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# **Journal of African Elections**

Articles by

Jørgen Elklit  
Claude Kambuya Kabemba  
Susan Booyesen  
E. Kojo-Sakyi and Franklin Oduro  
Glenda Fick  
Denis Kadima  
Chris Landsberg

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# Lesotho 2002: Africa's first MMP elections

By  
Jørgen Elklit

*Dr Elklit is Professor of Political Science at the University of Aarhus, Denmark. In 2000 he was appointed International Advisor to the Lesotho IEC. Address: Department of Political Science, University of Aarhus, DK-8000 Aarhus C, Denmark. Tel. 45 8942 1259; Fax: 45 8613 9839; email: elklit@ps.au.dk*

## Introduction

A considerable part of the changes in electoral systems (or models) around the world during the past ten years or so has been two-tier systems, where some sort of overall proportionality is aimed at, while at the same time a considerable share of the parliamentary seats are (still) returned from (plurality/majority) elections in single-member constituencies. If the allocation of seats at the two levels is linked through some kind of compensatory linkage mechanism, one usually talks of mixed member proportional (MMP) electoral systems. If no such linkage exists, one usually talks of parallel systems, even though it has also been suggested that this particular electoral system category might be termed mixed member majoritarian (MMM).<sup>1</sup>

On 25 May 2002 Lesotho became the first African country to test the MMP electoral model in a parliamentary election. The elections went well and the results produced by the new MMP system represent a significant political and democratic achievement. There can be no doubt that the experiences from this first national level application of this electoral system to African soil will be studied carefully in many quarters, including outside the mountain kingdom. This is because discussions about possible electoral system changes are now part of the political discourse in many African countries or have been so recently. Countries where the MMP model has already been discussed include South Africa (where MMP is applied in local government elections), Tanzania, Zimbabwe and Mauritius.

MMP performed well in these elections, as the level of disproportionality between vote and seat shares declined dramatically compared to previous elections. The level of disproportionality would have been even lower, however, had it not been for some of the decisions taken regarding the number of seats in two categories: the surplus seats and the electoral threshold. One may therefore expect a discussion about the electoral system to take place in Lesotho's new national assembly, in order that some changes may be implemented before the next election.

It would, however, be a good idea to keep the electoral system as it is for at least three consecutive elections, in order to allow all stakeholders – political parties, the media, the Independent Electoral Commission (IEC), and the ordinary voters – a chance to fully understand the mechanics of the system before changes are considered.

This advice also applies to the arbitration award of October 1999, which states that after the first election, i.e. the one of May 2002, there should be 65 constituency seats and 65 compensatory seats. The administrative problems involved in decreasing the number of constituencies from 80 to 65 are not really worthwhile, and the overall increase in the number of seats (from 120 to 130) is certainly not recommended at present.

### 1998 and all that ...

The May 1998 Lesotho national assembly election was conducted using the first-past-the-post (FPTP) system, with 80 constituencies, of which the incumbent Lesotho Congress for Democracy (LCD) was able to take as many as 79. This outcome, however, was profoundly contested by the 11 opposition parties, and the following months saw increasing tension and, ultimately, public unrest.<sup>2</sup> The political events of 1998 and their causes and potential consequences have, however, been presented and analysed in quite a number of publications, and there is no need to repeat those accounts here.<sup>3</sup>

In the aftermath of the Southern African Development Community (SADC) intervention to restore order and political stability in September 1998, an agreement was reached which included the establishment of a new political institution, the Interim Political Authority (IPA). The IPA was to have 24 members, two from each party participating in the May 1998 elections; no matter how small, and its objective was:

to facilitate and promote, in conjunction with the Legislative and Executive structures in Lesotho, the preparation for the holding of general elections to be held within a period of 18 months from the date of the commencement of this Act by (a) creating and promoting conditions conducive to the holding of free and fair elections, (b) levelling the playing field for all political parties and candidates that seek to participate in the elections ...<sup>4</sup>

From the beginning, a number of problems were inherent in the way the IPA was structured and conceived. This was most likely because the structure of the IPA was modelled after the experiences learned from the South African multi-party negotiations, prior to the 1994 election, without its designers realising that the problems in Lesotho were not the same as those in South Africa in the early 1990s. One such problem was that all parties were represented by two members, which meant that the government had only two representatives compared to the opposition's 22. Likewise, no system was put in place to ensure a smooth and constructive relationship between the IPA majority and the government, which commanded a strong majority in the legislature, through which all legislation, including that emanating from the IPA, had to pass. Furthermore, the agreement to have fresh elections no later than May 2001 was not one which all members of the national assembly and the IPA were eager to implement, especially – but not only – those MPs who saw nothing wrong in the conduct of the 1998 elections and who even found support for that point of view in reports from international observers and the so-called Langa Report.

The result was as one would expect. From day one there was discussion and disagreement between the majority of the IPA and the LCD government and its majority in the national assembly. This also resulted in the IPA attempting to influence how the newly installed IEC should run its affairs (based on other unfortunate formulations in the IPA act, such as subsections 6(c) and (d)). However, the IEC was able to withstand the pressure most of the time and at the end of the day delivered reasonably acceptable elections.<sup>5</sup>

### The electoral model issue

Subsection 6(f) of the IPA act also mandated the authority "to review the Lesotho electoral system with a view to making it more democratic and representative of the people of Lesotho". This was only natural in view of the outcome of the 1998 elections, even though it is often forgotten that the FPTP electoral system has an in-built and intentional tendency to produce a result where the winner's share of the seats is higher (sometimes much higher) than its share of the votes. One can even argue that the purpose of this particular electoral system

is actually to produce clear winners, not proportional results. On 25 August 1999, however, the IPA decided to adopt the MMP model as the future electoral system in Lesotho, since it allowed adherence to the FPTP electoral system in single-member constituencies at the same time as providing for a strong proportional component in the overall seat allocation procedures. It took a further 18 months, however, to have this basic piece of legislation carried through Parliament, and it was only in March 2001 that the fourth amendment to the constitution was eventually gazetted.

One reason for this delay (which also destroyed the original election time-table) was that the political decision-making process was quite complicated because of the established system, whereby the IPA saw itself as the core decision-making agency in these matters because of the formulations in the IPA act, while the government and the Legislature were – strongly – of the opinion that their constitutionally enshrined powers and role in the legislative process had not in any way been changed by the new arrangements. The result was a lot of 'shadow-boxing', leading to a protracted and somewhat unstructured decision-making process, whereby various actors in various ways tried to contribute to the eventual compromise.

The two main elements under consideration were the electoral model as such (MMP or the parallel system) and the number of seats (and the balance between the two categories of seats). Other issues were dealt with more easily, partly because they attracted less attention.

#### *The electoral model*

The IPA advocated the MMP model from the beginning of the process, while the government/LCD apparently preferred the parallel system. Lesotho political life is notorious for being adversarial and confrontational, so it is no surprise that when one actor argued for one model, the other had to argue in favour of another model. But the fact that the MMP model will always produce more proportional results than the parallel system gave the IPA a clear propagandist advantage.

#### *The number of seats and the balance between constituency seats and compensatory (PR) seats*

Many had a strong interest (and not only the incumbents) in keeping the 80 single member constituencies, so the main question was the number of compensatory seats. The argument favoured by the IPA ran like this: the balance between the two kinds of seats should ideally be 50:50, as in Germany. One hundred and sixty seats ( $80 + 80$ ) are probably too many, so then consider reverting to the number of constituencies Lesotho had in earlier elections (65) and make it 130 ( $65 + 65$ ). However, as most politicians would like to keep the 80-constituencies, why not make it 80 constituency seats and then have 50 compensatory seats in the first general elections, which would also give 130 seats overall? Then we can always return to the 50:50 principle later, most obviously by reducing the number of constituencies from 80 to 65 (and forgetting about delimitation problems for the time being). So the IPA position was  $80 + 50$ . The government claimed that 40 compensatory seats would be enough and its internal reasoning was apparently that if they did as well in the coming elections in the constituencies as in 1998, LCD candidates might sweep the country, giving all 80 constituency seats (or at least most of them) to the government side, and with their preferred parallel system, also a 'fair' share of the PR seats. This would give the government more than two-thirds of all seats, enough to amend the constitution (if there were no problems with the senate, which is always a possibility).

The eventual compromise took some time to reach, but it was actually not too difficult.

The IPA had its MMP model accepted, while the government's position on the numbers issue prevailed, so that there were to be 80 constituencies (at least in the first elections) and 40 compensatory seats. The external pressure to reach a compromise – i.e., to allow the process to progress – was considerable, but it is the author's assessment that the eventual willingness on both sides to give concessions in order to find a solution also contributed substantially to the solution reached.

#### *Other issues*

A number of other issues were taken up by the IPA when put before it, but apparently they were not given much attention, in spite of their potential importance. The most important of these issues were:

- ♦ the overall PR-formula. *Solution:* Hare quota + largest remainders, as it provides for the highest level of proportionality;<sup>6</sup>
- ♦ electoral threshold. *Solution:* no formal threshold (but obviously a natural threshold around 0.83%). The decision not to have a formal threshold was strongly supported by the many smaller parties in the IPA, but it also found moral support in the fact that South Africa has no formal electoral threshold;
- ♦ surplus seats. The MMP system can lead to situations where it is not possible to fully compensate all parties, because some other parties have won more constituency seats than their overall proportional entitlement. One solution to this problem is to add the necessary number of compensatory seats for the time of the next parliament (as is done in Germany). Another solution is to make the number of compensatory seats unchangeable, but if this situation arises, to allocate the compensatory seats as proportionally and fairly as possible within the number of seats available. The latter solution was chosen in Lesotho, partly because it was seen as being connected to the general discussion about the size of the national assembly;
- ♦ death of a candidate before the election. Lesotho's electoral law has a provision that the death of a constituency candidate before election day requires that a fresh election be conducted in the constituency concerned at a later point. This happened, for example, in 1998, and it was realised that it could happen again, which could then – at least under certain circumstances – delay the government formation process. It was therefore decided to amend the electoral act by making it clear that the allocation of the 40 compensatory seats should in any case take place immediately after the general election, on the basis of all party votes (obviously), but only including those constituency returns which were immediately available; and
- ♦ crossing the floor. This is a major issue in many emerging democracies, especially when some kind of proportional electoral system is being introduced. The topic was also debated in Lesotho, which was particularly appropriate as the country has a long record of party splitting and floor crossing, the latest occurring only some months before the dissolution of Parliament, when the governing LCD split and the deputy prime minister and minister of finance, Honourable Kelebone A Maope, walked away with more than a third of the party. The interesting solution chosen was that MPs elected in constituencies can cross the floor (as before), while the 40 members on compensatory seats (i.e., those coming from the party lists) are not entitled to do so. It is an interesting variant on crossing the floor regulations and it remains to be seen how it will work.

The change of electoral system required an amendment to the constitution. Amendments of this kind either require a two-thirds majority in both houses or acceptance of the proposal



in a popular referendum. A referendum was not really an option because it would require a completed final voters' register, which was not easily achievable, and certainly not within the timeframe available. Therefore, it was a major step forward when the proposed amendments were eventually passed with the required majorities in the national assembly as well as in the senate.

The electoral process could then progress further, with preparations for voter registration, preparations for the passing of the necessary amendments to the electoral act (in operation from 7 January 2002), and planning of the voter education drive, which should educate voters on the new electoral model and explain why they would be given two ballots on election day.

## The results

Election day was Saturday 25 May 2002, and according to all reports from the field – as well as observer reports – the elections went well from an administrative and staff performance point of view. The issue of what is required for declaring elections free and fair will not be taken up here,<sup>7</sup> where the focal point is primarily the new electoral system and how it performed.

Seat allocation under the new Lesotho MMP system takes place in one or several rounds, depending on the actual results. In this particular election two rounds of allocation were required, as illustrated by Tables 1 and 2.<sup>8</sup> Table 1 illustrates how seats were allocated in the first round, where a number of steps have to be performed, in accordance with schedule 5 of the amended electoral act.<sup>9</sup>

- 1) The sum of party votes for all 16 parties running for party votes (column 1) was divided by 118 to obtain the quota of votes, which is 4699 ( $554\,386/118 = 4\,698.19$ , which is increased to the next integer, 4699). The total number of votes is divided by 118, not 120, as there were failed elections in two constituencies because of deaths (and because no independents were elected in the constituencies);
- 2) each party's total vote was then divided by the quota to obtain the party's quota of votes (column 2);
- 3) the number of seats each party is entitled to, based on full quotas, is seen in column 3. The figure is the figure in front of the commas in column 2. The sum of these figures is only 111, which means that an additional seven seats must be allocated based on largest remainders;
- 4) column 4 gives the remainder of votes, and column 5 ranks the seven highest in declining order (seven because there are seven more seats to be filled). The parties with these seven remainders all get one more compensatory seat, to reach the total number of seats, which they are provisionally allocated, as indicated in column 6. The sum of these provisional allocations is 118, as it should be;
- 5) column 7 gives the number of constituency seats won by the parties, 77 by the LCD, 1 by the Lesotho Peoples' Congress (LPC) (Kelebone Moape);
- 6) the number of constituency seats won (column 7) is then deducted from the parties' overall provisional allocation of seats (column 6), resulting in the provisional allocation of *compensatory seats* (column 8). As it turns out, 52 compensatory seats would have been required to have a fully proportional allocation, because LCD won 12 more seats than its proportional entitlement (77 instead of 65). Consequently, a second round of allocation must be conducted between the nine parties, which have less than their proportional entitlement of seats. Details of this allocation are seen in Table 2.

Table 1. Final Seat Allocation, First Round

	Total party votes (valid votes)	Party's quota of votes	Allocation based on full quotas	Remainder of votes (equivalent to highest decimal fractions)	Rank	Party's provisional allocation of total number of seats	Constituencies won by party	Party's provisional allocation of compen- satory seats
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Basotho National Party	124 234	26.43839	26	2 060	7	27	0	27
Basutoland African Congress	16 095	3.425197	3	1 998		3	0	3
Basutoland Congress Party	14 584	3.10364	3	487		3	0	3
Christian Democratic Party	1 919	0.40838	0	1 919		0	0	0
Khoeetsa ea Scheabab/ Popular Front for Democracy	6 330	1.34710	1	1 631		1	0	1
Kopanang Basotho Party	1 155	0.24580	0	1 155		0	0	0
Lesotho Congress for Democracy	304 316	64.76186	64	3 580	3	65	77	N/a
Lesotho Peoples' Congress	32 046	6.81975	6	3 852	2	7	1	6
Lesotho Workers Party	7 788	1.65737	1	3 089	4	2	0	2
Mammatlou Freedom Party	6 890	1.46627	1	2 191	5	2	0	2
National Independent Party	30 346	6.45797	6	2 152	6	7	0	7
National Progressive Party	3 985	0.84805	0	3 985	1	1	0	1
New Lesotho's Freedom Party	1 671	0.35561	0	1 671		0	0	0
Sefate Democratic Union	1 584	0.33709	0	1 584		0	0	0
Social Democratic Union	542	0.11534	0	542		0	0	0
United Party	901	0.19174	0	901		0	0	0
Independent candidates	-	-	-	-	-	-	0	-
Totals	554 386	118	111	32 797	-	118	78	52

Quota of votes: 4 699; overall number of seats 120; 2 failed elections; 118 seats to be allocated.

Table 2 only includes the nine parties, which in the first round received less than their proportional share of the seats. The steps to be followed in this second round are exactly the same as in the first round, but obviously the number of seats available is less than in the first round (41) and the quota is therefore higher (5910 against 4699 in the first round). But the sum of compensatory seats is eventually 40, which means that this round is also the final round. It is interesting to note that one of the smaller parties, the National Progressive Party, was able to win a seat with fewer votes than the overall quota. This possibility had been discussed on various occasions, but the many smaller parties in the IPA had no objections to this consequence of having no formal threshold.

Table 3 then summarises the entire seat allocation, in order to allow a comparison of vote shares and seat shares in this first MMP election in Lesotho. The percentages in columns 5 and 6 demonstrate that a much better correspondence between vote shares and seat shares has been achieved than was the case in 1998, so the primary aim of the electoral system change has definitely been achieved and the actors in the post-1998 political process must all be congratulated.

Correspondence between vote and seat shares is often measured using an index of disproportionality, which was developed by Michael Gallagher.<sup>10</sup> The level of this index is usually between 1 and 20 in African countries,<sup>11</sup> but the disproportionality index value for Lesotho in the 1998 election was as high as 32.5. For the May 2002 election, this value has decreased to a much more decent 8.2, i.e., it has been decreased by a factor of four, which very clearly summarises the impact of the changes from the previous FPTP electoral system to the current MMP system. The low level of disproportionality is also influenced by the six smaller parties winning representation in the new national assembly because of the proportionality measures, in spite of all having vote shares below three per cent.

It should be remembered, however, that the index value would have been even lower had it not been for the decisions taken regarding the number of seats in the two categories and the unavailability of surplus seats. Therefore, it would not be surprising if some opposition parties would like to raise a discussion about some of the features of the electoral system in the new national assembly, hoping perhaps to have them changed before the next election.

The author's advice would be to keep the electoral model as it is for at least three consecutive elections. This would allow all – political parties, the media, the IEC and the ordinary voters – a chance to understand the mechanics of the system fully before changes are considered. This advice also applies to the arbitration award of October 1999, which states that after the first election there should be 65 constituency seats and 65 compensatory seats. The political and administrative operations involved in decreasing the number of constituencies from 80 to 65 are not really worthwhile, and the overall increase in the number of seats (from 120 to 130) certainly should be reconsidered. So the author's suggestion would be – based, *inter alia*, on his experience as an electoral system advisor in Lesotho – that this particular arbitration award be filed and not retrieved for a considerable period of time and at least not before Lesotho has had another couple of general elections.

Table 2. Final Seat Allocation, Second (and Final) Round

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Total party votes (valid votes)	Party's quota of votes	Allocation based on full quotas	Remainder of votes (equivalent to highest decimal fractions)	Rank	Party's provisional allocation of total seats	Constituencies won by party	Party's provisional allocation of compulsory seats
Basotho National Party	124,234	21,02098	21	124		21	0	21
Basutoland African Congress	16,095	2,72335	2	4,275	1	3	0	3
Basutoland Congress Party	14,584	2,46768	2	2,764	3	3	0	3
Khoeetsa ea Scheaba/								
Popular Front for Democracy	6,330	1,07107	1	420		1	0	1
Lesotho Peoples' Congress	32,046	5,42234	5	2,496		5	1	4
Lesotho Workers Party	7,788	1,31777	1	1,878		1	0	1
Mammatlou Freedom Party	6,890	1,16582	1	980		1	0	1
National Independent Party	30,346	5,13469	5	796		5	0	5
National Progressive Party	3,985	0,67428	0	3,985	2	1	0	1
Totals	242,298	41	38	17,718	3	41	1	40

Quota of votes: 5 910; 41 seats to be allocated in this round

Table 3. Summary of Seat Allocation and Per Cent Votes and Seats

	(1) Total party votes (valid votes)	(2) Constituencies won by party	(3) Party's allocation of compensatory seats	(4) Total number of seats	(5) Percent party votes (party votes)	(6) Percent seats won (constituency seats + compensatory seats)
Basotho National Party	124 234	0	21	21	22.4	17.8
Basutoland African Congress	16 095	0	3	3	2.9	2.5
Basutoland Congress Party	14 584	0	3	3	2.6	2.5
Christian Democratic Party	1 919	0	0	0	0.3	0.0
Khoetsa ea Scheaba/ Popular Front for Democracy	6 330	0	1	1	1.1	0.8
Kopanang Basotho Party	1 155	0	0	0	0.2	0.0
Lesotho Congress for Democracy	304 316	77	0	77	54.9	65.3
Lesotho Peoples' Congress	32 046	1	4	5	5.8	4.2
Lesotho Workers Party	7 788	0	1	1	1.4	0.8
Mammatlou Freedom Party	6 890	0	1	1	1.2	0.8
National Independent Party	30 346	0	5	5	5.5	4.2
National Progressive Party	3 985	0	1	1	0.7	0.8
New Lesotho's Freedom Party	1 671	0	0	0	0.3	0.0
Sefate Democratic Union	1 584	0	0	0	0.3	0.0
Social Democratic Union	542	0	0	0	0.1	0.0
United Party	901	0	0	0	0.2	0.0
Independent candidates	-	0	-	0	-	0.0
Totals	554 386	78	40	118	100	100

Note: Three other parties participated in the constituency elections; they won no seats and they are not included here, as they did not qualify for participation in

### Endnotes

- 1 Shugart and Wattenberg, 2001, p 15; Reynold and Reilly, 1997.
- 2 Engel, 1999, p 497.
- 3 Matlosa, 1999; Rule, 2000, pp.259-283; Sekatle, 1999; Southall, 1999; Southall and Fox, 1999 are some of the most relevant texts.
- 4 Interim Political Authority Act 1998, section 4.
- 5 Southall, 2002.
- 6 Lijphart, 1986, p 178.
- 7 For a general discussion of this topic, see Elklit & Svensson, 1997.
- 8 The three tables used in this paper are replicas of tables presented at the Lesotho National Elections Result Centre on 29 May 2002, when the final results were announced.
- 9 Further details can be found on the IEC website, <http://www.eisa.org.za/VEP/lesotho.htm>.
- 10 Gallagher, 1991.
- 11 Elklit and Reynolds, 2002 (forthcoming). Table 3 gives some disproportionality index values.

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