THE 2007 GENERAL ELECTION IN LESOTHO
Managing the Post-Election Conflict

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ABSTRACT

The optimism triggered by Lesotho's transition from military dictatorship to multiparty democracy and the reform of the electoral system from the first-past-the-post (FPTP) system to the mixed member proportional (MMP) system may be fizzling out. In 1993 the country underwent an historic transition from military dictatorship to embrace multiparty democracy through an epoch-making election. Since then it has held four multiparty elections. The first two (1993 and 1998) were held on the basis of the FPTP electoral system, while the latest two (2002 and 2007) were held on the basis of the new MMP system. However, the extent to which these multiparty elections have added value to democratisation in the country still remains moot. Almost all the elections held under the FPTP system were contentious and their outcomes evoked both violent and non-violent responses from defeated parties. Following the introduction of the MMP system there were high expectations that levels of violent conflict would subside. This was indeed the case after the 2002 general election, but this trend changed after the 2007 election, which was marred by violence which triggered direct intervention from the Southern African Development Community.

INTRODUCTION

The political transition of the early 1990s notwithstanding, Lesotho's political development is still marked by three main threats, namely 'violent conflict', 'factionalism' and 'instability'. 'Conflict' is the hallmark of politics (especially electoral politics) because it illustrates the incompatibility of values, interests, and goals of political actors, but once conflict turns violent and belligerents seek violent means of resolving it it becomes counterproductive to a democratic process.

'Factionalism' in politics is a testimony to deep-seated divisions which mark society as a whole and may also adversely affect such democratic institutions as

political parties through faction-fighting and splits. 'Instability' denotes lack of orderly conduct of politics within the framework of the rules of the game as enshrined in a country's constitution, electoral laws and regulations, and code of conduct, all of which are meant to ensure that democratic principles are respected and a culture of political tolerance is embedded in political discourse.

The key question, then, is how do conflict, factionalism and instability manifest themselves in Lesotho today and what impact do they have on the quality of elections and sustainability of the country's multiparty democracy. The Lesotho political system is characterised by conflict (often violent conflict around elections), which tends to tarnish the electoral process and its outcomes and, in the final analysis, undermines the democratisation process that began in 1993.

These election-related disputes are often not managed constructively. Belligerents frequently seek violent means of resolving them, which leads to escalation rather than de-escalation of the conflict. If they do not pursue violent means of resolving the disputes they exhaust their energies in legal battles. Local mediation efforts have been tried (largely by civil society and faith-based organisations), but these are rarely successful and leave the country totally dependent on external assistance to manage its conflicts.

Often, national dialogue is lacking and efforts to resolve post-election crises are left to the political elite. Factionalism in Lesotho is a clear testimony to the high level of political polarisation in the country, a polarisation that runs so deep that some keen observers have argued that since independence Lesotho has never embraced a single or common national purpose (Khaketla 1972; Bardill & Cobbe 1985; Weisfelder 1999). Only recently has the country embraced a National Vision 2020 and the extent to which all key political actors buy into this vision and are committed to its full realisation remains to be seen.

One would have imagined that in a relatively homogenous society like Lesotho it would be relatively easy to construct a commonly shared national purpose, national identity, and national vision. Ironically, this does not seem to be the case. The stark reality is that political polarisation in the country runs quite deep, even in the context of socio-cultural homogeneity, a factor that remains an enigma to political observers accustomed to the fact that polarisation in many African societies is linked to socio-cultural heterogeneity.

Conflict in states like Rwanda, Burundi, and Somalia, which are comparable in geographic and economic size to Lesotho, has often been linked to their diverse ethnic cleavages but in Lesotho such ethnic cleavage cannot be an explanation at all. Instead, polarisation is explained by the centralisation of power within a small elite in both the ruling and the opposition parties which shapes the country's politics. This polarisation is reinforced by personality cults – a trend that reduces political institutions to individuals and turns individual politicians into institutions.

Both centralisation of power and the personality cult testify to a lack of intra-party democracy in Lesotho (see Matlosa & Sello; 2005 Kadima, Matlosa & Shale 2006). The combined effect of conflict and factionalism in Lesotho is political instability, which manifests in various ways, including contestation over the legitimacy of institutions and over election outcomes. In the normal democratic process there is nothing wrong with such contestation but something is wrong if it triggers political violence and the resolution is sought by violent means.

Election-related disputes are becoming a major challenge for new democracies in Africa, as the recent Nigerian (2007), Sierra Leonean (2007), Kenyan (2007), and Zimbabwean (2008) elections demonstrate vividly. While all over the African continent elections are marked by conflict of various types, the intensity of these conflicts in Lesotho is becoming an increasingly worrying trend, with devastating implications for democracy and development. The post-election conflict in 1998 led to protracted violence which nearly plunged the country into a devastating civil war. The conflict was contained by a combination of internal and external efforts, the latter including military and diplomatic interventions by South Africa and Botswana. Internal efforts aimed at managing the 1998 conflict included attempts by civil society organisations to bring the belligerent parties to the negotiating table to reach an amicable settlement.

These efforts led to the establishment of the Interim Political Authority (IPA), which facilitated, among other things, the reform of the electoral model away from the FPTP system and the adoption of the MMP system, which is a combination of FPTP and the party-list proportional representation (PR) system whereby 80 of the 120 seats in Lesotho's National Assembly are filled by FPTP and the remaining 40 by PR. The 40 PR seats were intended to compensate smaller political parties who lacked the political muscle to garner sufficient votes to capture constituencies, yet had enough support throughout the country to warrant participation in the National Assembly.

It was generally assumed that the MMP system would facilitate the transformation of Lesotho's political culture away from adversarial and towards consensual politics. This seemed to be the case with the 2002 general election and the 2005 local government elections, which came and went smoothly. If, indeed, the reform of the electoral model did bring about relative political stability in Lesotho it was an ephemeral respite, judging by the developments that surrounded the 2007 general election. The political cloud that hovered over the process and outcome of this election suggests that Lesotho is not yet out of the woods. This paper explains why Lesotho is unstable, highlights how the 2007 general election became a hotly contested issue among the key political role players, and assesses the post-election conflict and measures underway to resolve the conflict.

The paper is divided into six sections. The second provides a contextual background to electoral politics in Lesotho; the third teases out the key factors that propel political instability in the country; the fourth focuses specifically on the 2007 general election and investigates how and why the election aftermath was marred by conflicts. Section five addresses the magnitude of the post-election conflict and strategies used to resolve the disputes. The conclusion sums up the main argument.

CONTEXTUAL FRAMEWORK: CONTEMPORARY ELECTORAL POLITICS IN LESOTHO

In this discussion context is crucial, if only to illustrate continuity and discontinuity in the patterns of election-related conflict in Lesotho's contemporary politics.

Almost all general elections in Lesotho have triggered post-election conflict, either covert or overt; either non-violent or violent. It is, therefore, important to set the stage for any discussion with a brief outline of political developments since 1993. The choice of 1993 as a starting point for this contextual background is predicated upon the fact that that year marked the transition from authoritarian rule to the current multiparty democracy in the country.

Clearly elections cannot be equated with democracy – Lesotho has held four general elections since the 1993 transition and, ordinarily, the country would now be set on a path of stable democracy. Political competition, tolerance, and constructive management of political conflict should have become habitual since the 1993 transition. Instead the country continues to experience intermittent conflicts which threaten the long-term sustainability and consolidation of democracy.

It will become clear, therefore, that, despite the country's historic democratic transition of 1993, conflict, factionalism and instability have continued to lurk in the background as serious threats to the sustainability and consolidation of its democracy. In order to provide a contextual background to the discussion post-1993 political developments in Lesotho have been classified as two epochs: (a) fragile democracy spanning the period 1993-2002 and (b) a relatively stable democracy from 2002 to date.

The Epoch of Fragile Democracy

Following the democratic transition Lesotho entered an era of fragile democracy between 1993 and 2002 in which multiparty democracy was reintroduced. Both external and internal factors drove this historic political transition. The key external factors included the end of the Cold War, donor pressure applied by imposing

political conditions on aid, and the demise of apartheid in South Africa (see Matlosa 1997). The key internal factors included civil society agitation for democracy and respect for human rights.

These new political developments were ushered in by the first democratic election since the abortive one of 1970. The 1993 election delivered a landslide victory for the Basutoland Congress Party (BCP) and many observers interpreted this outcome as the 'righting of the 1970 wrong', when the BCP was denied its rightful claim to state power (Southall & Petlane 1995). The BCP won 74,7 per cent of the total votes and secured all 65 parliamentary seats (see Table 1). Despite the fact that it won 22,6 per cent of the votes, the Basotho National Party (BNP) did not get even a single seat in the legislature. This skewed distribution of seats demonstrated, in part, the serious deficiencies of Lesotho's FPTP electoral model, inherited from Britain as part of the Westminster constitutional arrangement.

Table 1
General Election for the National Assembly, 1993

Contestants	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
Total	**532 978**	**100***	**65**

Source: Southall & Petlane 1995
* Figure rounded up

Despite the excitement and enthusiasm that greeted the onset of multiparty democracy following decades of authoritarian rule, both civilian and military, Lesotho's democracy remained fragile and, in many respects, enfeebled, qualities which manifested themselves mainly in political instability and violent conflict among the key governance institutions, the monarchy, the executive, the legislature, the judiciary, the public service, political parties, the army, and the police.

In the end, the state was not only severely weakened, it was almost paralysed and rendered dysfunctional. Lesotho's young democracy immediately became a turbulent and conflict-ridden political experiment, mainly due to three factors: a power struggle between and among the political elite (contestation over state power), struggle over meagre resources, access to which is facilitated by control

of the state machinery (resource/state conflict), and personalisation, rather than institutionalisation, of the political process (personality cult syndrome).

Fragile though it was, with overt deficits, it was still a multiparty democratic dispensation and surely a step in the right direction. The most encouraging signs of Lesotho's multiparty democracy between 1993 and 2002 have clearly been the regular holding of general elections, despite a variety of election-related conflicts. Lesotho's second general election was held in 1998. As in the 1993 election participation was relatively high, with a voter turnout of more than 60 per cent.

Serious problems of factionalism and faction fighting within political parties led to splits, particularly around election time. Thus, in 1997 (as the 1998 election loomed), the ruling BCP suffered a major split, which, in turn, divided the then one-party Parliament. A new party, the Lesotho Congress for Democracy (LCD), was established, led by the BCP's political icon, Ntsu Mokhehle, the then prime minister. Members of the LCD constituted a majority in Parliament and crossed the floor en masse. Given Lesotho's British-style parliamentary democracy, this development was permissible constitutionally, although it left a very sour taste.

The BCP, which had won a general election overwhelmingly about four years previously and had thus formed the first democratic government after the military interregnum, was relegated to an opposition party by means of the Machiavellian politics Mokhehle had mastered since he founded the party in 1952. Thus, when the 1998 election took place, a new kid entered the political fray. The LCD took part in the race, with its political muscle strengthened by two main advantages: the popularity of its leader, and the control and strategic utilisation of state resources for political mileage. It was, thus, to be expected that the LCD would win the election, but what was alarming was the extent of its victory, as reflected in Table 2.

Table 2
General Election for the National Assembly, 1998

Contestants	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
Total	**583 619**	**100***	**80**

Source: Independent Electoral Commission (IEC), Provisional Results, 27 May 1998
*Figure rounded up

Despite the fact that the 1998 election was proclaimed by many international observers as free and fair it was almost immediately followed by the worst violent conflict ever in Lesotho's history, involving the government and some opposition parties, including the BNP and BCP – an astonishing alliance of two historical political arch-rivals accidentally brought together by the emergence of the LCD.

Opposition parties contested the election outcome, but it was evident that the split in the BCP had triggered a deep sense of bitterness within the party. This bitterness presented the BNP with a golden opportunity to join forces with the BCP and challenge the election outcome. The conflict escalated into large-scale violence and the government sought intervention from South Africa, which, jointly with Botswana, intervened militarily and diplomatically to quell the political instability (Santho 1998b; Matlosa 1999 and 2001; Vale 2003). The military front of the external intervention involved deployment of the Botswana and South African defence forces in Lesotho with a view to disarming soldiers sympathetic to the opposition. The diplomatic front involved, among others, negotiations involving belligerent parties and aimed at initiating constitutional and electoral reforms.

A vivid illustration of the fragility of Lesotho's new-found democracy between 1993 and 2002 relates to the state of political rights and civil liberties during this period. Table 3 depicts the rating by the US-based global democracy assessment think tank, Freedom House, of Lesotho's democracy between 1994 and 2001 in relation to political rights and civil liberties.

Table 3
Freedom House Rating for Lesotho, 1994-2001

Year	Political Rights (PL)	Civil Liberties (CL)	Status
1994	3	4	Partly Free
1995	4	4	Partly Free
1996	4	4	Partly Free
1997	4	4	Partly Free
1998	4	4	Partly Free
1999	4	4	Partly Free
2000	4	4	Partly Free
2001	4	4	Partly Free

Source: Freedom House, *Freedom in the World Report 2004*

Freedom House, which assesses the state of democracy in countries throughout the world, basis its assessments on a rating ranging between 1 (most free) and 7 (least free) (Freedom House 2007, p 27). Countries are scored in three main categories: free, partly free, and not free. In those countries classified as free there is 'broad scope for open political competition, a climate of respect for civil liberties, significant independent civil life, and independent media (Freedom House 2007, p 2). In countries classified as partly free (such as Lesotho between 1994 and 2001) 'there is limited respect for political rights and civil liberties. Partly free states frequently suffer from an environment of corruption, weak rule of law, ethnic and religious strife, and often a setting in which a single political party enjoys dominance despite the façade of limited pluralism' (Freedom House 2007, p 2). In those countries classified as not free 'basic political rights are absent and basic civil liberties are widely and systematically denied' (Freedom House 2007, p 2). While Lesotho was considered a partly free country during its era of fragile democracy, with some modicum of political stability brought about, inter alia, by the electoral reforms of 2002, its rating improved somewhat, as will become clear in the next sub-section.

The Era of Relatively Stable Democracy: 2002 to Date

The current phase of Lesotho's political development is marked by a relatively stable multiparty democracy. Key institutions of democracy are becoming increasingly vibrant, although they still lack capacity.

These institutions include the three main arms of government (the executive, the legislature and the judiciary), political parties, civil society organisations, statutory watchdog institutions such as the Independent Electoral Commission (IEC), the Auditor-General and the Ombudsman. The media (print and electronic) have also become more vibrant and continuously keep government in check. Local government structures have been revamped and restructured to provide an organic link between central and local governance and development efforts.

Although they were characterised by low voter turnout (less than 40%) the local government elections held in May 2005 represent a significant political development in Lesotho's local governance. Equally important for the country's democracy in this current era has been a demonstrable improvement in the state of political rights and civil liberties, especially between 2002 and 2007, as illustrated in Table 4.

Table 3 shows that the rating of Lesotho's political rights and civil liberties placed the country in the category partly free between 1994 and 2001. Table 4 depicts an improvement in this rating, indicating that the country is now considered to be free.

Table 4
Freedom House Rating for Lesotho, 2002-2006

Year	Political Rights (PL)	Civil Liberties (CL)	Status
2002	2	3	Free
2003	2	3	Free
2004	2	3	Free
2005	2	3	Free
2006	2	3	Free

Source: Freedom House, *Freedom in the World Report 2004*; Freedom House, *Freedom in World Report, 2006*; Freedom House, *Freedom in the World 2007: Selected Data from Freedom House's Annual Global Survey of Political Rights and Civil Liberties*

This era of Lesotho's political development has been marked by prudent electoral and constitutional engineering triggered by the political instability of 1993-1998 and culminating in the electoral reforms of 2002 (Elklit 2002, 2005) and the on-going parliamentary reforms that began in earnest in 2003 (Elklit 2003; Makoa 2005).

The constitutional and electoral reforms introduced by the government and the Interim Political Authority (IPA) brought important changes to Lesotho's electoral politics: the FPTP electoral system was replaced by the MMP system, the number of seats in Parliament was increased from 80 to 120; of the total 120 seats 80 are contested at constituency level and the remaining 40 are determined on the basis of a closed party-list PR; two separate ballot papers are used – one for the election of constituency-based MPs, the other for elections of parties; for the purpose of election of party-based MPs, political parties are required to present their lists of candidates to the IEC and this list is used to allocate the 40 compensatory seats; and if an MP has to be replaced this is done through a by-election in the case of the 80 constituency-based seats and through the pre-existing party list in the case of PR-based seats.

One of the most important outcomes of Lesotho's electoral reform was the extent to which it broadened the representation of political parties in Parliament and, by extension, gave more representation to public opinion. Table 5 indicates that electoral reform has had a positive effect in broadening party political representation in the National Assembly, which has been transformed from a monoparty to a multiparty institution.

Table 5
General Election for the National Assembly, 2002

Main Parties	No of votes	% of votes	No of seats
Lesotho Congress for Democracy	304 316	54,8	77
Basotho National Party	124 234	22,4	21
Basutoland African Congress	16 095	2,9	3
Basutoland Congress Party	14 584	2,7	3
Lesotho Peoples' Congress	32 046	5,8	5
National Independence Party	30 346	5,5	5
Lesotho Workers Party	7 788	1,4	1
Marema-Tlou Freedom Party	6 890	1,2	1
Popular Front for Democracy	6 330	1,1	1
National Progressive Party	3 985	0,7	1
Total	**546 614**	**100***	**118**

Source: Independent Electoral Commission (IEC), Results of the 2002 General Election
*Figure rounded up

In view of Lesotho's relatively stable multiparty democracy since 2002 and its classification by Freedom House as a free country, to what extent do the conflicts that followed the 2007 election represent a political reversal? How do we explain the recurring incidents of political instability that mark the country's electoral politics, including those that followed the most recent general election, which was held at a time of relative stability? It is to these and other related questions that the next section turns.

A THEORETICAL EXPLORATION OF THE ROOTS OF INSTABILITY IN LESOTHO

It is not easy to pinpoint the main causes of political instability in Lesotho. This is partly because political developments in the country are so unpredictable that, in many instances, they defy textbook definitions of the way politics is conducted. Because of the extreme fluidity and unpredictability of Lesotho politics, therefore, many of the problems that confront the country are extremely daunting, straining the democratic process, unable to be resolved internally, and often requiring diplomatic and/or even military intervention from outside the country's borders.

A tremendous amount of optimism greeted the transition from military rule to a democratic multiparty dispensation in 1993, and it was assumed that the country would steer its political system towards sustainable democracy. However, as indicated above, since then, this political optimism has been punctuated by scepticism prompted by the fact that the country's democratisation has not yet been set on a smooth, seamless, and sustainable path.

Much of the optimism about the country's democratic 'renaissance' was predicated upon a plethora of reforms that had been instituted since the mid-1990s, including security sector reforms, public service reforms, parliamentary reforms, local government reforms, and, equally importantly, electoral system reforms. All these changes, which constituted a positive development aimed at strengthening the institutional framework of democratic governance, explain why relative political stability has existed in Lesotho.

It was largely thanks to these reforms, especially those pertaining to elections, that the general election of 2002 was not marred by violent conflict, as were the previous post-transition elections (notably those of 1993 and 1998). It is also instructive that the local government election of 2005 was not marked by violent post-election conflict. These developments provided a sense of hope that perhaps the small, landlocked and impoverished mountain kingdom had finally found the right formula for sustainable democracy, long-lasting political stability and durable peace. However, the fluidity and unpredictability of Lesotho politics rendered this hope ephemeral.

In order to understand and explain the recurrent spasms of instability in Lesotho two distinct, albeit complementary, modes of analysis will be used, namely institutional-functionalism and structuralism. The former 'explains instability by focusing on the interface between institutionalisation and political participation, while the latter gives pride of place to social stratification and the configuration of power relations among social forces within and without the ambit of the state' (Matlosa 1997, p 98).

In respect of institutional-functionalism, I take a leaf from the seminal work of the renowned American political scientist, Samuel Huntington, in his book entitled *Political Order in Changing Societies*, published in 1968. In that book, which has now become a classic in political science, Huntington propounds an interesting theory of the causes and consequences of political disorder, or what he also refers to as political decay. His main thesis is that in societies in which political participation is high while the process of political institutionalisation is slow or weak, there is bound to be political disorder or political decay. He posits that 'throughout Asia, Africa and Latin America there was a decline in political order, an undermining of the authority, effectiveness and legitimacy of government' (Huntington 1968, p 4).

Political mobilisation intensifies with democratisation. Democratisation, in turn, raises people's expectations and popular demands. Thus, the state in changing societies (such as Lesotho) is always faced with enormous popular demands and these demands obviously multiply with the twin processes of economic and political liberalisation and democratisation (as has happened in Lesotho since 1993).

It is, therefore, the duty of a responsive, authoritative, effective state to meet popular demands, or at least to demonstrate publicly that it is making an effort to meet such demands. If the state is able to do so, its legitimacy is likely to be enhanced and order and political stability are likely to be assured. However, in many African countries (including Lesotho), in part as a result of economic and political liberalisation, 'the rates of social mobilization and expansion of political participation are high; the rate of political organization and institutionalization are low. The result is political instability and disorder. The primary problem of politics is the lag in the development of political institutions behind social and economic change' (Huntington 1968, p 5).

Under these circumstances the state often fails to respond to popular demands, or, worse still, rides roughshod over such demands (as did the Lesotho military junta of 1986-1992), the legitimacy of the state is eroded, and what results is political disorder (or political decay), which leads to increased political instability. Often the state is unable to address the demands, severely compromising its legitimacy and moral title to rule. The result is often political disorder, which propels political instability. Political instability (which, in Lesotho, tends to intensify around elections) is neither healthy for democratisation nor a recipe for socio-economic development.

With regard to structuralist approaches to Lesotho's political crisis an understanding of the country's political economy and the role and position of the state is useful. Lesotho's political economy is shaped by the country's geopolitical location. Totally landlocked within South Africa and lacking sufficient resources to drive its own development agenda without remittances from South Africa and foreign aid flows, Lesotho remains, to all intents and purposes, a *labour reserve economy par excellence*.

The exploitation of the country's water resources, through the Lesotho Highlands Water Project, the accelerated expansion of the manufacturing sector through the proliferation of textile industries and recent discoveries of diamonds in the country's highland areas have not changed the labour-reserve nature of the country, which intensifies its profound dependence on South Africa and on other external resource flows.

Given this external economic dependence combined with a weak domestic private sector, the public sector, especially the state itself, plays a critical role as a

key site of enrichment of and patronage by elites. The state, therefore, becomes a very attractive asset for accumulation of wealth, patronage, and the political survival of the elite. Thus, elections turn into a war (both literally and figuratively) for control of the state as the elite sets its eyes on avenues for accumulation and political survival.

Given the weak economic base of the middle class and, therefore, their bleak prospects of capital accumulation outside the ambit of the state, the battle for the capture of the state becomes fierce and uncompromising. Access to the state, in the eyes of the political elite, is tantamount to a political licence for rapid accumulation by fair and foul means. Thus, according to Chabal (1994), politics in Africa centres on the state and state power and how this interfaces with economic accumulation more for the benefit of the self-serving interests of the political elite and less for the accomplishment of a national purpose.

Chabal (1994, p 68) concludes, poignantly, that 'to talk about politics in Africa is virtually to talk about the state', an observation which neatly applies to Lesotho. Those who control the state in Lesotho will do everything in their power to retain it and those outside the state will attempt, by all sorts of means, to gain a share of the state. Confronted by the twin processes of economic and political liberalisation propelled by local democratising dynamics and accelerated globalisation, the Lesotho state has tended to serve primarily the interests of the ruling elites, mainly for their self-serving class interests and, in the process, has been unable to address multivariate popular demands either during or between elections. Elections themselves are perceived by the elites as instruments both for democratisation and for accumulation by means of state machinery. There is, therefore, a strong correlation or causal link between elections, power, and the state. The political economy mode of analysis helps us unravel some of the non-election-related causes of post-election disputes in Lesotho. It is to the 2007 general election and the subsequent political crisis that we now turn.

THE 2007 GENERAL ELECTION: A POLITICAL ASSET OR A LIABILITY?

Lesotho's most recent general election was held on 17 February 2007 and was the fourth multiparty election in the country since the epochal poll of 1993. While some scholars (eg, Diamond 1994) argue that if a country is able to hold more than two successive and successful elections its democracy is considered consolidated, others (Huntington 1991; Haynes 2001) argue that elections on their own, without a change in the governing power, do not lead to democratic consolidation.

If we go by the narrow definition of democratic consolidation propounded by Larry Diamond Lesotho qualifies as a consolidated democracy. But if we adopt

a broader definition of democratic consolidation, which transcends mere electioneering, and probes the institutional robustness of a democracy (including its socio-economic spin-offs), Lesotho's nascent democracy will be found severely wanting.

The utility of many previous elections to Lesotho's democracy has been limited as they have tended to generate enormous pre-election political tension and post-election conflicts triggering political violence. An important lesson to be learned from this tension and conflict is that undergoing a democratic transition is far easier than building and sustaining democratic governance through societal transformation away from adversarial politics mediated through bullets and force towards consensus politics mediated through ballots and dialogue.

The 2007 election was preceded by a split within the ruling LCD, which led, in late 2006, to the emergence of a new opposition party, the All Basotho Convention (ABC)-Kobo Tata. The split in the LCD was triggered less by ideological and/or policy differences than by leadership tussles and personality clashes. Leadership battles and succession politics took centre stage. As its 2006 congress approached the struggle for leadership positions within the ruling party intensified. Although the Lesotho Constitution does not stipulate a two-term limit for the prime minister, speculation was rife that party leader and prime minister, Pakalitha Mosisili, would step down before the election and make way for a new party leader who would, in turn, succeed him as head of government. Apart from the fact that the Lesotho Constitution does not limit the tenure of the prime minister, globally the constitutional term limit has tended to be applied largely in presidential rather than parliamentary systems. Thus, the prime minister was not bound either by the Constitution or the political system to step down after two terms in office.

Be that as it may, at the time of the 2006 LCD congress it was clear that the party was divided and two clear factions emerged, each struggling for the soul of the party. One of these was led by Tom Thabane (then Minister of Information and Communication, who has served in all governments in Lesotho since independence in 1966) and Monyane Moleleki (then Minister of Foreign Affairs, who has served in all governments since the 1993 political transition). Against this backdrop of factionalism within the party Thabane broke ranks, resigning as minister and establishing the ABC. This development led to 16 MPs from the LCD crossing the floor to the ABC. They were joined by another MP who had been expelled from the LCD and had virtually become an independent.

The factionalism within the ruling party had already triggered political bitterness and this was exacerbated by the floor crossing, a development which set an imperfect stage for the 2007 election. Part of the pre-election tension and post-election political violence, therefore, relates to factionalism and faction

fighting within parties, especially the ruling LCD, in 2006. It is important, therefore, to emphasise that, as was the case with the 1998 election, the pre-election environment for the 2007 general election was already poisoned (see also Matashane-Marite, Mapetla & Monyake 2007a and 2007b).

It should be emphasised that this was not the first time there had been such a development in Lesotho – factionalism within parties (both ruling and opposition) has always characterised politics in the country. This factionalism, which, by and large, is the result of weak and ineffective intra-party democratic structures, frequently leads to party splits followed by floor crossing, which breeds extremely acrimonious politics and tends to escalate political instability.

There is a clear pattern suggesting that factionalism, faction fighting and splits within parties intensify around elections and that this trend accentuates election-related conflict. Having won the 1993 general election overwhelmingly, capturing all 65 parliamentary seats, the BCP experienced an internal split some four years into its tenure. When the then prime minister, Ntsu Mokhehle, realised he was leading a faction with numerical strength in Parliament he established the LCD. This led to floor crossings which instantly reduced the BCP to an opposition party and the LCD became the new ruling party without recourse to a fresh election to seek a popular mandate.

In 2001 the LCD experienced a split which saw the emergence of the Lesotho People's Congress (LPC), led by the then deputy prime minister Kelebone Maope. Since then the LPC has remained in opposition and its leader has won one constituency, Seqonoka, in all elections since 2002. The third major split within a ruling party in Lesotho took place in 2006 when Tom Thabane established the ABC (Matlosa & Shale 2007). With this development the political complexion of the National Assembly changed dramatically with the LCD's 78 seats reduced to 61 in a Parliament of 120.

The anxiety this development generated and the amount of political bitterness it triggered within the ruling party led to the government calling a snap election on 17 February 2007, to the chagrin of the opposition parties. A snap election did not allow opposition parties to campaign effectively, especially given that there is little party campaign funding and what there is was given to parties late. The ruling party, on the other hand, enjoyed all the advantages of incumbency, including the use of state resources such as the public media.

Twelve parties contested the election. They were: the LCD, the ABC, the Alliance of Congress Parties (ACP), the Marematlou Freedom Party (MFP), the Popular Front for Democracy (PFD), the BNP, the Basotho Democratic National Party (BDNP), the Basotho Batho Democratic Party (BBDP), the Lesotho Workers' Party (LWP), the New Lesotho Freedom Party (NLFP), the BCP and the National Independence Party (NIP).

At stake was the 120-member National Assembly, with 80 seats filled through the constituency-based FPTP system and the remaining 40 through the compensatory party-list PR. It was intended that the new MMP model would be used in this fashion only for the 2002 general election, after which it was supposed to have been changed to equal proportions of the FPTP and PR components. However, this has not happened, probably because it was not in the interests of the ruling elite.

By and large, the political setting for the snap election was marked by pre-election tension and incidents of political violence and killings. How this violence was linked to the electoral contest is unclear as there have been no official reports on it. But prior to the election a prominent leader of the BNP, Bereng Sekhonyana, was brutally murdered at his own residence by unknown gunmen who have not yet been apprehended. The motive behind another shooting incident, at the home of the then Minister of Foreign Affairs, Monyane Moleleki (currently Minister of Natural Resources), has also not yet been established and the perpetrators of the attack have not been apprehended. A third shooting incident, at the home of the then Minister of Trade and Industry, Mpho Malie, led to the death of a Dutch aid worker who was attached to the Bill Clinton Foundation as a volunteer. Investigations have not yet shed light on the perpetrators of this callous murder of someone who was not even remotely linked to electoral contest. At this stage there is one critical question: Why is it that it is so difficult to apprehend the perpetrators of violence against high-profile political figures in Lesotho? What does this say about the efficacy of the law enforcement agencies? What are the implications of this for the rule of law and constitutional democracy?

From the above it is evident that the pre-election environment was politically poisoned, largely by the bitterness caused by the split in the ruling party. Other factors that contributed to the tension included technical problems related to voter registration. The registration process was problematic largely because of the swiftness with which the election was called and the technological hiccups experienced by the IEC before the poll.

While the IEC and the political parties jointly addressed major concerns about registration many voters resident in neighbouring South Africa were left off the voters' roll. Apart from Basotho serving on diplomatic missions abroad, the electoral law does not allow for registration and voting outside the borders of the country, an issue which should be reviewed as it disenfranchises many Basotho residing, studying, and working outside their country.

The other major problem was the formation of election pacts and party alliances ahead of the election. Not only were these alliances formed hastily and far too close to the snap election to be effective in the campaign, some of them effectively distorted the MMP electoral system. The only party alliance that was

established in conformity with the electoral law was the Alliance for Congress Parties (ACP), comprising the Lesotho People's Congress (LPC), the Basutoland African Congress (BAC) and Mahatammoho a Poelano – a splinter group of the BCP.

The ACP contested the election using a single identity for both the FPTP and the PR components of the MMP system. However, other alliances did not do so and this had the effect of distorting the model, leading to charges that such alliances were intended to manipulate the MMP, denuding it of its original three principles, namely broad representation, reconciliation and harmony, and compensation for small players. The two alliances that distorted the MMP model by the use of decoy party lists were those of the ABC/LWP and the LCD/NIP. In both cases the bigger players, namely the ABC and the LCD, fielded their own candidates in all 80 constituencies (ABC allocated one constituency to the leader of the LWP).

The ABC and the LCD also used their smaller partners to field their candidates on the PR party list, not under their own identities but under the disguised identity of the smaller parties. This was problematic for various reasons, mainly that:

- these coalitions were not well known by the rank and file members of the concerned parties as they seemed to revolve around the top party apparatchiks;
- the memoranda of understanding establishing the parties were only made public after the election;
- it is not clear in what way the alliances were legal and accorded with the provisions of the electoral law;
- the LCD/NIP alliance, in particular, led to acrimony and a split within the NIP, followed by a protracted legal battle;
- the distortion of the MMP brought about by the decoy party lists had the unintended effect of transforming the model into a parallel system and in this way defeated the original purpose of the MMP system. This, in turn, had the effect of distorting the computation of election results and the resultant party political representation in Parliament, which became a hotly contested issue after the election.

The election was won by the LCD and its alliance partner, the NIP (see Matashane-Marite, Mapetla & Monyake 2007b and 2007c). While it might have been expected that the LCD/NIP alliance would form a formal governing coalition, more or less along the lines of that in Mauritius (a country with an established track record of coalition governments), this was not the case – the partners parted ways, with

the LCD becoming the ruling party and the NIP taking the opposition benches. The LCD won 61 of the 80 constituency seats and the NIP 21 of the 40 party-list seats, with ten of the latter going to LCD candidates, some of whom had lost their constituency seats.

A more or less similar pattern marked the electoral performance of the ABC/LWP alliance. The ABC won 17 constituency seats and its partner 10 party-list seats, the majority of which (eight) went to ABC candidates, some of whom had lost the constituency electoral contests. The decoy party lists for both these alliances distorted the election results because while the LCD and ABC were able to unduly compensate themselves by placing their candidates on the party lists of the NIP and the LWP the political minnows (NIP and LWP) reaped what they had not sown, given that the election results did not reflect their true strength. Over night the minnows had become political heavyweights, with artificially inflated electoral support, because supporters of the ABC and the LCD had been instructed to vote for their own parties in the constituency ballot and for the LWP and NIP in the PR ballot. Together the LCD/NIP alliance grabbed 82 seats of the 120 and the ABC/LWP alliance garnered a total of 27 (see Table 6).

If the LCD/NIP and ABC/LWP alliances had been considered as such for the purposes of translating votes into parliamentary seats, the election outcome would have been different from that depicted in Table 6. For instance, the LCD/NIP alliance would have received 61 constituency seats and only 1 compensatory PR seat – 62 seats as against the current 82. The ABC/LWP alliance would have won 17 constituency seats and 12 compensatory PR seats – 29 as against its current 27. As Table 7 indicates, other smaller parties would have increased their parliamentary seats through the PR component and one small party, the New Lesotho Freedom Party (NLFP), which is not represented in Parliament, would have won at least one seat.

The discrepancy between the actual results depicted in Table 6 and the hypothetical results shown in Table 7 indicates the electoral distortion brought about by the informal political alliances. This distortion transformed Lesotho's de jure MMP electoral system into a de facto parallel system. The two systems belong to the same family. In the former, two models are fused and, when election results are computed, the two are taken together for purposes of translating votes into seats, injecting a compensatory mechanism into the calculations. In the latter, two models are used to determine the election results, but each is considered relatively independently of the other for purposes of translating votes into seats.

In calculating election results and translating votes into seats after the 2007 election, despite the fact that they had fought the election as an alliance the LCD and NIP were not considered a single entity. Nor were the ABC and LWP. The only alliance which was considered to be one entity for the purpose of computing

the results was the ACP. The result is that informal party alliances and the allocation of seats have become hotly contested issues at the heart of the post-election conflict in Lesotho. The next section addresses this conflict.

Table 6
Actual Results of the National Assembly Elections, 17 February 2007

Party	Total valid votes	Constituencies won by party	Party's allocation of compensatory seats	Total no of seats	% party votes	% Seats won (constituency + compensatory seats)
Alliance of Congress Parties	20 263	1	1	2	4,6	1,7
Basotho Batho Democratic Party	8 474	0	1		1,9	0,8
Basotho Congress Party	9 823	0	1	1	2,2	0,8
Basotho Democratic National Party	8 783	0	1	1	2,0	0,8
Basotho National Party	29 965	0	3	3	6,8	2,5
Lesotho Workers' Party	107 463	0	10	10	24,3	8,4
Marematlou Freedom Party	9 129	0	1	1	2,1	0,8
National Independence Party	229 602	0	21	21	51,8	17,6
New Lesotho Freedom Party	3 984	0	0	0	0,9	0,0
Popular Front for Democracy	15 477	0	1	1	3,5	0,8
All Basotho Convention	– **	17	0	17	0,0	14,3
Lesotho Congress for Democracy	– **	61	0	61	0,0	51,3
Total	**442 963**	**79 *****	**40**	**119 *****	**100**	**100**

Source: Independent Electoral Commission, Lesotho 2007

** ABC and LCD did not qualify for compensatory seats, but benefited from PR seats won by LWP and NIP respectively

*** The total numbers of constituency seats and of the whole National Assembly do not add up to 80 and 120 respectively because the elections in Makhaleng Constituency No 45 were postponed due to the death of one of the candidates and a fresh election was held on Saturday 30 June 2007. The election was won by the ruling LCD

Table 7
Hypothetical Results of the National Assembly Elections, 17 February 2007

Party	Total valid votes	Constituencies won by party	Party's allocation of compensatory seats	Total no of seats	% party votes	% Seats won (constituency + compensatory seats)
Alliance of Congress Parties	20 263	1	4	5	4,6	4,2
Basotho Batho Democratic Party	8 474	0	2	2	1,9	1,7
Basotho Congress Party	9 823	0	3	3	2,2	2,5
Basotho Democratic National Party	8 783	0	2	2	2,0	1,7
Basotho National Party	29 965	0	8	8	6,8	6,7
ABC/LWP	107 463	17	12	29	24,3	24,4
Marematlou Freedom Party	9 129	0	3	3	2,1	2,5
LCD/NIP	229 602	61	1	62	51,8	51,1
New Lesotho Freedom Party	3 984	0	1	1	0,9	0,8
Popular Front for Democracy	15 477	0	4	4	3,5	3,4
Total	**442 963**	**79** ***	**40**	**119** ***	**100**	**100**

Source: Independent Electoral Commission, Lesotho 2007

THE MAGNITUDE AND MANAGEMENT OF THE POST-ELECTION CONFLICT

In the light of the pre-election tension and the political bitterness that marked the campaign and electioneering it was obvious that the immediate aftermath of the 2007 election would be covert and overt conflict, despite the fact the process had been observed by both domestic and international observers.

Domestic observers were coordinated by the Lesotho Council of Non-Governmental Organisations in partnership with the National Democratic Institute (NDI). International observer missions included the Commonwealth Secretariat, the Southern African Development Community (SADC), the SADC Parliamentary Forum (SADCPF), EISA, the Electoral Commissions Forum (ECF) of SADC countries and the African Union (AU). All the observers declared the

electoral process to be credible and its outcome legitimate. The major areas of contention that triggered post-election conflict revolved around the following:

- The legality of the election pacts and decoy party lists.
- Whether it was fair to calculate the election results treating alliance partners as distinct political entities or whether they should have been treated as a single political entity.
- Computation of election results and allocation of parliamentary seats.
- Which party, or coalition, qualified for the status of official opposition party in Parliament.
- Which party (or coalition) leader qualified for the status of official leader of opposition.
- Whether the spirit and original intent of the MMP electoral model had been upheld and respected by the political role players.

In fact, many election observer missions had expressed their uneasiness with the nature of the election pacts and party alliances as well as the decoy party lists and their likely effect on the MMP electoral model.

The SADC observer mission recommended that there should be legal protection for the MMP model because 'left unprotected, the model will soon be assassinated and sacrificed at the altar of personal ambitions' (SADC 2007c, p 13). The SADCPF observer mission argued that 'in view of the concerns raised by stakeholders that political inclusiveness, which is one of the main benefits of the MMP system, was threatened by pre-election alliances, the mission recommends the enactment of legislation and/or adoption of guidelines to govern alliances. This should enhance the benefits of the MMP electoral system and promote inter-party collaboration and fair contest' (SADCPF 2007, p 8).

The EISA observer mission noted that some of the party alliances had the 'potential to abuse the spirit of the MMP system by negating its compensatory mechanism' (EISA 2007, p 3). While the mission commended 'the move towards consensus-based politics through alliance building' it urged 'political parties to respect and uphold the spirit of the MMP' (EISA 2007, p 3).

The Commonwealth Election Expert Team observed that while the reform of the Lesotho electoral system from FPTP to MMP was a positive development, the emergence of the alliance system, with no specific law governing and regulating it, had a deleterious effect on the country's democratisation process. Some of the alliances 'gave a proportion of the vote to minor parties which would not have got so many votes had the major party partners not had their candidates' names appearing on the party list and in this way did not correctly reflect the true level of minor party support … At the same time, it had the effect of having

the major party contesting the constituency seats effectively "cannibalising" the seats won by the minor alliance party from the list ballot by an alliance arrangement with the minor party' (Commonwealth 2007, p 19).

The post-election conflict began immediately the new Parliament was sworn in in February 2007.

> … the new Members of Parliament were sworn in on the 23rd February 2007. The members of ABC and LWP election pact did not attend the ceremony on grounds that they were not formally informed about the swearing-in ceremony, as should have been the case. They were however later affirmed as legislators on the 15 March 2007, the same day that His Majesty the King, Letsie III, officially opened this Seventh Session of Parliament
>
> Matashane-Marite, Mapetla & Monyake 2007c, p 6

Five opposition parties, namely, the ABC, BNP, MFP, ACP and LWP, protested the allocation of seats and called for the leader of the NIP to be sworn in as an MP despite the fact that he did not contest the election.

> … the Speaker of National Assembly, Madam Ntlhoi Motsamai, dismissed the protestation on the grounds that, in terms of the law, the only people who deserve a parliamentary seat are those who have won constituencies or those whose names appear on the PR list submitted by their own parties to the IEC. As such, the NIP president could not be sworn-in as an MP because neither did he appear on the list of people who had won elections in any of the 80 constituencies nor was his name on any of the lists of parties that had won the remaining 40 PR seats.
>
> Matashane-Marite, Mapetla & Monyake 2007c, pp 6-7

They subsequently staged a sit-in within the chambers of the National Assembly until late in the evening of the same day, when they were forcibly removed, not by the police, but by the Lesotho Defence Force (LDF). In response, the ABC and its allies called for a three-day national stay away. The stay away was called off after two days, following the intervention of the Executive Secretary of SADC, Tomaz Augusto Salomao, who assured the parties that SADC was in the process of exploring possibilities for a negotiated settlement of the political crisis.

The move was the result of two consultative meetings between the SADC Executive Secretary and representatives of five parties (ABC, ACP, BNP, MFP and LWP), which had taken place in Maseru on 18 and 21 March. At the heart of

the deliberations was the contentious issue of the allocation of the PR seats, which, the parties argued, was the main bone of contention and the factor underlying the political crisis. A record of the understanding reached between the executive secretary and the five political parties in Lesotho on 21 March contained the following points:

- The executive secretary undertook to use his good offices to convene the meetings with all the stakeholders.
- Opposition parties agreed to suspend the mass action to open room for peaceful negotiations.
- The executive secretary further undertook to facilitate the negotiation process that would lead to an amicable resolution of the post-election conflict.
- The SADC Organ on Politics, Defence and Security Cooperation would be involved.
- Stakeholders would be allowed to present their concerns and grievances, which would be fully addressed.

On the 28-29 March an Extra-Ordinary SADC Summit of Heads of State and Government was convened in Dar es Salaam, Tanzania, to deliberate on the political crises in three member states – the Democratic Republic of Congo (DRC), Lesotho and Zimbabwe. With regard to the Lesotho political crisis, the summit resolved 'to send a SADC delegation at Ministerial level to go and assess the situation as requested by the political parties' (SADC 2007a, p 2). Subsequently, a ministerial troika of the Organ on Politics, Defence and Security Cooperation, chaired by Captain John Chiliati (Minister of Labour, Employment and Youth Development, Tanzania) and including Mr Marco Hausiku (Minister of Foreign Affairs, Namibia) and Dr Angelo Veiga (Deputy Minister of Home Affiars, Angola), was dispatched to Lesotho on a fact-finding mission from 11-14 April. Upon completion of its mission the troika prepared a detailed report of its findings and recommendations. In sum, the problems it identified included:

- manipulation or distortion of the MMP electoral model;
- unfair allocation of parliamentary seats;
- legality of the party alliances;
- unruly behaviour of youth supporters of parties;
- lack of respect for the electoral code of conduct;
- appointment of new ministers from the NIP party list;
- lack of communication among political leaders.

SADC 2007b, pp 2-4

The SADC mission made the following recommendations:

- The government of Lesotho must initiate a formal dialogue with a view to resolving the political problems between the opposition parties and the ruling party.
- SADC would facilitate the internal political dialogue.
- SADC would consider nominating one of its eminent persons from among the region's former presidents to facilitate and supervise the process of the political dialogue.
- SADC would urge all political stakeholders to respect the outcome of the democratic elections and address their political differences peacefully through dialogue.
- SADC and the Government of Lesotho would formally ask the UNDP and the governments of Germany and the USA for financial and technical assistance.
- The process of internal dialogue in Lesotho should start immediately, to pre-empt the possibility of repeated waves of tension.

SADC 2007b, pp 5-6

The troika's report was tabled at the ministerial meeting of the Organ on Politics, Defence and Security Cooperation convened in Dar es Salaam in May and the findings and recommendations of the mission were adopted. At this meeting it was agreed that Sir Ketumile Masire, former president of Botswana, should be deployed as the SADC envoy to bring the parties to the negotiating table.

President Masire, a reputed mediator and negotiator, played a prominent role in the investigation of the Rwanda genocide of 1994 and was central to the negotiated settlement of the violent conflict in the DRC as the facilitator of inter-Congolese dialogue. He therefore brought an enormous amount of expertise, experience and political clout to the SADC intervention. The national dialogue process began on 16-17 June with an agreement on the broad agenda, which included the following points:

- Creation of an enabling environment for a successful dialogue:
  - political tolerance;
  - assurance of safety and security;
  - normalisation and conduct of the media;
  - commitment to upholding the rule of law as well as ensuring peace and stability.

- Consideration of democratic parliamentary processes which include the appointment of the leader of opposition in Parliament:

  - resolution and recognition of the official status of leader of the opposition;
  - membership of the Council of State.

- Status of election-related court cases versus the need to facilitate the dialogue; review and safeguarding of the MMP model and agreement on the process:
  - agreement on terms of reference (TORs) of the experts in relation to the allocation of the PR seats following the 2007 elections;
  - agreement on the local dialogue-facilitating structure and its role.

- Review of dialogue process and outcomes:
  - agreement on the time frames and the way forward.

- Institutionalisation of a sustainable culture of dialogue, code of conduct and political tolerance.

The externally mediated dialogue process took place during the week 25-30 June, facilitated Sir Ketumile, with technical and legal back-up from the SADC Secretariat and from the governments of Botswana and Tanzania. While the dialogue process was able to bring the belligerent parties together in a formal negotiation process worrying developments emerged which had the potential to derail the process. A spate of ostensibly politically motivated violence began in early June 2007.

Bodyguards of three ministers – Popane Lebesa (Minister of Trade and Industry), Motloheloa Phooko (Minister in the Prime Minister's Office) and Mothejoa Metsing (Minister of Information and Communication) – were attacked at gunpoint and their guns stolen and the residence of the leader of the ABC, Tom Thabane, was also attacked at gunpoint. This spiralling political violence led to the imposition of a six-to-six curfew in Maseru, which was later relaxed to eight-to-five and ultimately repealed in late June. On 17 June a senior police officer was shot and injured and the media reported on the abductions of several retired members of the LDF. It later transpired that part of this spate of political violence and theft of guns was linked to what the security forces and government deemed an attempt to dislodge government from power by violent means. This political plot was linked to members of the disbanded Lesotho Liberation Army (LLA), once the armed wing of the BCP. At the time of writing investigations were ongoing and the police were making efforts to apprehend individuals suspected of being linked to these criminal activities.

The danger posed by the violence was that what was a purely political problem requiring a political solution was increasingly militarised, either by

default or by design. There were two risks associated with this. First, military solutions to political problems often lead to escalation rather than de-escalation of conflict. Second, such solutions also tend to lead to the old problem of politicisation of the security establishment, a problem that had been partially addressed through security sector reforms since the early 1990s.

In view of these two deleterious effects it is imperative that Lesotho's politicians invest more in dialogue as an appropriate means of solving amicably the current political crisis. Given a chance, the dialogue process may defuse the current political tension and deliver the durable peace and security necessary for sustainable democracy and development.

During the dialogue process, while all the political parties agreed on how to proceed with the six-point agenda outlined above, the main bone of contention was items three and four, namely, the status of election-related court cases versus the need to facilitate dialogue and the review and safeguarding of the MMP and agreement on the process.

During the dialogue process three political blocs had formed, each with its own position on the causes of the conflict and how it should be resolved. The three were: the government, in collaboration with the NIP; the ABC-led coalition of parties (including BNP, MFP, ACP, LWP); and the Quartet group, which included the PFD, BBDP, BDNP and BCP.

The opposition parties wanted the two contentious items to be discussed as part of the national dialogue process, while the ruling party argued that since the issues were the subject of a court case in which the Marematlou Freedom Party (MFP) had sought a legal remedy to the opposition challenge to the way the MMP system had been used in the allocation of parliamentary seats, that legal process should be allowed to run its course. The ruling party favoured litigation for the resolution of the critical issue of how the MMP was used to determine winners and losers in the election and how parliamentary seats were allocated. The opposition parties favoured negotiated dialogue combined with expert advice. The national dialogue forum was able to prepare the terms of reference for the external experts who would be engaged to assess the method of allocation of the PR seats and the extent to which it conformed with the letter and spirit of the MMP model.

According to the press release issued by Sir Ketumile one element on which the forum agreed was 'that the MMP-related issues be addressed immediately after the election-related cases that were before the Courts are dealt with' (SADC 2007c, p 2). At the time of writing the court cases had not yet been concluded.

There are two main risks in prioritising litigation over dialogue. One is that a court decision on the issue of the MMP model and the allocation of seats in Parliament may water down the essence of the dialogue process and the technical

advice of the external experts. The other is that legality does not necessarily translate into legitimacy in the eyes of the electorate.

In order to solicit technical advice to determine whether the MMP model was used appropriately terms of reference were developed and three external experts were appointed – Michael Krenerich from Germany, Jörgen Elklit from Denmark and Michael Polley from New Zealand.

The initial plan was that they would be consulted once the courts had concluded the cases. However, the parties to the conflict later decided that they should be engaged as witnesses rather than as independent analysts, advising the contesting parties and, in the process, providing technical assistance.

CONCLUSION

This paper seeks to understand the nature and magnitude of post-election conflict in Lesotho, with special reference to the 2007 general election. At the heart of the political crisis in the country over the years has been the problem of violent conflict, factionalism and instability.

Research has shown that where mobilisation and participation rates are high and political institutionalisation low there is a high possibility of political instability (what Huntington refers to as political disorder, or political decay). This is the case in Lesotho, where, due in part to the twin processes of economic and political liberalisation, expectations are high, yet levels of institutionalisation remain low and the government is often unable to meet popular demands.

From the structuralist perspective the paper argues that the state has not been transformed since the days of colonial rule. It still serves primarily the interests of the elite (especially the ruling elite), who use it as the fulcrum of politics. The state is equated with power and power is used for accumulation purposes. For this reason, politics becomes fiercely contested, especially at election times. This, in part, explains why elections tend to trigger violent conflict.

We have found that conflicts in Lesotho (as elsewhere) are inherent to electoral politics and therefore cannot be wished away. They are a fact of life, given that elections are a high-stakes battle for state power. The political competition for the control and retention of state power tends to become fierce among political elites and this is further accentuated in weak states, and countries such as Lesotho, which have few resources. Conflicts per se are not counterproductive either to democracy or to development. What is a major problem, though, is the failure to manage them constructively through dialogue and negotiations which strive towards compromise solutions. If a conflict is not managed constructively it escalates and generates political instability, with deleterious repercussions for democracy and development.

Conflict and instability are exacerbated if belligerent parties seek to resolve problems by military means. A political problem requires a political, not a military solution. Governments must be responsive to popular demands at all times, during and between elections. Failure to do so leads to a decline in the legitimacy of rulers and their moral title to govern. This holds true for Lesotho as it grapples with the resolution of the most recent post-election conflict. The multistakeholder dialogue process facilitated by Sir Ketumile Masire should be given a chance and the requisite technical and political support recruited to enable it to reach its logical conclusion on the basis of its agenda.

When the process is complete all stakeholders should commit themselves to implementing the resolutions/recommendations and this may require legislation to turn the agreements into enforceable rules and regulations. Once the dialogue process is concluded and peace and reconciliation restored, Lesotho must institutionalise internal mechanisms of constructive management of conflicts within and between political parties.

Furthermore, constructive management of election-related conflicts must have a local institutional framework so that national efforts for conflict resolution are well coordinated. Such an approach would also be beneficial in cases where external mediation is required, enabling such mediation to evolve in close liaison with an established local mechanism. This approach could be complemented with regular (at least every five years) discussions of the state of democratic governance, organised by civil society organisations.

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