responded to the concerns by reassuring the people that it would not interfere with the election. Indeed, the Mission's teams did not observe any involvement by the army in the pre-voting, voting and post-voting phases of the electoral process.

#### **4.6 OBSERVERS**

The IEC accredited a total of 580 citizen observers, mainly from affiliate organisations of the LCN, and six international and regional observer missions (IEC Lesotho 2012). The International Observer Missions were:

- 1) African Union (20 members)
- 2) EISA (18 members)
- 3) SADC (76 members)
- 4) Commonwealth (11 members)
- 5) SADC-ECF (22 members)
- 6) (SADC-PF (22 members)

To underline the importance of the 2012 National Assembly elections in the region and entire continent, three of the above Observer Missions were led by former presidents, namely Dr Bakili Muluzi (former President of Malawi), General Dr Yakubu Gowon (former President of Nigeria) and Mr Rupiah Banda (former President of Zambia), representing the Commonwealth, African Union and EISA respectively.

The EISA Observer Mission met and held briefing sessions with the citizen observers as well as regional and international missions, including the African Union (AU), SADC Parliamentary Forum, SADC-ECF, SADC Electoral Observer Mission and the Commonwealth. The citizen observers were organised under the Lesotho Council of Non-Governmental Organisations (LCN), which deployed a total of 150 citizen observers (TRC 2012). The Mission noted with satisfaction that citizen and international observer groups with whom it met during the polling day were granted access to the polling stations without hindrance.

Political parties indicated that they welcomed the presence of observers, given the tensions in the run-up to the elections occasioned by the split in the ruling party two months before the elections. This was demonstrated by political parties when the EISA Mission was contacted by political parties on the eve of the elections when election material, including ballot papers, was discovered at the Lesotho Girl Guides polling station and had allegedly been transported there without the knowledge of the party candidates and the IEC's Logistics Committee. On arrival at the scene tensions were very high, with opposition parties accusing the IEC of covert operations to help the ruling DC to win the elections. EISA, with the SADC, AU and Commonwealth missions encouraged the IEC and political parties to escort the materials back to the IEC warehouse while the matter was investigated by the IEC and the police with the matter duly being sorted out.

# 5

## The Post-Election Phase



- 5.1 Counting
- 5.2 Transmission of Results
- 5.3 Results
- 5.4 Post-Election Coalition Formation

### **5.1 COUNTING**

The EISA Mission noted that the counting process was conducted in accordance with the election procedures. The process took place in the presence of party agents and observers. Sections 94 to 96 of the National Assembly Electoral Act, 2011, stipulate how the counting process has to be conducted. Counting is done at each of the polling stations as soon as the polling stations are closed. After the closing of polling stations where the Mission observed, the election officials reconciled the number of the ballot papers issued to their polling stations against the number of voters who had voted according to the voter register. The Presiding Officers in the polling stations visited by the Mission explained each step of the reconciliation process to the party agents and observers present. Party agents and electoral staff verified the serial numbers on the ballot boxes to ensure that they were the same as the ones which were recorded at the beginning of the voting process. The counting process entailed a slightly different process from the previous elections in 2002 and 2007 where two ballot papers were used for the constituency seats and the PR seats. As indicated in the earlier sections of this report, only one ballot paper was used and the counting in the 2012 elections and counting was done following the steps below:

- 1) The ballot boxes are emptied onto the table
- 2) Ballot papers are unfolded face down and checked for the official mark on the back

- 3) The ballots papers are counted so as to reconcile them with the number which was determined from the voters' roll / during the reconciliation process described above
- 4) Ballot papers without the official mark are identified and handed to the Presiding Officer
- 5) Ballot papers are displayed to the people present in the polling station one at a time and an announcement made as to whom the vote is for.
- 6) The ballot papers are then placed in a pile for each contesting candidate
- 7) The total number of ballot papers for each candidate is determined

The Mission noted that during the counting process the polling staff and the party agents cooperated in determining spoiled ballots. The Presiding Officers marked the rejected ballot papers as rejected in line with the provisions of the National Assembly Electoral Act, 2011.

Once the counting process was completed, the Presiding Officers completed the voting result form in quadruplicate. This form records the total number of votes counted for each candidate and the number of rejected ballot papers. It also shows the total number of votes for each agent, and once this is done the Presiding Officers and party agents signed the form. The Mission noted that at the end of the counting process the election results for each of the polling stations were publicly announced and posted outside the polling stations.

## **5.2 TRANSMISSION OF RESULTS**

Section 97 (2) of the National Assembly Electoral Act, 2011, provides that once the counting and announcement of election results has been done as described in section 5.1 of this report, all election materials should be delivered to the Returning Officer for a determination of the constituency results. These materials are transported under police escort, and party agents are allowed to accompany the election materials.

The Mission also noted from its interactions with other national and international observer missions that there were no reported incidents regarding the movement of the election materials from the polling stations, and that tallying in the centres observed went smoothly.

The constituency results were transmitted from the constituency counting centres to the National Results Centre at the 'Manthabiseng Convention Centre in Maseru. These results were announced by the IEC as it received them at the National Results Centre. The Mission observed that throughout the results transmission there was a calm atmosphere in Maseru and its environs. Supporters of the main parties, including the ABC, DC, LCD and BNP, gathered in their hundreds at the Convention Centre and in close proximity to each other without any police interference, and awaited the results. The Mission noted with approval the high levels of political tolerance among political supporters in Lesotho, as each group celebrated the announcement of results in their favour without their counterparts reacting violently. Jubilant groups of victorious candidates and supporters were also seen along the streets of the city of Maseru and nearby suburbs till late hours, yet there were no reported incidents of violence.

### 5.3 RESULTS

Most urban constituency results of the 2012 parliamentary elections were announced by the IEC on 27 May 2012. The final results were announced in accordance with the provisions of the National Assembly Electoral Act, 2011. The allocation of seats was done in line with the formula described in Chapter 2 of this report. As can be seen in Table 10, below, the DC obtained the highest number of votes, giving it a total of 218,366 followed by the ABC with 138,917 and then the LCD with 121,076. Against the background of political developments described in Chapter 1 of this report, the 2012 elections did not produce a clear winner, and, as will be discussed in the section 5.4 below, this led to the formation of a coalition government.

**Table 10: Lesotho 2012 General Election Results and Seat Allocation**

Party	Total Party votes	Constituency Seats won by Party	Party's Provisional Allocation of Compensatory Seats	Total Number of Seats	% Party Votes	% Seats Won
ABC	138 917	26	4	30	25	25
ADC	1 933	0	0	0	0	0
ACFD/ BAENA	1 227	0	0	0	0	0

AUM	724	0	0	0	0	0
BBDP	2 440	0	1	1	0	1
BCP	2 531	0	1	1	0	1
BDNP	3 433	0	1	1	1	1
BNP	23 788	0	5	5	4	4
DC	218 366	41	7	48	40	40
KHOETSIA/ PFD	11 166	1	2	3	2	3
LCD	121 076	12	14	26	22	22
LPC	5 021	0	1	1	1	1
LMM	1 691	0	0	0	0	0
LWP	2 408	0	1	1	0	0
MFP	3 300	0	1	1	1	1
NIP	6 880	0	2	2	1	2
SSD	1 081	0	0	0	0	0
WHP	252	0	0	0	0	0
INDEPENDENT CANDIDATES						
NTJATSANE # 5	979	0	0	0	0	0
MOLATI # 10	515	0	0	0	0	0
LEOMA #11	531	0	0	0	0	0
MOKONE # 15	230	0	0	0	0	0
BOPA # 19	635	0	0	0	0	0
MAQELEPO # 27	160	0	0	0	0	0
KOTEL- MOLAOA # 33	726	0	0	0	0	0
KHOMARI # 48	1 692	0	0	0	0	0
RANOOE # 49	34	0	0	0	0	0
TOTAL VOTES	551 726	80	40	120	100	100

Source: Lesotho Independent Electoral Commission 2012

#### **5.4 THE POST-ELECTION COALITION FORMATION**

The 2012 parliamentary elections introduced a new phenomenon of a hung parliament in which no party emerged with a clear majority. The election results ushered in the first ever coalition government in Lesotho politics. As can be seen in Table 10, although the DC obtained the highest number of votes, it failed to garner sufficient numbers to form a government on its own. Soon after the election results were released, opposition parties (including the ABC, LCD, BNP, PFD and MFP) held a joint press conference in Maseru where they declared their intention to coalesce and form government. At the same time, the Prime Minister tendered his resignation to the King as a procedure in preparation for installation of the new government. All the main political parties started negotiations behind closed doors with the view to forming a coalition government.

Procedurally, the DC would have been invited to form government when the eighth parliament resumed by virtue of having received the highest number of voters. The DC unsuccessfully tried to woo the LCD to its side to enable it to form a government. Since it was unable to get any significant support to form government, the next party with the highest number of votes, the ABC, now had the opportunity to form government using the votes received by its allies, particularly the LCD and BNP. A combined number of 61 seats for the three parties after the final seat allocation against the DC's 48 gave them the requisite parliamentary majority to form a government. The three parties agreed to nominate Mr Motsoahae Thomas Thabane of the ABC as the Prime Minister in line with constitutional provisions. In line with their power-sharing agreement, Mr Mothejoa Metsing, leader of the LCD, was nominated for the position of Deputy Prime Minister. The BNP leader Chief Thesele Maseribane and his deputy Chief Joang Molapo were allocated ministerial positions along with other senior members of the ABC and LCD. Thus, notwithstanding its victory in majority of constituencies, the DC was reduced to the position of the official opposition party. This unprecedented turn of events was handled with maturity by the political parties, however, and the country witnessed a smooth transition of power from Prime Minister Mosisili to the newly elected Premier Thomas Thabane.

# 6

# Conclusion and Recommendations



6.1 Conclusions and Recommendations

6.2 Conclusion



## **6.1 CONCLUSIONS AND RECOMMENDATIONS**

Based on its observations, the Mission would like to make the following recommendations:

### **6.1.1 Election Material**

The Mission noted that although election materials in most polling stations were supplied on time, there were reports from some polling stations that some of the materials such as lamps and ultraviolet lamps were defective, and this delayed the counting process. The Mission therefore recommends that elections materials should be thoroughly tested before being supplied to the polling stations.

### **6.1.2 Civic and Voter Education**

The partnership between the IEC and CSOs in civic and voter education was highly commendable by both voters and political parties who met with the EISA Mission. The Mission noted, however, that the time allocated for civic and voter education was too short, and, as a result, the voter educators could not do justice to the content. It is therefore recommended that in future the IEC should consider engaging CSOs in good time so that they can undertake through civic and voter education outreach.

### **6.1.3 Voter registration**

The Mission noted that while the IEC was praised for many aspects of the electoral process, its handling of the voter registration process came under criticism. The main concern was the delay in the finalisation of the voters' roll, which was reported to have contained a significant number of deceased voters. The Mission therefore recommends that the IEC should take the time between the 2012 elections and the 2017 elections to clean up the voters' roll so as to ensure accuracy.

### **6.1.4 Women's participation in the electoral process**

The Mission noted with concern the low number of female nominees for constituency seats across all parties. It is recommended that political parties should not only apply the zebra list under the PR component but should make deliberate efforts to nominate women for constituency seats.

### **6.1.5 Secrecy of the ballot**

The Mission observed that the Polling Officer is required to remove the top counterfoil from the ballot papers after the voter has put a mark on the ballot paper and before the voter casts his/her vote. It is the view of the Mission that this practice could compromise the secrecy of the ballot. The Mission therefore recommends that the counterfoil of ballot papers should be removed before the voter is issued with the ballot paper in order to safeguard secrecy of the ballot.

## **6.2 CONCLUSION**

The EISA Mission is of the view that the election was well managed and took place within the country's legal framework and in conformity with regional, continental and international standards, namely the Principles of Election Management, Monitoring and Observation (PEMMO), the African Union's Declaration on the Principles Governing Democratic Elections in Africa, the SADC Principles and Guidelines Governing Democratic Elections and the Declaration of Principles on International Election Observation. The Mission therefore congratulates the Lesotho IEC for its professionalism and openness in the way it related to all stakeholders, particularly civil society and political parties, as this has promoted the credibility of the 2012 elections. The participation of political parties in the electoral process gave them a sense of ownership of the process, and contributed to the acceptance

of elections results. The appointment of civil society organisations by the IEC to spearhead civic and voter education also yielded positive results, as there were fewer reports of spoiled ballot papers from the EISA Teams where they were deployed.

The Mission would like to congratulate the Basotho for conducting a peaceful, credible and transparent electoral process.

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## Appendix Composition of EISA

	Name	Organisation	Role	Nationality	Gender	Contact
1	H.E . Rupiah Banda		Mission Leader	Zambia	M	
2	Mr Mikatazo Wakumelo	President's Staff	Mission Leader's Assistant	Zambia	M	
3	Mr Dickson Jere	President's Staff	Mission Leader's Assistant	Zambia	M	djere@za
4	Vincent Tohbi	Eisa	Deputy Mission Leader	Ivory Coast	M	
5	Miguel de Brito	Eisa	Observer	Mozambique	M	miguel@
6	Mrs Rosemary Phiri	Fodep	Observer	Zambia	F	rozindab
7	Ms Augusta Almeida	Electoral Observatory	Observer	Mozambique	F	augustaa
8	Steven Mvula	Ngo Forum Trust	Observer	Namibia	F	stevenm
9	Juliana Theodory Ntukey	Tanzania Civil Society Consortium On Election Observation (Tacceo)	Observer	Tanzania	F	julianath
10	Madame Sidonie Aubierge Rasoatsinampoizina	Electoral Commission Of Madagascar	Observer	Madagascar	F	aubesidi
11	Robert Gerenge	Eisa	Observer	Kenya	M	robert@e
12	Victor Shale	Eisa	Secretariat – Mission Coordination	South Africa	M	victor@e
13	Yvette Ondinga	Eisa	Secretariat-Logistics	South Africa	F	yvette@e
14	Mohamed O. Hassan	Eac Delegate	Observer	Kenya	M	mohame
15	Dr Tomasi Sisye Kiryapawa	Eac Delegate	Observer	Uganda	M	tskirypa
16	Mrs Ruth Masham	Eac Delegate	Observer	Tanzania	F	ruthmat
17	Barbara M. Kaboha	Eac Delegate	Observer	Tanzania	F	bkaboha
18	Mrs Adelaide Nyayirorere	Eac Delegate	Observer	Burundi	F	ndayiron

## Annex I

### A Observer Mission

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## **Appendix 2**

### **Terms of Reference of the EISA Election Observation Mission**

The Terms of Reference for the EISA Observer Mission to the 2012 Parliamentary Elections in Lesotho describe the role and responsibilities of the EISA mission during assessment. They provide a summary of the Mission's objectives and outline the activities of EISA observers.

The Mission's role and responsibilities are to:

- Assess whether the conditions exist for the conduct of elections that allow the people of Lesotho to freely express their will;
- Assess and determine whether the elections are conducted in accordance with the electoral legislative framework of Lesotho;
- Determine whether the final results of the electoral process as a whole reflect the wishes of the people of Lesotho;
- Assess whether the elections meet the benchmarks set out in the *Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO)*, developed under the auspices of EISA and the Electoral Commissions Forum of SADC countries (ECF), the African Union Declaration of Principles Governing Democratic Elections in Africa, the Declaration of International Election Observation and Code of Conduct for International Observers and the SADC Principles and Guidelines for Democratic Elections.

In line with its vision of an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment, EISA gives focus to the crucial role that election observation plays in sharing expertise and experiences among nations.

#### **OBJECTIVES OF THE MISSION**

The overall objective of the Mission is in line with EISA's attempts to promote credible elections and citizen participation and to strengthen political institutions for sustainable democracy in Africa.

Specifically, the Mission is deployed to:

- Assess whether the conditions exist for the conduct of elections that allow the people of Lesotho to freely express their will;

- Assess and determine whether the elections are conducted in accordance with the electoral legislative framework of Lesotho;
- Determine whether the final results of the electoral process as a whole reflect the wishes of the people of Lesotho;
- Assess whether the elections meet the benchmarks set out in the *Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO)*, developed under the auspices of EISA and the Electoral Commissions Forum of SADC Countries (ECF), the African Union Declaration on Principles Governing Democratic Elections in Africa, the Declaration of Principles on International Election Observation and the Code of Conduct for International Observation and the SADC Principles and Guidelines for Democratic Elections.

## **METHODOLOGY**

To enable the Mission to undertake an informed and objective assessment of the election, the Mission conducted the following:

- Obtained accreditation from the Lesotho Independent Electoral Commission;
- Obtained information on the electoral process from the Independent Electoral Commission;
- Met with academics, representatives of civil society, media and other stakeholders to acquaint itself with the electoral environment;
- Reported accurately with the android technologies on its observations and refer any irregularities to the Independent Electoral Commission;
- Observed all aspects of the election in those areas that it visited;
- Assessed if qualifying Lesotho citizens have been able to exercise their right to register as voters;
- Assessed if the registered voters have easy access to voting stations and that they are able to exercise their vote in secret; and
- Assessed the logistical arrangements to confirm if all the necessary material is available for voting to take place efficiently.

Members of the Mission were urged to observe strictly the Code of Conduct for observers drawn from the Declaration of Principles for International Election Observation of 2005, which EISA has endorsed.

Prior to the meetings and throughout its stay in Lesotho the Mission held a number of stakeholder meetings and was appraised of the political context in the run-up to the elections. Various stakeholders including political parties, academia, media and civil society organisations were invited to give their preliminary assessment of the electoral process. Senior leaders of the four major parties addressed the EISA Mission on the readiness of their parties for the elections and issues which they felt the Mission had to follow up. These were: the All Basotho Convention (ABC), Basotho National Party (BNP), Democratic Congress (DC) and Lesotho Congress for Democracy (LCD). The Mission was also briefed by the IEC Chairperson and senior officials of the Commission gaining first hand information on the IEC's election preparedness.

The EISA Mission worked closely with regional, continental and international missions. These included the Southern African Development Community (SADC), the African Union (AU), the Commonwealth and the Electoral Commissioners Forum of SADC (ECF). Through this joint co-operation the Mission leaders released a 'Joint Appeal' on the eve of the elections calling for all stakeholders to commit to a peaceful election. Mission leaders also issued a joint press release three days after voting on 27 May 2012 in which they congratulated Basotho electors for the peaceful elections and commended the IEC for its professionalism in handling the poll (see appendix 4).

In addition, a number of high-level meetings were also held, including a courtesy visit by the Mission Leader, His Excellency Mr Rupiah Banda to the Head of State of Lesotho, where the Mission Leader met with His Royal Highness, Prince Seeiso Seeiso, the regent during that week, met with His Excellency the Right Honourable Prime Minister Pakalitha Mosisili as well as met with other Heads of election observations missions, including His Excellency Dr Bakili Muluzi (former President of Malawi) representing the Commonwealth and Dr Yakubu Gowon (former President of Nigeria) representing the African Union.

## APPENDIX 3

### Joint Communiqué



### Joint Appeal by SADC, AU, Commonwealth and EISA Election Observer Missions on the eve of the 2012 Lesotho Parliamentary Elections

Maseru, 25 May 2012

1. On Africa Day, within the spirit of the African Union's 'Make Peace Happen' Campaign, and on the eve of the 2012 Parliamentary Elections in Lesotho, we, the Election Observer Missions of SADC, AU, Commonwealth and EISA, are delighted to have been invited by the Government, the Independent Electoral Commission and the People of Lesotho to observe and support the electoral process and the consolidation of democracy in Lesotho.
2. We call on all Basotho voters to exercise their democratic right and civic duty and participate massively and peacefully in tomorrow's elections.
3. Having met with all relevant stakeholders and having listened to their views about the process, we call on all stakeholders to ensure that the electoral process is brought to its conclusion in a peaceful manner, and in conformity with the Constitution and other laws of Lesotho, as well other regional, continental and international instruments and standards to which Lesotho has subscribed.
4. We urge all stakeholders to accept the outcome of the elections in the interest of peace, brotherhood, national interest and for the good of Africa.

For further enquiries, please contact:

SADC EOM: Dr Charles Mubita (cmubita@sadc.int or at +266 57 37 59 94)

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Commonwealth EOM: Mr Julius Mucunguzi (j.mucunguzi@commonwealth.int or at +266 57 40 84 12)

EISA EOM: Mr Victor Shale (victor@eisa.org.za or at +266 63 07 04 40)

## **Appendix 4**

### **Joint Press Release**



### **Joint Press Release by SADC, AU, Commonwealth and EISA Election Observer Missions on the 2012 Lesotho Parliamentary Elections**

**Maseru, 27 May 2012**

The Election Observer Missions of SADC, AU, Commonwealth and EISA to the 2012 Lesotho Parliamentary Elections, headed by Her Excellency Ambassador Zodwa Lallie, His Excellency General Dr Yakubu Gowon, His Excellency Dr Bakili Muluzi, and His Excellency Mr. Rupiah Banda, respectively, have observed the voting and counting processes in all ten districts of the country, and are currently following the tallying of results at constituency level.

We are delighted that the voting and counting took place in an atmosphere of peace and tranquility, and that the Basotho electors demonstrated commendable enthusiasm for, and strong commitment to their democratic process by turning out in significant numbers to cast their vote in a peaceful manner.

We would like to commend the Independent Electoral Commission of Lesotho for the professional and efficient manner in which they managed the entire electoral process, in particular the logistics of voting day.

We noted with satisfaction the outstanding and dedicated participation and performance of women and youth as electoral officials and party agents in the polling stations.

We call on all the stakeholders of the Lesotho electoral process to await the conclusion of the process with the same spirit of national unity, peace and solidarity.

We further urge all stakeholders to accept the outcome of the elections with

serenity, and in full respect for the Constitution of Lesotho and the democratic process. A special responsibility lies with the political leaders of Lesotho to continue to abide by their pre-election commitments to peace.

Each of the four Election Observer Missions will release its individual preliminary statement on the 2012 Lesotho Parliamentary Elections in the coming days.

## **Appendix 5**

### **Code of Conduct for Observers**

ELECTION OBSERVER MISSION  
2012 PARLIAMENTARY ELECTIONS IN LESOTHO  
26 MAY 2012

#### **CODE OF CONDUCT**

International election observation is widely accepted around the world. It is conducted by intergovernmental and international non-governmental organizations and associations in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held and for the benefit of the international community. Much therefore depends on ensuring the integrity of international election observation, and all who are part of this international election observation mission, including observers and leaders of the mission, must subscribe to and follow this Code of Conduct.

- **Respect Sovereignty and International Human Rights**

Elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognised human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect the sovereignty of the host country, as well as the human rights and fundamental freedoms of its people.

- **Respect the Laws of the Country and the Authority of Electoral Bodies**

Observers must respect the laws of the host country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election related rights guaranteed by law, constitution or applicable international instruments.

- **Respect the Integrity of the International Election Observation Mission**

Observers must respect and protect the integrity of the international election observation mission. This includes following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership.

Observers must: attend all of the observation mission's required briefings, trainings and debriefings; become familiar with the election law, regulations and other relevant laws as directed by the observation mission; and carefully adhere to the methodologies employed by the observation mission. Observers also must report to the leadership of the observation mission any conflicts of interest they may have and any improper behaviour they see conducted by other observers that are part of the mission.

- **Maintain Strict Political Impartiality at All Times**

Observers must maintain strict political impartiality at all times, including leisure time in the host country. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referenda issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors.

- **Do Not Obstruct Election Processes**

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this is prohibited by law, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

- **Provide Appropriate Identification**

Observers must display identification provided by the election observation mission, as well as identification required by national authorities, and must present it to electoral officials and other interested national authorities when requested.

- **Maintain Accuracy of Observations and Professionalism in Drawing Conclusions**

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence.

Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely. Observers also must keep a well documented record of where they observed, the observations made and other relevant information as required by the election observation mission and must turn in such documentation to the mission.

- **Refrain from Making Comments to the Public or the Media before the Mission Speaks**

Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership. Observers may explain the nature of the observation mission, its activities and other matters deemed appropriate by the observation mission and should refer the media or other interested persons to the those individuals designated by the observation mission.

- **Cooperate with Other Election Observers**

Observers must be aware of other election observation missions, both international and citizen, and cooperate with them as instructed by the leadership of the election observation mission.

- **Maintain Proper Personal Behaviour**

Observers must maintain proper personal behaviour and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

- **Violations of This Code of Conduct**

In a case of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the matter. If a serious violation is found to have occurred, the observer concerned may have their observer accreditation withdrawn or be dismissed from the election observation mission. The authority for such determinations rests solely with the leadership of the election observation mission.

- **Pledge to Follow This Code of Conduct**

Every person who participates in this election observation mission must read and understand this Code of Conduct and must sign a pledge to follow it.

## ABOUT EISA



EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance fields throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values and practices and to enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes: electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA was formerly the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is currently the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

### **VISION**

An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment

### **MISSION**

EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa

## **VALUES AND PRINCIPLES**

Key values and principles of governance that EISA believes in include:

- Regular free and fair elections
- Promoting democratic values
- Respect for fundamental human rights
- Due process of law / rule of law
- Constructive management of conflict
- Political tolerance
- Inclusive multiparty democracy
- Popular participation
- Transparency
- Gender equality
- Accountability
- Promoting electoral norms and standards

## **OBJECTIVES**

- To enhance electoral processes to ensure their inclusiveness and legitimacy
- To promote effective citizen participation in democratic processes to strengthen institutional accountability and responsiveness
- To strengthen governance institutions to ensure effective, accessible and sustainable democratic processes
- To promote principles, values and practices that lead to a culture of democracy and human rights
- To create a culture of excellence that leads to consistently high-quality products and services
- To position EISA as a leader that consistently influences policy and practice in the sector

## **CORE ACTIVITIES**

Research

Policy Dialogue

Publications and Documentation

Capacity Building

Election Observation

Technical Assistance

Balloting

## OBSERVER MISSION REPORTS

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CODE	TITLE
EOR 1	Mauritius Election Observation Mission Report, 2000
EOR 2	SADC Election Support Network Observer Mission's Report, 1999/2000
EOR 3	Tanzania Elections Observer Mission Report, 2001
EOR 4	Tanzania Gender Observer Mission Report, 2001
EOR 5	Zimbabwe Elections Observer Mission Report, 2001
EOR 6	South African Elections Observer Mission Report, Denis Kadima, 1999
EOR 7	Botswana Elections Observer Mission Report, Denis Kadima, 1999
EOR 8	Namibia Elections Report, Tom Lodge, 1999
EOR 9	Mozambique Elections Observer Mission Report, Denis Kadima, 1999
EOR 10	National & Provincial Election Results: South Africa June 1999
EOR 11	Elections in Swaziland, S. Rule, 1998
EOR 12	Lesotho Election, S. Rule, 1998
EOR 13	EISA Observer Mission Report, Zimbabwe Presidential Election 9-11 March, 2002 (P/C)
EOR 14	EISA Observer Mission Report, South Africa National and Provincial Elections 12-14 April 2004
EOR 15	EISA Observer Mission Report: Malawi Parliamentary and Presidential Elections 20 May 2004
EOR 16	EISA Observer Mission Report, Botswana Parliamentary and Local Government Elections 30 October 2004
EOR 17	EISA Observer Mission Report, Mozambique Parliamentary and Presidential Elections 1-2 December 2004
EOR 18	EISA Observer Mission Report, Namibia Presidential and National Assembly Elections 15-16 November 2004
EOR 19	EISA Observer Mission Report, Mauritius National Assembly Elections 3 July 2005
EOR 20	EISA Observer Mission Report, Tanzania Presidential, National Assembly and Local Government Elections 14 December 2005
EOR 21	EISA Observer Mission Report, The 2005 Constitutional Referendum in the DRC/ Le Référendum Constitutionnel en RDC 18-19 December 2005

- EOR 22 EISA Observer Mission Report, Zanzibar Presidential, House of Representatives and Local Government Elections 30 October 2005
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- EOR 24 EISA Observer Mission Report, Madagascar Presidential Elections 3 December 2006
- EOR 25 EISA Observer Mission Report, DRC Presidential, Parliamentary and Provincial Elections/Elections Presidentielles, Parlementaires et Provinciales 30 July and 29 October 2006
- EOR 26 EISA Election Observer Mission Report, Lesotho National Assembly Elections 17 February 2007
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- EOR 28 EISA Election Observer Mission Report, The Zimbabwe Harmonised Elections of 29 March 2008 Presidential, Parliamentary and Local Government Elections with Postscript on The Presidential Run-off of 27 June 2008 and the Multi-Party Agreement of 15 September 2008
- EOR 29 EISA Election Observer Mission Report, Swaziland House of Assembly Election 19 September 2008
- EOR 30 EISA Election Observer Mission Report, Malawi Presidential and Parliamentary Elections 19 May 2009
- EOR 31 EISA Election Observer Mission Report, Zambia Presidential By-Election 30 October 2008
- EOR 32 EISA Election Observer Mission Report, The Mozambique Presidential, Parliamentary and Provincial Elections of 28 October 2009
- EOR 33 EISA Technical Assessment Team Report, Mauritius National Assembly Elections 5 May 2010
- EOR 34 EISA Technical Observer Team Report, Namibia Presidential and National Assembly Elections 27 and 28 November 2009
- EOR 35 EISA Technical Assessment Team Report, Botswana Parliamentary and Local Government Elections 16 October 2009
- EOR 36 EISA Election Observer Mission Report South Africa, National And Provincial Elections 22 April 2009
- EOR 37 *Mission d'observation de l'élection présidentielle du 27 Juin et du deuxième tour du 07 Novembre 2010 en Guinée*
- EOR 38 EISA Election Observer Mission Report, Zanzibar Presidential, House of Representatives and Local Government Elections of 31 October 2010
- EOR 39 *Rapport Mission d'Observation Electorale : République Centrafricaine Elections Présidentielles et Législatives, 23 Janvier et Mars 2011*

- EOR 40 EISA Technical Assessment Team Report, The 2011 Seychelles Presidential Elections 19-21 May 2011
- EOR 41 EISA Technical Assessment Team Report Uganda, The Ugandan Presidential and Parliamentary Elections of 18 February 2011
- EOR 42 EISA Election Observer Mission Report Zambia, Presidential, Parliamentary and Local Government Elections, 20 September 2011
- EOR 43 EISA Election Witnessing Mission Report, Egypt, The People's Assembly and Shura Council Elections November 2011-February 2012
- EOR 44 EISA Technical Assessment Team and Election Observer Mission Report, Liberia, The 23 August 2011 Referendum, The 11 October 2011 Presidential, Senate and House of Representatives Elections, The 8 November 2011 Presidential Run-Off Election
- EOR 45 EISA Election Witnessing Mission Report Egypt, 23-24 May 2012, First Round of Presidential Election, 16-17 June 2012, Run-off Presidential Election