

# JOURNAL OF AFRICAN ELECTIONS

*Special Issue*  
*Lesotho's 2022 Elections*



**Volume 22 Number 1 June 2023**



# Journal of African Elections

EDITOR

Denis Kadima

EDITORIAL BY

Hoolo 'Nyane

ARTICLES BY

Hoolo 'Nyane

Pulane Selinah Mahase

Motlamelle Anthony Kapa

Tlohang W. Letsie

Frank Lekaba

Khali Mofuoa

Paul Mudau

BOOK REVIEW BY

Tom Lodge

Volume 22 Number 1 June 2023

Published by EISA  
14 Park Road, Richmond, Johannesburg, South Africa

P O Box 740, Auckland Park, 2006, South Africa  
Tel: +27(0)11 381 6000 Fax: +27(0)11 482 6163  
e-mail: [publications@eisa.org](mailto:publications@eisa.org)

© EISA 2023

ISSN: 1609-4700 (Print) ISSN 2415-5837 (Online)

v. 22 no. 1: 10.20940/jae/2023/v22i1

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the written permission of the publisher

Printed by: Corpnet, Johannesburg

Cover photograph: Reproduced with the permission of the  
HAMILL GALLERY OF AFRICAN ART, BOSTON, MA, USA



## EDITOR

Denis Kadima, EISA, Johannesburg

## MANAGING EDITOR

Heather Acott

## EDITORIAL BOARD

Chair: Denis Kadima, EISA, South Africa

Cherrel Africa, Department of Political Studies, University of the Western Cape, South Africa

Jørgen Elklit, Department of Political Science, University of Aarhus, Denmark

Amanda Gouws, Department of Political Science, University of Stellenbosch, South Africa

Roukaya Kasenally, Department of Social Studies, University of Mauritius, Mauritius

Abdul Rahman Lamin, UNESCO Regional Office for Eastern Africa, Nairobi, Kenya

Tom Lodge, Department of Politics and Public Administration, University of Limerick,  
Ireland

Khabele Matlosa, Political Affairs Department, African Union Commission

Roger Southall, Department of Sociology, University of the Witwatersrand, South Africa and  
Research Associate in Political Studies, University of Cape Town.

The *Journal of African Elections* is an interdisciplinary biannual publication of research and writing in the human sciences, which seeks to promote a scholarly understanding of developments and change in Africa. Responsibility for opinions expressed and for the accuracy of facts published in papers, research notes, review articles and book reviews rests solely with the individual authors or reviewers. Contributions are referred to specialist readers for consideration, but the Editor is responsible for the final selection of the contents of the Journal.

Editorial correspondence, including manuscripts for submission and books for review, should be sent to:

The Managing Editor, Journal of African Elections

EISA: P O Box 740

Auckland Park 2006, South Africa

Tel: +27(0)11 381 6000 | Fax: +27(0)11 482 6163 | e-mail: [jae@eisa.org](mailto:jae@eisa.org)

Business correspondence, including orders and remittances, subscription queries, advertisements, back numbers and offprints, should be addressed to the publisher:

The Publications Department, Journal of African Elections

EISA: P O Box 740

Auckland Park 2006 South Africa

Tel: 27(0)11 381 6000 | Fax: +27(0)11 482 6163 | e-mail: [publications@eisa.org](mailto:publications@eisa.org)

**Abstracts for previous issues are available at:**

<https://www.eisa.org/jae.php>

# CONTENTS

## EDITORIAL

*Hoolo 'Nyane* ..... 1

## THE INDEPENDENT ELECTORAL COMMISSION IN LESOTHO'S 2022 PARLIAMENTARY ELECTIONS

Preparedness and Performance

*Pulane Selinah Mahase and Motlamelle Anthony Kapa* ..... 8

## THE TRANSITION AND FORMATION OF GOVERNMENT AFTER LESOTHO'S 2022 ELECTIONS

*Hoolo 'Nyane* ..... 33

## SCREENING POLITICAL PARTY CANDIDATES AND THE IMPLICATIONS FOR ELECTORAL PERFORMANCE

The Case of the Revolution for Prosperity (RFP) in Lesotho's 2022  
General Elections

*Tlohang W. Letsie* ..... 59

## THE IMPACT OF INTRA-PARTY CONFLICTS ON THE ELECTORAL PERFORMANCE OF THE ALL BASOTHO CONVENTION IN LESOTHO'S 2022 ELECTIONS

*Frank Lekaba* ..... 82

## ETHICS IN ELECTORAL DEMOCRACIES

A Critical Reflection on Lesotho's 2022 Elections

*Khali Mofuoa* ..... 101

## REASONS FOR THE LOW VOTER TURNOUT IN LESOTHO'S 2022 ELECTIONS

*Paul Mudau and Hoolo 'Nyane* ..... 121

## BOOK REVIEW

*Tom Lodge* ..... 142

## EDITORIAL

*Hoolo 'Nyane*

Hoolo 'Nyane is an associate professor and head of the Department of Public and Environmental Law, School of Law at the University of Limpopo

### INTRODUCTORY BACKGROUND

The study of elections can be mundane as it involves studying a routine political process. Elections are an institutionalised democratic process: they are bound to happen at a particular time, which is designated by law. Since elections are normal democratic processes, the animating question often is: what arouses scholarly curiosity in them? In other words, why should scholars be concerned about routine processes instead of the substance of democracy itself? In any event, people are much more concerned about the substantive dividends of democracy itself, and not much about its processes (Aka 2002). Therefore, studying any particular election demands much circumspection. Care should be taken not to exaggerate the role of elections in the broader democratic project; but, at the same time, the value of elections to the democratic project cannot be discounted. Hence, it is always a tenuous balancing exercise. Although elections often evoke interest and generate fanfare, they are regular political rituals that are often disconnected or do not necessarily contribute to the more significant democratic project. Elections have many deficiencies: they are sometimes used to legitimise authoritarianism; they can be rigged; they can mislead the electorate that they are bringing change; and they have failed to resolve substantive issues related to reforming systemic problems confronting countries, such as economic bottlenecks and constitutional deficiencies.

In some instances, elections have been held regularly and successfully in pseudo-democratic countries where repression and violations of civil liberties are entrenched. As Diamond (2002, p. 29) observes, '[i]n regimes where elections are largely an authoritarian façade, the ruling or dominant party wins almost all the seats'.

On the other hand, elections tenaciously cling to the bulwarks of any well-meaning democracy. They have far-reaching ramifications for the substance and sustenance of democracies. Democracies are inconceivable without elections as they are the most democratic means of transferring power from one ruler to another. As Deshpande (2019, p. 261) notes, '[a]lthough they are largely about procedural aspects of democracy, elections signify a lot more of the substantial

democratic aspirations, particularly in democracies of the South'. Elections are inextricably linked to the other substantive aspects of democracies. As Diamond (2002, p. 21) notes, democracy requires not only free, fair and competitive elections, it also requires 'the freedoms that make them truly meaningful (such as freedom of organisation and freedom of expression), alternative sources of information, and institutions to ensure that government policies depend on the votes and preferences of citizens'.

Against this backdrop, the legislative elections held in Lesotho on 7 October 2022 are being studied in a dedicated special issue. These elections occupy a unique space in the chequered electoral history of the country. They are the seventh elections to be held since the country returned to electoral politics in 1993. This means that, on average, the country has been able to hold elections every five years for a continuous period. This is laudable considering the fact that at one point in the country's history there was an interregnum of 23 years (from 1970 to 1993) without credible elections, representing a lull in electoral politics.

The fact that the country has been able to hold elections regularly since 1993 indicates a commitment to electoral politics. Indeed, the period of coalition politics that started in 2012 has been tumultuous for electoral politics in the country ('Nyane & Kapa 2021). The country held four elections in just ten years – between 2012 and 2022 – because of the high turnover in coalition governments, resulting in early dissolutions of Parliament and, ultimately, elections. That is an unusually high frequency of elections. Under normal circumstances, countries hold two elections in ten years.

Furthermore, the 2022 elections were the fifth since the country introduced watershed changes to the electoral system in 2002. In 2002, the country transited from the first-past-the-post (FPTP) model to the mixed member proportional (MMP) model. These changes had profound implications for the political party system in the country. The zenith of those implications is that the country is now trapped in coalition politics: a far-fetched phenomenon under the pure constituency-based electoral system. Like all elections since 2012, the 2022 elections were inconclusive: no single party won an outright majority to form the government. Political parties had to engage in horse-trading to form a coalition government.

## KEY HIGHLIGHTS OF THE 2022 ELECTIONS

### *Aborted Constitutional and Electoral Reforms*

The 2022 elections were greatly anticipated both locally and internationally. They were supposed to be the first to be held under the new, thorough-going reforms to the political system, including changes to elections and election management.



The country had been grappling with these reforms since 2012 because it was widely believed that most of the political challenges that have beset the country in recent history are attributable to a poorly-designed political system. Hence, the country started an ambitious reform project, seeking to make profound changes in areas such as Parliament, the executive, elections, the judiciary, security, and the public service, to mention just a few.

The reforms encountered endless headwinds under successive governments. The reforms were conducted under the auspices of the Southern African Development Community (SADC) and were supported financially by other international partners including the United Nations Development Programme (UNDP), the European Union (EU) and the Commonwealth of Nations. Other countries, such as the USA and South Africa, have a keen interest in the reforms. The USA had even made implementing reforms in the country a condition for the new multimillion-dollar second compact under the Millennium Challenge Corporation (Moyo 2020). When Parliament was dissolved at midnight on 13 July 2022, it had not yet finished enacting the Tenth Amendment to the Constitution Bill. The much-anticipated reforms Bill was then aborted. The Prime Minister, perhaps out of embarrassment, labelled that colossal failure ‘a state of emergency’ just so that Parliament could be recalled from dissolution to pass the Bill. Parliament was indeed recalled from dissolution under the flawed constitutional pretext that the failure to pass the reforms Bill was an emergency. The recalled Parliament purportedly passed the Tenth Amendment to the Constitution, as well as other laws such as the National Assembly Electoral (Amendment) Act, 2022.

The recall of Parliament was successfully challenged in the High Court in *Boloetse and Another v His Majesty the King and Others* (2022). The High Court noted that the failure of the tenth Parliament to pass the two Bills was not a public emergency ‘that threatens the life of the nation’, as provided for in the Constitution. The Court of Appeal confirmed the judgment of the High Court. There was indeed concern throughout society about whether the characteristic election-related disputes would mar the election (Louw-Vaudran 2022). Fortunately, there were no major post-election disputes, and the post-election environment is relatively calm. The work of implementing reforms has been an intractable task for the new government, despite its public pronouncement that the reforms programme was on its priority list for the first 100 days in office.

### *Performance of the Election Management Body (the IEC)*

The IEC has been under the spotlight in every election in Lesotho for a variety of reasons, including how it manages registration, the demarcation of constituencies, logistics management on election day, election-related dispute resolution, and the

allocation of seats. The 2022 elections were no exception. What made matters even more complicated for the IEC was that the 2022 elections were held under the stewardship of a relatively new set of commissioners after a long hiatus without commissioners. The chairperson and two commissioners were appointed in December 2020, scarcely two years ahead of the elections. Their work was already cut out when they were sworn in. When the new IEC commissioners entered office, the controversial constituency review process was already underway as it had started in earnest in 2018.

Their first litmus test was, therefore, the review of constituency delimitation. The process of reviewing constituencies is always fraught with controversy: political parties often view the process with suspicion because it invariably reconfigures supposed and real electoral strongholds. The IEC only completed the process in 2022 (Legal Notice No. 7 of 2022). The delimitation was challenged by the Democratic Congress (DC) – then the second biggest partner in the coalition government – on the basis that the new delimitation was tantamount to gerrymandering. The DC alleged that by decreasing the number of rural constituencies and increasing the number of urban constituencies, the IEC deliberately weakened the DC's supposed rural stronghold. The DC felt so strongly about its argument that it even brought the matter to court (*Democratic Congress and Another v Independent Electoral Commission and Other* (2022)).

The court found that 20 out of 80 constituencies violated the parity principle stipulated in the Constitution, and consequently ordered the IEC to rectify the error. The judgment was handed down on 8 August 2022, barely two months before the elections. The primary concern was whether the IEC could delimit those constituencies without affecting all other constituencies. The decision sent shockwaves across the country because the rectification had implications for the entire review, only two months before the elections. The IEC rectified the error, and the 20 constituencies were regularised without needing to review all the other constituencies.

The performance of the IEC also came under the spotlight when it committed a monumental error in allocating proportional representation (PR) seats. It miscalculated the PR seats, resulting in the misallocation of four seats; this mistake tainted the integrity of the IEC and cast doubt on its ability to manage elections. The IEC had to go to court to revisit the calculation of the seats, and the court permitted the IEC to reallocate the seats.

### *The Debut of the Revolution for Prosperity (RFP)*

The formation and registration of political parties is a common feature of every pre-election period in Lesotho. In 2022 there were a record 65 registered political

parties. One of the new kids on the block was the Revolution for Prosperity (RFP), which was formed barely seven months before the elections. Its debut was significant, not just because it subsequently won the most votes and consequently the most seats in Parliament, but also because it had a major impact on the political landscape and the typology of the political party system in the country.

The RFP disrupted the established party system in two fundamental respects. First, the pattern in Lesotho's political landscape has been that new parties, formed before elections, that either went on to win elections or became strong opposition parties, were breakaways from ruling parties. In the post-1993 political history, the pattern started in 1997 with the formation of the Lesotho Congress for Democracy (LCD) as a breakaway of the then-ruling Basotho Congress Party (BCP). The LCD went on to win the 1998 elections by a landslide. In 2006, the All Basotho Convention (ABC) was formed as a breakaway from the LCD. The following year, in the 2007 elections, ABC posed a formidable challenge to the LCD.

Similarly, in 2012 then Prime Minister Mosisili defected from the LCD to form the Democratic Congress (DC). In the 2012 elections, the ABC became the ruling party through a coalition. Therefore, it is a fairly established pattern in Lesotho's party system that all main political parties are splinters from the party that was once in government. The ABC and the DC, which have hitherto dominated the political space in the country, are both breakaway parties from the LCD.

The formation of the RFP, which went on to win the most votes and seats in the National Assembly, broke with this pattern. The party was formed by the businessman Sam Matekane and others who were not prominent members of pre-existing political parties. Hence, the RFP is not a breakaway party of any of the major parties in Lesotho. Although the new political party won 57 out of the 79 constituencies contested on election day, and 39% of the popular vote, it fell short of an outright majority. It was forced to form a governing coalition with two other smaller parties: the Alliance of Democrats (AD) and the Movement for Economic Change (MEC).

Secondly, since the advent of coalition politics in 2012, two political parties, the ABC and the DC, have dominated the political landscape. They have taken turns in leading a coalition government. Even in 2022, the Afrobarometer survey had predicted that the DC would easily replace the ABC and win a majority in the election (Zihlangu 2022), with the ABC projected to be the second strongest party. This has been the pattern since 2012: the two parties have alternated in dominating the political scene in the country. The debut of the RFP disrupted this pattern. It not only won the most votes and seats, but it also left the two former political hegemony profusely bruised. Uncharacteristically, the ABC did not win a single constituency and was reduced to eight PR seats in the National Assembly and only 7% of the popular vote. The DC was relatively resilient. It received almost

25% of the popular vote: a small drop from its 2017 performance. But when one looks at the number of voters in 2017, the party was elected by 150 000 voters. In 2022 its popular vote dropped to 128 000, which translates into a huge 20% decline in voters between two successive elections. Hence, the impact of the RFP has been immense.

## CONCLUSION

The 2022 elections will go down in history as one of the most important elections in the country. They are the first elections since 2012 that were held after a full five-year cycle. In 2020, the coalition government led by Prime Minister Thomas Thabane, then leader of the ABC, collapsed due to the all-too-familiar spectre of intra-party feuds in the ABC. However, that did not lead to the dissolution of Parliament and early elections. A new coalition government was formed between the ABC and the DC, then the largest parties in Parliament. This is a testament to the fact that there is some progress in consolidating coalition politics, although the progress is minimal. The aborted reforms could have taken the improvement to the next level, as it was expected that most of the triggers for premature dissolutions of Parliament, such as uncontrolled parliamentary defections (floor-crossing), continuous motions of no confidence, and the processes of transition and formation of government would be addressed.

This is the first election since 1993 in which a party that is not a direct breakaway from a pre-existing political party has won a majority, although not an outright majority. This speaks to the rapidly changing political landscape. In the past, the party system in Lesotho was characterised by 'dominant parties': a party system typology in which one or two political parties dominate the political space for a continued period (Bogaards 2004). This typology seems to have been disrupted in the 2022 elections. It remains to be seen whether the RFP will be the new 'dominant party' in the system in the future.

Furthermore, the 2022 elections attest to the fact that the country still has intractable problems with election management. The IEC's failure to demarcate constituencies in terms of the Constitution, the voters' roll riddled with errors, and the embarrassing 'mistake' in the allocation of PR seats are but a few examples of the deep-seated problem of election management in the country. This is concerning because one of the historic causes of political instability in the country has been the poor management of key electoral processes. In 1998 the country went up in flames as a result of, amongst other things, poor management of the voters' roll. Fortunately, in 2022 the post-election discontent did not degenerate into typical violence. The 2022 elections have only laid bare a problem that seems intractable and severe.

## ----- REFERENCES -----

- Aka, PC 2002, 'The dividend of democracy: analysing US support for Nigerian democratisation', *Third World Law Journal*, vol. 22, no. 2, pp. 225-280.
- Bogaards, M 2004, 'Counting parties and identifying dominant party systems in Africa', *European Journal of Political Research*, vol. 43, no. 2, pp.173-197.
- Deshpande, R 2019, 'Why do we need election studies in political science classrooms?', *Studies in Indian Politics*, vol. 7 no. 2, pp.L 2002, 'Elections without democracy: thinking about hybrid regimes', *Journal of Democracy*, vol. 13, no. 2, pp. 21-35.
- Louw-Vaudran, L 2022, 'Lesotho reforms hang in the balance ahead of elections: reforms should have preceded voting', 29 September 2022. Available at <<https://issafrica.org/author/liesl-louw-vaudran>>.
- Moyo, H 2020, 'Multi-million-dollar MCC Compact under threat', *Lesotho Times* 15 September 2020. Available at <<https://allafrica.com/stories/202009150891.html>>.
- 'Nyane, H & Kapa, MA (eds) 2021, *Coalition politics in Lesotho: a multi-disciplinary study of coalitions and their implications for governance*, African Sun Media, Stellenbosch.
- Zihlangu, B 2022, 'DC most likely to win elections: Survey' *Lesotho Times* 3 August 2022. Available at <<https://lestimes.com/dc-most-likely-to-win-elections-survey/>> . .

# THE INDEPENDENT ELECTORAL COMMISSION IN LESOTHO'S 2022 PARLIAMENTARY ELECTIONS

## *Preparedness and Performance*

*Pulane Selinah Mahase and Motlamelle Anthony Kapa*

Pulane Selinah Mahase is a lecturer in Public Administration, Department of Political and Administrative Studies, National University of Lesotho

Motlamelle Anthony Kapa is an associate professor of Political Science, Department of Political and Administrative Studies, National University of Lesotho

### ABSTRACT

*Most assessments and analyses of Lesotho's elections have focused on the post-election conflict. There has been little attention to the role of the Independent Electoral Commission (IEC) as the key player with the constitutional mandate to ensure credible, free, and fair electoral processes. During the polls on 7 October 2022, the role of the IEC came to the fore in terms of the extent of their preparedness for and actual performance in managing the electoral processes. Adopting a qualitative approach that relies on interviews with purposefully selected respondents and document analysis, this paper assesses these two main aspects of the IEC. The paper argues that compared to previous elections from 2012, the IEC does not seem to have been adequately prepared to manage the October 2022 elections, and as such, it had a poor performance this time.*

**Keywords:** Independent Electoral Commission; elections; preparedness; performance; voter turnout, Lesotho

### INTRODUCTION

Lesotho has a reputation for post-election conflict, which has attracted the attention of scholars (Matlosa 2008; Makoia 2004; Kapa 2009; Sejanamane 2016). However, one subject that has not received much attention is the Independent Electoral Commission (IEC), yet it is the key player with a constitutional mandate to ensure credible, free, and fair electoral processes. The IEC is responsible for

managing any electoral process and ensuring the quality thereof. Thus, analysis of the elections should not exclude this crucial body. According to Mozzafar and Schedler (in Elklit & Reynolds 2005A, p. 148), a general rule is that 'electoral governance issues only attract critical attention when something goes seriously wrong, or when an electoral issue is taken up as part of a more general election-related controversy'. The assessments of elections must pivot from an Election Management Body (EMB) and 'must focus on the entire electoral process as the component parts of that process all have at least some bearing on the entire outcome of the election', (Elklit & Reynolds 2005 p. 189). Due to the limited scholarly attention to the EMBs, this area is not only underdeveloped (James 2017), but 'the capacity of EMBs, or their ability to perform their functions, has received considerably less study' (Garnett 2019, p. 335).

Lesotho's parliamentary elections have been marred by conflicting announcements of post-election results, particularly in 1998; however, the 2022 parliamentary elections were spared from conflict but the role of the IEC was highlighted in terms of both its preparation and its actual performance in managing the electoral processes. Adopting a qualitative approach that relies on interviews with purposefully selected respondents from the IEC and civil society organisations (CSOs), and document analysis, this paper assesses the preparedness for and performance of the IEC during the 2022 parliamentary elections. It argues that compared to previous three elections from 2012, the IEC does not seem to have been adequately prepared to manage the October 2022 elections, and as such, it performed poorly this time. According to the empirical evidence, five factors have affected the preparedness and performance of the commission; these are, the late appointment of commissioners and the director of elections, the budget allocation for the commission, the inconclusive electoral reform, the delimitation of boundaries, and the announcement of election results.

#### INTERNATIONAL STANDARDS ON ELECTION MANAGEMENT BODIES

Electoral management, according to James, Garnett, Loeber, and van Ham (2019), covers interrelated activities that include organising, monitoring, and certifying elections. An embedded characteristic of representative democracies, elections are an overarching process by which citizens choose leaders who will govern them. International organisations have accordingly established international standards and best practice for their member countries when voting. As a member of the African Union (AU) and the regional Southern African Development Community (SADC), among other international organisations, Lesotho is obliged to abide by and align itself with the standards on democratic, free, fair and credible elections proposed by these organisations. Moreover, like the rest of Africa and the world,

Lesotho has entrusted the management and administration of its periodic elections to its EMB, the IEC, since 1997. In the execution of its constitutional mandate, the IEC is thus obliged to align with the principles and standards that have been set by the AU and SADC of which it is a member.

In the 38th Ordinary Session of the Assembly of the AU in 2022, the organisation adopted the four principles governing democratic elections in Africa:

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratisation process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
4. Democratic elections should be conducted:
  - a) Freely and fairly;
  - b) Under democratic constitutions and in compliance with supportive legal instruments;
  - c) Under a system of separation of powers that ensures in particular, the independence of the judiciary;
  - e) At regular intervals, as provided for in national constitutions;
  - f) By impartial, all-inclusive, competent and accountable electoral institutions staffed by well-trained personnel equipped with adequate logistic support.

In the same manner, SADC (2015) endorsed the Principles for Conducting Democratic Elections in furtherance of democratic elections in the SADC region. These contained thirteen principles:

1. Encourage the full participation of all citizens in democratic and development processes;
2. Ensure that all citizens enjoy fundamental freedoms and human rights, including freedom of association, assembly and expression;
3. Ensure that the date or period of elections is prescribed by law. The date or period of elections shall be based upon the legal framework and applicable constitutional provisions;
4. Take all necessary measures and precautions to prevent corruption, bribery, favouritism, political violence, intolerance, and intimidation;
5. Promote and respect the values of electoral justice which include



- integrity, impartiality, fairness, professionalism, efficiency, and regularity of elections;
6. Promote necessary conditions to foster transparency, freedom of the media; access to information by all citizens; and equal opportunities for all candidates and political parties to use the state media;
  7. Guarantee an environment of an open contest with no undue exclusion and restrictions on anyone to vote, as well as the right of eligible and qualified citizens to stand as candidates in any election;
  8. Encourage regular reviews of the participation of citizens in the diaspora in national elections;
  9. Uphold and guarantee the impartiality and independence of the Judiciary, the Electoral Management Bodies (EMBs,) and all other electoral institutions;
  10. Ensure that voter education capacitates and empowers all eligible citizens; as well as fostering ownership of the electoral process and the democratic political system;
  11. Ensure adherence to a binding Electoral Code of Conduct;
  12. Ensure the acceptance of the election results by all electoral stakeholders, as proclaimed, to have been free, fair, transparent, credible and peaceful by the competent and independent national electoral authorities in accordance with the respective laws of the land;
  13. Condemn and reject the unconstitutional change of government and non-acceptance of results, after due process, as announced by the legally competent authorities.

Since its founding, the IEC has been guided by and has observed these principles, so much so that most have been domesticated and enshrined in the country's laws. However, this paper argues that the level of preparedness the IEC exuded in the 2022 elections points to it contravening some of these principles, as will be discussed in subsequent paragraphs.

#### THE IEC: CONSTITUTION, LEGAL FRAMEWORK AND MANDATE

Lesotho's IEC was established in 1997, just one year ahead of the tumultuous 1998 elections. Before the IEC was established, elections in Lesotho were managed by the electoral office, which was headed by the chief electoral officer. The electoral office was abolished through the Second Amendment to the Constitution Act, 1997 (66) A (1), which provides for the establishment of the IEC and its functions as follows:

- To ensure that elections to the National Assembly and local authorities are held regularly and that every election or referendum is free and fair;
- To organise, conduct and supervise, impartially and independently, elections to the National Assembly and referenda under the provisions of this Constitution and any other law;
- To delimit the boundaries of constituencies in accordance with the provisions of this Constitution and any other law;
- To supervise and control the registration of electors; to compile a general register of electors and constituency registers of electors for the several constituencies; and to maintain such register or registers up to date;
- To promote knowledge of sound democratic electoral processes;
- To register political parties;
- To ascertain, publish and declare the results of elections and referenda;
- To adjudicate complaints of alleged irregularities in any aspect of the electoral or referendum process at any stage other than in an election petition; and
- To perform such other functions as may be prescribed by or under any law enacted by Parliament.

In terms of the Second Amendment to the Constitution Act, 1997 (84A), the Parliament of Lesotho enacted the National Assembly Electoral Act, of 2011, which gave the IEC powers and expanded functions. Before the promulgation of this Act, elections in Lesotho were run in terms of the repealed National Assembly Elections Act, 1992, which was repealed and replaced by the Act of 2011. The powers of the IEC are provided for in the National Assembly Electoral Act, 2011 (135) as follows:

1. To ensure that elections to the National Assembly and local authorities are held regularly and that every election or referendum held is free and fair;
2. To organise, conduct and supervise, impartially and independently, elections to the National Assembly and referenda under the provisions of this Constitution and any other law;
3. To delimit the boundaries of constituencies in accordance with the provisions of this Constitution and any other law;
4. To supervise and control the registration of electors;
5. To compile a general register of electors and constituency registers of

- electors for the several constituencies and to maintain such register or registers up to date;
6. To promote knowledge of sound democratic electoral processes;
  7. To register political parties;
  8. To ascertain, publish and declare the results of elections and referenda;
  9. To adjudicate complaints of alleged irregularities in any aspect of the electoral or referendum process at any stage other than in an election petition; and
  10. To perform such other functions as may be prescribed by or under any law enacted by Parliament.

While no functions supersede any others, producing a voters' list from voters' registration appears to be the most crucial function as it seemingly activates, and to some extent, legitimises other electoral processes. In the run-up to the 1998 polls, the IEC failed to provide the contesting political parties with the voters' roll for scrutiny. Sekatle (1999) suggests that the IEC did not have sufficient time to prepare for the elections since its commissioners were appointed on 12 September 1997. It had barely nine months to deliver the elections and, as such, it inevitably made mistakes such as failing to make the voters' list available to political parties. The opposition approached the High Court on the issue but the Court made a ruling on the matter only after election day, further poisoning the relations between the IEC and the complainants (Makoa 2004). Makoa (2018, p. 88) points out that 'by the election day mutual trust and confidence between them had evaporated. The attrition did not augur well for the elections for their outcome was rejected as fraudulent by the main opposition', leading to the post-election crises that saw Maseru, the capital of Lesotho, go up in flames.

This triggered the intervention of SADC which called for an independent review of the elections, resulting in the appointment of a commission which 'reported in elaborate detail upon numerous administrative flaws and irregularities in the conduct of the election by the IEC but found that these were not so great as to allow them to declare the results of the election invalid', (Southall 2012, p.87). Lesotho's 1998 elections exposed the IEC's poor management performance.

In subsequent elections the IEC improved as the commission arguably outgrew its challenges. Despite this apparent improvement, there were still noticeable failures on its part. Matlosa (2021, p.142) argues that as political parties formed strategic pre-election alliances in 2007, they distorted the newly-introduced Mixed-Member-Proportional electoral model, undermining the country's democratisation and stability, but the IEC 'watched helplessly'. Yet, as

the guardian of the model, it had to protect the system. He goes on to state that the failure of the IEC to protect the model led 'to its tremendous loss of integrity and public trust over the years (ibid.).

The IEC seems to have regained its integrity and public trust in the elections after 2012, in that there were no issues raised against it by the electoral stakeholders. However, in the 2022 elections it demonstrated poor performance and a lack of preparedness. The big question that will be addressed in subsequent paragraphs is how and why this came about.

### PREPAREDNESS AND PERFORMANCE SINCE THE 2012 ELECTIONS

To assess the preparedness and performance of the IEC in the 2022 elections, this paper traces both aspects from the 2012 elections. This is because the 2012 elections ushered in a new and historical wave of coalition governments which have since become a feature of Lesotho's politics. In preparing itself for the 2012, 2015, and 2017 elections, the IEC has been praised for conforming to AU and SADC's standards of democratic elections (EISA 2013; SEOM 2015; AUEOM 2017; EISA 2017). It is commended for having successfully delivered the 2012 elections in less than a year after running the local government elections in October 2011 (SADC Parliamentary Forum 2012). Unlike its continental counterparts, Lesotho does not run the National Assembly and local government elections concurrently, though both are managed by the IEC. Kapa (2013) observes that the IEC delivered more credible elections in 2012 than was the case before, as the election was not marred by any complaints about the electoral verdict. In the same spirit, the SADC Parliamentary Forum (2012) declared the IEC to have been prepared and to have run the elections professionally. Its ballot papers were printed in time under the observation of stakeholders, including representatives of political parties, all observing the electoral calendar. Moreover, this election saw politicians serving on almost all IEC committees relating to the management of the elections, while CSOs were permitted to participate in the preparations for the elections (Kapa 2013). In the same elections the IEC reportedly rolled out a robust voter education strategy in collaboration with the CSOs (SADC Parliamentary Forum 2012). Such collaboration is crucial to guaranteeing the integrity of the IEC, the credibility of the elections, and electoral governance, particularly in an era in which collaborative networks are advocated for administering public affairs.

Similarly, the 2015 elections were declared free, fair, and credible, with the IEC having organised and delivered a credible election at short notice (SEOM 2015). This was a snap election, following the collapse of the coalition government that had assumed power in 2012. As with the 2012 elections, the outcome of the 2015 elections went unchallenged by any political party. The 2015 elections were

immediately followed by yet another snap election in 2017, again because of the collapse of another coalition government. Yet again, SEOM (2017) found that in managing the 2017 elections, the IEC had aligned itself with the revised SADC Principles and Guidelines Governing Democratic Elections. The African Union (2017) commended the IEC for having cleaned the voters roll.

Furthermore, the AU also notes that the IEC, together with its partners, carried out intensive voter education to achieve 85% voter turnout and also introduced the Advance Fingerprint Verification System, which would clean the voters' register. EISA (2017) notes that although the IEC began its preparations for the 2017 elections in a relatively compressed timeline, it met most of its legal obligations and thus satisfied the mission despite the identified shortcomings. EISA further notes that the IEC developed a programme that printed newsletters with voter education information and operated a 24-hour call centre during the election period to provide voters with information on all aspects of the electoral process. The overall message from the Election Observer Missions (EOMs) is that the IEC was well prepared and thus performed well in those elections. Ironically, the EOMs have consistently found the IEC to have performed well in managing elections, yet Lesotho has a history of post-election conflict without any advance warnings of poor preparation. This may be because the EOMs' observations are confined to limited periods so they may miss other crucial indicators when forming their conclusion.

### EMB PERFORMANCE FRAMEWORK

Gauging the performance of an EMB or any organisation needs a model to provide a benchmark. However, the study of the administration of elections is still new and such models are still being developed. James et al. (2019) developed a conceptual framework that maps causal linkages between an EMB's design, performance, and outcomes in a quest to provide a comprehensive analysis of EMB performance. This framework can be juxtaposed with Mozaffar and Schedler's (2002) concept of electoral governance, which stipulates that elections should be characterised by substantive uncertainty and procedural legitimacy – an innate paradox that substantive uncertainty requires procedural certainty. The concept of electoral governance, therefore, suggests that while there must be procedural certainty in how the IEC manages elections, there must also be substantive uncertainty about the election outcome. This can be easily achieved when processes and decisions are grounded in the legal frameworks that guide the IEC and the international standards that it must abide by. There must be a concerted effort from all stakeholders to achieve this. While this concept cannot be used to measure the IEC's performance, that of James et al. (2019) can.

The framework of James et al. (2019) is relevant to this paper which argues that there are causal linkages between the IEC's preparedness, its performance in the 2022 elections and all preceding elections. As indicated above, EOMs declared the IEC to have been well prepared and to have performed well in elections from 2012 to 2017. However, it is not clear how this performance was measured, beside it being assessed based on AU and SADC's international standards, among others. The framework by James et al. (2019) stands out as the best to assess the IEC's performance because its causal linkages permits the tracing of events. They purport (2019, pp. 302-3) that through this framework they expect an 'EMB organisational design to shape EMB performance, and EMB performance in turn to affect desirable outcomes such as election integrity and confidence in elections'. This framework comprises seven dimensions of EMB design, namely centralization; independence; capacity; scope and division of tasks; relation to external actors; technology; and personnel.

Of these seven dimensions, this paper focuses on the independence of the EMB, its capacity, and its personnel, because of their relevance. Independence in this context refers to the extent to which EMBs are formally independent of government. It comprises, among other things, the procedures for appointment of the EMB, control of the EMB budget, and EMB reporting requirements. This is relevant for the EMB performance because formally independent EMBs may be better able to operate impartially in practice, and thereby strengthen electoral integrity (James et al. 2019).

Capacity refers to the degree to which EMBs are stable, sustainable and sufficiently well-resourced to have the capacity to deliver elections. What resources do EMBs have? How secure are these resources and do they fluctuate between election and non-election years? What about personnel, for example the staff working for national, regional, and local level EMBs as well as the temporary staff assisting in running polling stations on election day. This is relevant for EMB performance because having staff with sufficient training and expertise in electoral procedures is likely to enhance both perceptions of and actual EMB efficiency (James et al. 2019).

#### THE IEC AND THE 2022 ELECTIONS: PREPAREDNESS AND PERFORMANCE

The October 2022 elections follows two consecutive snap elections in Lesotho, in 2015 and 2017, rendering the country's tenth Parliament the first to complete its full five-year term since 2012. Chapter 4 of the National Assembly Electoral Act, 2011 provides for the promulgation and preparation for elections. In line with SADC's revised Principles for Conducting Democratic Elections, 2015, Section

37(1)(b) of the National Assembly Electoral Act, 2011 stipulates that the election date shall be proclaimed no later than four days after the dissolution of the Parliament. Thus, on 19 July 2022, following the dissolution of Parliament, steps and procedures embedded in the Second Amendment to the Constitution Act, 1997 (84)(1) provide that His Majesty King Letsie III announced 7 October 2022 as the National Assembly election day. Furthermore, in terms of Subsection (37) (3)(b) of the National Assembly Electoral Act, 2011, the elections timetable was published and gazetted, and the IEC started preparations for the elections process. These preparations include scaling up voter registration and cleaning the voters' roll. This paper discusses five themes below that arguably determined the level of preparedness and the performance of the IEC in the 2022 elections.

### *The Delayed Appointment of Personnel: Commissioners and the Director of Elections*

James et al. (2019) identify personnel as a key component of the EMB's design that will inevitably affect its performance and outcomes. Personnel included the secretariat responsible for the day-to-day operations of the IEC. The process of cleaning the voter's roll and continuous voter registration are critical and require sufficient personnel as well as strategic leadership and oversight. At the oversight and strategic levels, the IEC has three commissioners: two commissioners and a chairperson. The commissioners are appointees of the king in terms of Section 66 (1) of the Second Amendment to the Constitution Act, 1997.

At the operational level, the commission has a secretariat headed by the director of elections, who is appointed by the IEC in terms of Section 144(1) (4) of the National Assembly Elections Act, 2011. According to the European Union (2022), the IEC was not operational for one-and-half years as it had neither commissioners nor a director of elections for a significant portion of the pre-election period. The commissioners and the director were only appointed in December 2020 and March 2022 respectively, with the elections scheduled for October 2022. The late appointments of such key positions in the IEC would have dire consequences and apparently set the IEC up for failure in the 2022 elections.

These positions should have provided the secretariat with strategic and operational direction throughout the election cycle, particularly during the critical election period. The effect of this leadership vacuum was evident in how voter registration was handled. Although the National Assembly Electoral Act, 2011 provides that the voter registration process should continue throughout the year, the IEC could not provide continuous registration and cleaning of the roll outside this period in the run-up to the 2022 elections. James et al. (2019) link EMB staff recruitment procedures to the independence of an EMB. For Mr Thuso

Mosabala (Information and Communication Officer, Transformation Resource Centre, interviewed in Maseru on 1 February 2023), some of the problems of the preparedness and performance of the IEC are structurally rooted, starting with staff recruitment processes. In his view, the Constitution does not inspire the IEC to prepare and perform well as it excludes other important stakeholders from the appointment processes, which are the prerogative of politicians.

When such appointments are infused with undiluted party politics or skewed stakeholder engagement, then the integrity of the IEC and the credibility of the elections is questioned. Thus, even if commissioners were appointed on time, the preparedness and performance of the commission would still be hampered by how both the director of elections and commissioners are appointed. Mosabala alleges that when the candidates for those positions have been shortlisted, only registered political parties are invited for appointment of commissioners in terms of the Second Amendment to the Constitution 1997 (66) (3) (4). This denies other stakeholders any role in the process and inevitably attracts perceptions that these are political appointments. The need to involve other stakeholders is justified; but the IEC also engages only those parties that are registered for the elections when reviewing the voters' roll, much as it explicitly engages the CSOs for voter education.

The IEC has come a long way in embracing electoral governance. Its processes now include procedural certainty. Even though Mosabala (2023) also alleges that politicians are again involved in the shortlisting of the director, this is contrary to the National Assembly Electoral Act, 2011 144 (1) which provides that, 'the Commission shall appoint a suitably qualified and experienced person as a Director upon terms and conditions determined by the IEC in consultation with the Public Service Commission and specified in the instrument of appointment', thus making the director a public servant. The public service plays a major role in staff appointments for the commission. Sejanamane (2016) alludes to the commission's staff belonging to the public service because they may be recruited directly by the IEC even from the civil service, but their structure, salary, and benefits are still with the Ministry of Public Service. The arrangement does not directly allow for the independence of the commission.

Although the staff is responsible for the daily implementation of the IEC's mandate, this remains marred by inefficiencies and inadequacies. Sejanamane (2016, pp. 125–6) notes that the IEC has financial inadequacies which have affected its staffing. He reports that almost all heads of sections stated that they were experiencing staff shortages to the extent that in some departments, the vacancy factor is as high as 50%. This would mean that the IEC may have activities to perform outside the election period, such as voter registration, but it is still



constrained by its lack of financial and human resources. Because of limited staff, 'whenever elections are held, the IEC has resorted to hiring part-time staff to ensure that work gets done' (ibid.).

Even though the IEC's temporary staff receives training before administering the elections, their competence and commitment to the mandate of the commission remain suspect. James et al. (2019, p. 300) affirm that electoral personnel are crucial for an EMB's performance because 'having EMB staff with sufficient training and expertise in electoral procedures is likely to enhance both perceptions of and actual EMB efficiency in delivering elections'. Hence the performance of the IEC through these temporary staff, coupled with the late appointments of both commissioners and the director of elections, create doubts about the capacity of the IEC to perform well in the 2022 elections.

### *Financial Dependence of the IEC on the Government*

Lesotho's EMB has no financial autonomy. It depends entirely on government funding to run and manage elections. Section 66D (1) of the Second Amendment to the Constitution Act, 1997 provides that 'parliament shall provide funds to enable the Commission to perform its functions effectively'. Subsection (2) also provides that all the expenses of the commission shall be charged to the consolidated fund. As it stands, it is the preserve of the parent ministry to disburse funds to the IEC. Sejanamane (2016) argues that the IEC receives its funding through the Ministry of Law and Constitutional Affairs and it does not account directly to Parliament for the funds it has received this way.

This financial dependence on the government inevitably has implications for the preparedness and performance of the commission in running any election. This is because, without full control of its finances, the IEC is constrained to execute its functions timeously. It has to rely on the government to provide the requisite funds.

Given its reliance on government funding and its limited independence in staff recruitment, it becomes difficult to regard the Lesotho EMB as a truly independent body. Catt, Ellis, Maley, Wall, and Wolf (2014) introduced three broad electoral management models, namely, the *independent model*, the *governmental model*, and the *mixed model*. Classifying the IEC as independent would require it to fit neatly within the independent model, which it does not. According to Catt et al. (2014) the model is used:

In countries where elections are organised and managed by an EMB that is institutionally independent and autonomous from the executive branch of government; its members are outside the executive. Under

the Independent Model, the EMB has and manages its budget, and is not accountable to a government ministry or department. It may be accountable to the legislature, the judiciary, or the head of state.

Even though the IEC may seemingly have independence, as its name suggests, in drawing up its budget such independence becomes compromised if and when the government does not endorse the proposed budget and instead disburses funds in its own times without regard to the pressing needs of the commission, as witnessed in the 2022 elections. In their framework, James et al. (2019) argue that the extent to which an EMB is formally independent of government will have a bearing on its performance. Section 66C of the Second Amendment to the Constitution Act, 1997 assures the independence of the IEC by providing that the IEC shall not be subject to the direction or control of any person or authority when performing its functions.

However, if the IEC receives funds from the government, this is an affront to that independence. Independence is being paid lip service. Sejanamane (2016, pp. 126-7) is correct in asserting that, because of this dependence on the government of the day, 'the hint of interference will always be there. Therefore, in its present form, and given the constraints it faces, the IEC is not independent'. In the same vein, the IEC's Director of Elections, advocate Mpaiphele Maqutu (interviewed in Maseru on 20 January 2023), points out that Section 66C of the Second Amendment to the Constitution Act, 1997 is only a text which they would like to actualise and institutionalise. In an interview in Maseru on 29 January 2023, Mr Booi Mohapi, executive secretary of the Catholic Commission for Justice and Peace in Maseru, also observes that because of the prevailing resource dependence of the IEC on the government, it would be futile to assess its preparedness and performance.

According to Garnett (2019), one way to check on whether an EMB can perform its functions is to examine whether it has adequate resources to carry out those functions. In terms of the Second Amendment to the Constitution Act, Section (66D) (1) the government had set aside only M300 million of the 2022/23 national budget for running the 2022 elections as opposed to the M321 million budget that the IEC had submitted (Maqutu 2023). In addition, of the M321 million, the IEC was granted only M261.5 million for the elections (ibid.). Maqutu further observed that the IEC normally receives funds in a lump sum; but this time not only was it given a pittance but this also came in instalments of M30 million every month starting from around May 2022, five months from election day. The first instalment was followed by late weekly instalments of the same amount from June 2022. The funds that the IEC received from the government were about 18.5% below the budget, and especially as the election calendar had

already been published this undermined their preparation for the elections and its smooth running.

The budget was insufficient and had not considered the significantly increased number of contestants (European Union 2022). Moreover, how these funds were disbursed is a clear example of how financial dependence on the government cannot be good for managing elections. As it is elections carry a high price tag (Garnett 2019). However, when an EMB's budget is cut, this not only compromises the IEC but is a silent communication about the interference of the government in the election process because crucial activities are bound to be compromised. Nevertheless, even though the government seemed not to have prioritised this funding, the onus is still on the IEC to continue with activities and preparations for the elections. Independently and otherwise, the IEC cannot run elections as it was unable to prepare for the elections before it received funding, and it was even more hard-pressed after receiving less than it had requested.

The funding situation was bound to have a negative effect on the IEC performance and this boils down to the importance of IEC independence. If the IEC were financially independent, it would not necessarily have been affected by the financial variations affecting the government; rather, it would have used its own resources to run its programmes accordingly, and not be in the kind of financial predicament it was in the 2022 elections. Maqutu (2023) reveals that this election was run on debt and that:

As I speak to you today, I still have not received all the money that I need to pay the people that I need to pay for having held those elections, including Basotho party agents. The M30 million monthly instalments finally culminated in M261 million but remember that when the budget we submitted was tabled in Parliament, our minister made it clear that the M261 million was not enough and the understanding was that, because of cash flow and liquidity issues of the government, when we had used up all the money then we would be given more funds. That money has not come forth up until today.

He was adamant that in terms of technical expertise, the IEC was adequately prepared to administer the elections. However, this applied only to the permanent staff. It could not engage temporary staff and train them because that would require extra financing. He concedes that the IEC's level of preparedness was hampered by its financial dependence on the government. Maqutu also concedes that the IEC was not able to implement certain critical processes, including voter education and registration. The other critical activity here is the cleaning of the voters' roll. The paper addresses these issues.

*Voter Registration, Voter Education, the Voters' Roll, and Voter Turnout*

Voter registration, voter education, the voters' roll, and voter turnout are key, interrelated processes in any election. The quality of each is critical for the integrity of elections, which EMBs must ensure at all times. As indicated earlier, registration is continuous thus the IEC's work is not confined to election day. One of SADC's thirteen principles encourages regular reviews of how citizens in the diaspora participate in national elections; however, registering for elections in Lesotho requires voters to present themselves physically at any IEC office. This is even though over 30% of the eligible voters work outside the country (Musanhu 2009) and travelling to Lesotho just to register might be unrealistic. The IEC did not show any form of preparedness in accommodating these citizens by upgrading or installing technology that would permit remote registration. It did, however, set up a portal catering only to those voters who had already registered in order to update their records.

The effects of voter registration on elections are two-pronged: they affect both the voters' roll, and education, with the latter having an impact on the former. Even if those in the diaspora were to update their records, this would not guarantee that they would vote. Updating their records might be futile without guaranteeing their ability to vote. In this regard, the IEC is failing to comply with the SADC principles; yet registering for elections in Lesotho is compulsory even though the IEC does not seem to cater for this category of voters.

Voter education is equally crucial in elections. Its rationale is to educate citizens about their right to choose their leaders, the processes entailed in doing so and what is required to enable them to enjoy this right (EISA 2013). Crucial as it is, its provision remains a challenge in Lesotho (Kapa 2013). EISA (2013, p. 28) notes that civic and voter education have not been very effective in past elections in Lesotho, partly due to 'limited funds both for CSOs and the IEC, lack of uniformity in the civic and voter education methodology, with CSOs adopting their approach while the IEC also used its outreach strategies, and poor or lack of coordination between the various civic and voter education providers.'

Either the IEC has neglected its duties or it has delegated them to CSOs, because while it might uphold electoral governance and rightly be in partnership with CSOs in ensuring voter education, it has the legal mandate for all election functions. Thus, the IEC must approve all strategies for voter education and ensure uniformity.

The IEC has been grappling with insufficient resources even in past elections and it strives to run elections against all odds, hence this paper questions its capacity to run elections effectively. Like Garnett (2019), James et al. (2019) assert that for an EMB to have the capacity to do its job, it has to be sufficiently resourced.

This the IEC is not, thus it cannot satisfactorily implement voter education and registration. Maqutu (2023) claims the IEC has run the election against the worst budget constraints it has ever faced, and the IEC has had to deal with the aftermath. It should not have run an election under such budgetary constraints which have compromised the quality and integrity of the elections.

Since 2012 the IEC has outsourced voter education to the Lesotho Council of Non-governmental Organisations (Sejanamane 2016; Kapa 2013). This arrangement was retained even in the 2022 elections. However, unlike in past elections, the IEC engaged CSOs to conduct voter education only three weeks before the polling day due to the limited and late arrival of funding, when rightfully they should have been engaged three months before the polls. Participating CSOs normally receive some funding from the IEC to conduct voter education which they supplement with external funding. However, for the 2022 elections, some CSOs had to fend for themselves. It also means that the IEC could not control and ensure uniformity in the voter education methodology as earlier suggested. The delayed arrival of funding also resulted in the late arrival of voter education material. All these challenges led to highly uncoordinated and compromised programmes.

It is no wonder that the European Union (2022) reports that the 2022 elections saw the lowest voter turnout (37%) in the electoral history of Lesotho. According to the International Institute for Democracy and Electoral Assistance (International IDEA), the first elections of 1965 enjoyed a 62.32% voter turnout; 81.90% in 1970; 72.28% in 1993; 71.83% in 1998; 66.69% in 2002; 49.00% in 2007; 50.04% in 2012 ; 46.61% in 2015; and 46.37% in 2017. Notwithstanding these figures, a 2022 pre-election survey by Afrobarometer found that the decline in voter turnout could be due mainly to consistently declining voters' trust in the IEC (Malephane 2022). Maqutu (2023) referred to a study on voter turnout commissioned by the IEC in 2019, which, he argues, indicated that people do not vote primarily because politicians do not keep their promises, and not because the IEC is not delivering on civic and voter education as had been thought. He acknowledges that voter turnout was low but suspects that the figure might have been exaggerated. Thus, he rated the IEC's preparedness as fair due to the condition of the voters' roll.

Maqutu's suspicion about the exaggeration of the voters' turnout is shared by three respondents from the CSOs. They feel that the reported 37.7 % voter turnout may not reflect the reality, given the poor quality of the voters' roll the IEC inherited when it was established (Sejanamane 2016). The IEC is mandated to compile the register and keep it up to date; having been in business for three decades and managed several elections thus far, the fact that it inherited the register is no longer a valid excuse. Members of the CSOs argued that the IEC has not removed the names of deceased persons and those who have moved away

from their constituencies and from Lesotho from the voters' roll. The voters' roll has remained problematic for years. For instance, in 2012 political parties recorded dissatisfaction and distrust with the voters' roll, which they found to be in a very bad state due to numerous multiple registrations (SADC Parliamentary Forum 2012). Members of the CSOs have called for the voters' roll to be cleaned and started from scratch. This is another indication that the IEC seemed to have been caught off guard by the 2022 elections. It can be exonerated from blame this time because it had intended to clean it ahead of the 2022 elections, though they failed to do so. Maqutu (2023) indicated that the IEC was unable to redo the voters' roll because it was faced with litigation following a tender being issued for the re-registration of voters. He revealed that:

One of the prospective bidders lodged a case in court, resulting in an interdict that hindered us from continuing because they were now investigating the process pending the outcome of the decision of the court. We then approached the politicians about our predicament. They unanimously gave us the go-ahead to run the elections with the same voters' roll to avoid a constitutional crisis of deferring the date of the elections.

The several elections that the IEC has managed with a permanently flawed register indicate its failure to execute its mandate of maintaining a crucial tool of the elections. This has a considerable impact on the outcome of the elections. The trade-off between the constitutional crisis, in case the IEC were to postpone the elections, and ensuring a clean register, is understood. Thus, it seems to have gone ahead with running the elections using a flawed voters' roll. The outcome was compromised electoral integrity. According to the Electoral Commissions Forum of SADC Countries (2022), since no new voters' register had been created as had been planned, the IEC resorted to using the national identification document file to produce a clean electoral register from the roll used in the 2017 elections (even though this register had not deleted deceased electors and duplicate entries), in order to strengthen the integrity and accuracy of the register.

The new register had potential errors. Moreover, the IEC had the option of linking the voter register to the civil register but could not do so due to time constraints. The European Union (2022) supports the fact that the IEC was not prepared for the elections even though it was not even a snap election. Moreover, if voter registration continues, and the IEC has the technical expertise (Maqutu 2023) it means that the time factor is not an issue as there is a legitimate expectation that the IEC would clean the register even outside the election period. This could also imply that the IEC is only fully operational during the election period. According

to Mohapi (2023) and Mr Lemohang Molibeli (Peace Education Researcher, Development for Peace Education in Maseru, interviewed on 27 January 2023), the voters' roll was not a viable tool that could be used for elections, and its status had nothing to do with resources but more with the IEC being ill prepared. The IEC has the period between elections to clean the register, and it has had commissioners longer than it has been without them, therefore it had ample time to clean the register before the 2022 elections – particularly because the issue of a flawed register is not new. It is well-known and documented.

As if that was not enough, the IEC failed to publish the final voters' roll when Lesotho went to the polls on 7 October. The background to this is that, as the European Union (2022) notes, the IEC published the certified register and shared it with registered political parties 30 days before the elections. However, closer to election day allegations of errors and inaccuracies were expressed in the media, hence the cleaning and verification of the register continued until the eve of election day (Electoral Commission SADC Parliamentary Forum of SADC Countries 2022). This meant that while the list was initially shared in time, Lesotho went to the polls with an inaccurate register.

### *Inconclusive Electoral Reform*

Another variable that affected the preparedness and performance of the IEC in the 2022 elections was the inconclusive electoral reform process. The Parliament of Lesotho passed the National Assembly Electoral (Amendment) Act, 2022 to allow all eligible voters to register and vote by using their national identity documents as proof of identity. But this Act was nullified by the courts of law after the reopening of Parliament (to pass this Act and others) was challenged in the courts of law because the reopening of Parliament was unconstitutional. Lesotho is, at present, undergoing a reform process and the tenth Parliament failed to pass the electoral reform act. Hence, the reopening of Parliament to pass the electoral act and other laws. This caused uncertainty regarding the applicable legislation a few weeks before the elections (European Union 2022, p. 16):

The Court's decisions on the state of emergency nullifying the electoral law reform reverted the requirement for the submission of candidate lists to the criteria of the old version of the electoral law during the week of submission of Proportional Representation (PR) candidates. The IEC had not published the parties' candidate lists for the PR seats within the legal deadline on 5th October 2022, instead, these lists were made public only after the elections on 10th October, when the IEC announced the PR election results.

The IEC had been preparing itself all along for the elections to be based on the proposed electoral law, only for it to be abandoned. Maqutu (2023) indicates that the IEC had anticipated the promulgation of four new pieces of legislation, which included the harmonising of the Local Government Election Law and the National Assembly Legislation into the Elections Act; but when that fell through, the IEC had to go back to the drawing board. The new electoral law would have had voters producing their national identity documents and no other form of identity, as had always been the case. In this regard, Mohapi (2023) finds the IEC to have been relatively prepared. This relapse harmed well-nigh all electoral processes, particularly voter education and registration as these were being implemented to tally with the new law.

The inconclusive electoral reform should have put more pressure on the IEC to implement a robust voter education programme to counter any damage that may have been caused by having to revert to a law that was thought would have been retired by election day. However, due to the same financial constraints and late allocation of funds, voter education activities were compressed from the initial three months to three weeks, an unexpectedly short and compromised time for these elections. However, the inconclusive reform process should not have had that much impact on the voters because they were merely redirected to an electoral process with which they were already familiar. The only argument here may be that the electorate had already been informed and was ready to vote according to the new law.

### *Constituency Delimitation*

The decisions of the courts on the case challenging the delimitation of constituencies seem to have adversely affected the preparedness of the IEC to run the 2022 elections. Section 67(3) of the Second Amendment to the Constitution Act, 1997 mandates the IEC to draw up new constituency boundaries after every national census. In preparing for the 2022 elections, the IEC had demarcated new constituency boundaries, but that process was challenged by the Democratic Congress (DC), which dragged the commission to the courts of law. Even though the courts ruled in favour of the IEC, they also ordered the IEC to redraw the boundaries of 20 out of the 80 constituencies. The courts found that these 20 constituencies did not meet the constitutional requirement of the population quota variation of ten percent. As a result, on 12 August 2022 the IEC issued a legal notice containing the new delimitation of the 20 constituencies (European Union 2022). This was approximately two months before the elections.

The late publication of new constituency boundaries possibly confused voters and there was limited time for them to become acquainted with the new



constituencies. The European Union (2022) observes that this late change posed a challenge to registered voters, whose constituencies and polling stations had now changed very close to election day without them having received adequate and timely information. The new arrangement produced two categories of voters: those who showed up at their old polling stations but had been moved to new ones and then had to locate their new constituencies or polling stations during polling day; and those whose names were not on the voters' roll in their usual and known constituencies. Molibeli (2023) states that many voters' names were missing from the voters' roll, so much so that:

On election day, in Qoaling, a voters' roll had to be printed afresh in the Lorretto polling station. This voters' roll was not only changing voters' polling stations, but it was also actually placing them in new constituencies and districts altogether. The voters' roll that we went to elections with was not a correct one. It was a messy voters' roll.

Although Mohapi (2023) also witnessed similar problems while observing the elections, he commends the responsiveness and flexibility of the polling officers. He opined that the IEC performed relatively well considering the resource constraints it faced compared to the past elections, and recalled that:

In some polling stations, the IEC officials were even using the 2015 voters' roll just to make sure that everybody goes to vote although that was not following the law. Not that it was illegal as such, but we know that when the latest voters' roll is available it is the one that should be used, but some polling agents had the 2015 and 2017 voters' roll in their files. When voters would complain that they were not in the new roll, they would look them up in the 2015/2017 register and sometimes would rely on their recollection of the voter from previous elections and if they find him in the old register, they allowed them to vote.

Mohapi feels that these acts indicated how responsive and flexible the IEC was in the situation, and the lengths to which the IEC was willing to go to legitimise an election that should not have been allowed to reach this point given their lack of readiness. Nonetheless, the court cases on constituency delimitations were a new phenomenon since the 2012 polls and had an overall adverse effect on the preparedness of the IEC to run the 2022 elections. But this was not the only issue that involved court decisions. The European Union (2022, p. 30) notes that the High Court reported:

A total of 23 cases on candidate nomination and disputes on the legitimacy of party committees. A total of 10 candidate nomination cases were further submitted to the Court of Appeal. As a result of the Court's decisions, 36 candidates' names had to be changed from the candidate lists. The protracted cases extended well beyond the deadline for candidates' nomination of 9 September 2022, forcing the IEC to remedy the process.

These were coupled with late court decisions on the candidate registration process that led to delays in the publication of the final candidate lists for the FPTP seats, and complications regarding the printing of ballots in three constituencies (European Union 2022, p. 16).

### *Announcement of Results*

In terms of Subsection 66A(1) of the Second Amendment to the Constitution Act, 1997, the IEC is mandated to announce election results. However, such an announcement is usually done in two parts: Firstly at the polling stations by polling officers, and secondly, later, at a central office, by the IEC itself. Observing those steps, the final election results were gazetted on 14 October 2022; yet unexpectedly, on 21 October 2022 the IEC lodged an urgent application with the High Court 'requesting the re-allocation of four officially announced and gazetted PR seats. The IEC declared that a modification was necessary following its detection of the wrongly calculated PR seat allocation' (European Union 2022, p. 7). This allegedly incorrect calculation may be a yardstick of IEC performance, especially because the IEC has used this formula since the 2002 elections and this is the first time it has made this type of error.

Although a blunder of this magnitude could not have been foreseen, this paper argues that the IEC has observably performed poorly throughout the election process, including the electoral period. This was merely a culmination of several incidences of poor performance that it has exhibited in its quest to deliver elections regardless. Since the reform processes were stalled, as this paper has shown, there is nothing new introduced to the electoral process that could have led to the miscalculation of seats, and potentially compromised the public's trust in the electoral administration (European Union 2022).

The public's trust in the IEC was already fragile, as the Afrobarometer indicated; thus this miscalculation of the PR seats could only aggravate the situation. Despite the fact that the IEC has come a long way to redeem itself with political parties amid its tense relationship with them, this may have dire consequences and implications for future elections. This error further strips

this election of integrity and also leaves a dent in the credibility of the IEC as a public institution capable of running credible and fair elections. In light of this miscalculation, three members of civil society have called for a tribunal to be appointed. They have penned a letter requesting that the Council of State present to King Letsie III that the question of removing the three commissioners be investigated (Boloetse, Mokotjo, & Jane 2023). This tribunal is provided for under Section 66(12) of the Second Amendment to the Constitution Act, 1997, to investigate the need for such removal which will be based on the inability of the member of the commission to carry out his duties.

The courts have ruled in favour of the IEC, consequent to which the four PR seats were reallocated to the members of the Basotho Patriotic Party (BPB), the Lesotho People's Congress (LPC), the Basotho National Party (BNP), and United for Change (UFC). Be that as it may, the miscalculation of seats exposed further poor performance of the IEC and tainted the credibility of the commission (*The Post*, 2023). Before this court outcome, Maqutu (2023) had refuted any claims that the wrong calculation of seats may have dented the integrity of the IEC:

When we count the PR seats, we do it together with all the political parties that contested the election, we sit together and agree on the formula. Everybody came into that allocation meeting having already calculated their PR seats. Nobody picked up on that second aspect of the formula. If it was an integrity issue, we would have kept mum about it. It would be less painful for us.

Indeed, Maqutu is correct that all political parties that had contested the elections participated in the calculation of all the results and the allocation of the PR seats. It is surprising that they could not identify this disastrous error, only to be told of it by the IEC. Be that as it may, the allocation of PR seats and the announcement thereof is the responsibility of the IEC, bestowed upon it by the law; therefore anything that goes amiss will rightfully be blamed on it, not its stakeholders. The IEC is to blame for this blunder.

All these challenges above notwithstanding, there are other areas where the commission is applauded for good performance in the 2022 polls. Respondents note that among other positive factors the IEC delivered ballot papers on time and the election results were not disputed. Maqutu (2023), however, believes that the IEC outdid itself in the elections considering the challenges it faced. He lists these challenges as funding and the legislative environment, the whole issue around reforms which became a big dampener, the turnaround of matters before the court, and the much-needed interface of the IEC with the Ministry of Home Affairs.

## CONCLUSION AND RECOMMENDATIONS

All EOMs that observed the 2022 elections credit the IEC for having been prepared and performing well then, and in all elections since 2012. Their conclusion is usually based on the IEC aligning itself with principles and international standards, notably those of the AU and SADC. However, such pronouncements and analyses must be based on more than these considerations, especially when a country consistently records a declining voter turnout. Nonetheless, such pronouncements are to some extent inevitable because there is no comprehensive framework to gauge the performance of EMBs.

This paper has used the framework of James et al. (2019) which shows causal linkages between the design of an EMB, its performance, and outputs. The paper concludes that the IEC performed poorly in this election chiefly due to the inconclusive legal reform and its financial dependence on the government, which also affected its preparedness. The inadequate and late funding had a negative bearing on almost all electoral processes, and in particular, on voter education, which was completed only three weeks before the polls. The issue of the poor quality of the voters' roll seems to be a permanent problem in Lesotho's elections. It is therefore recommended that the constitutional and legal framework of Lesotho should be reviewed to grant the IEC full control over its resources to ensure elections that are not only free and fair but also have integrity. This should be done under the national reforms programme that is ongoing at the time of writing this paper. The financial independence of the IEC has a positive correlation with its capacity; therefore this paper recommends that to go along with the independence derived from the Constitution, Lesotho's IEC should be practically independent by adopting the precepts of the independent model of Catt et al. (2014). This paper also recommends an investigation into whether the design of the IEC could have implications for its performance, and that its structure be reviewed in line with its external environment.

## ——— REFERENCES ———

- African Union 2017, *African Union Election Observation Mission to the 3 June 2017 National Assembly Elections in the Kingdom of Lesotho Final Report*, African Union.
- African Union 2023, *OAU/AU Declaration on the Principles Governing Democratic Elections in Africa*, Available at <https://archives.au.int>
- AUEOM 2017, *African Union Election Observation Mission to the 3 June 2017 National Assembly Elections in the Kingdom of Lesotho*, African Union.

- Boloetse, M, Mokotjo, M & Jane, R 2023, Letter to the Council of State.
- Catt, H, Ellis, A, Maley, M, Wall, A & Wolf, P 2014, *Electoral Management Design- Revised Edition*, International Institute for Democracy and Electoral Assistance (IDEA), Stockholm.
- ECF-SADC 2022, *Preliminary Statement of Electoral Commissions SADC Parliamentary Forum of SADC Countries (ECF-SADC) on the National Assembly Elections of the Kingdom of Lesotho*, ECF-SADC, Gaborone.
- EISA 2013, *Parliamentary Elections 26 May 2012 Lesotho: EISA Election Observer Mission Report No 46*, EISA, Johannesburg.
- EISA 2017, *National Assembly Elections 3 June 2017: EISA Election Observer Mission Report No 56*, EISA, Johannesburg.
- Elklit, J & Reynolds, A 2005, 'Judging elections and election management quality by process', *Representation*, vol. 41, no. 3, pp. 189-20.
- Elklit, J & Reynolds, A 2005A, 'A framework for the systematic study of election quality', *Democratisation*, vol. 12, no. 2, pp. 147-162.
- European Union 2022, *European Union Election Observation Mission Lesotho 2022 Final Report National Assembly Elections – 7 October*, European Union, Maseru.
- Garnett, HA 2019, 'Evaluating electoral management body capacity', *International Political Science Review*, vol. 40, no. 3, pp. 335-353.
- IDEA, Institute for Democracy and Electoral Assistance, Available at <https://www.idea.int/data-tools/country-view/174/40>
- IEC 2022, *Independent Electoral Commission*, Available at [www.iec.org.ls](http://www.iec.org.ls)
- James, TS 2017, 'The effects of centralising electoral management board design', *Policy Studies*, vol. 38, no. 2, pp. 130-148.
- James, TS 2019, 'Better workers, better elections? Electoral management body workforces and electoral integrity worldwide', *International Political Science Review*, vol. 40, no. 3, pp. 370-390.
- James, TS, Garnett, HA, Loeber, L & van Ham, C 2019, 'Electoral management and the organisational determinants of electoral integrity: Introduction', *International Political Science Review*, vol. 40, no. 3, pp. 295-312.
- Kapa, MA 2013, *Lesotho: Political Participation and Democracy*, The Open Society Initiative for Southern Africa, Johannesburg.
- Lesotho Government 1997, *Second Amendment of Constitution, 1993*, Government Printers, Maseru.
- Lesotho Government 2011, *National Assembly Electoral Act, 2011*, Government Printers, Maseru.
- Lesotho Government 2022, *National Assembly Electoral (Amendment) Act, 2022*, Government Printers, Maseru.
- Makoa, FK 2004, 'Electoral reform and political stability in Lesotho', *African Journal of Conflict Resolution*, vol. 4, no. 2, pp. 79-95.

- Makoa, FK 2018, *Politics, government and governance in Lesotho since 1993*, SA Print Group, Maseru.
- Malephane, L 2022 'Basotho approach election with grim outlook on economy and democracy', Afrobarometer Dispatch No. 535, 27 July.
- Matlosa, K 2021, *The interplay between party coalitions and electoral systems in Lesotho: Imperatives for party reforms*, In H, 'Nyane & M Kapa, *Coalition Politics in Lesotho: A multi-disciplinary study of coalitions and their implications for governance* (pp. 135-155), African Sun Media, Johannesburg.
- Mozaffar, S & Schedler, A 2002, 'The Comparative Study of Electoral Governance – Introduction', *International Political Science Review*, vol. 23, no. 1, pp. 5-27.
- Musanhu, B 2009, 'Lesotho', In D Kadima & S Booysen, *Compendium of Elections in Southern Africa 1989-2009* (pp. 147-185), EISA, Johannesburg.
- SADC 2015, *SADC Principles and Guidelines Governing Democratic Elections*, SADC, Pretoria.
- SADC Parliamentary SADC Parliamentary Forum 2012, *Election Observation Mission Report for the 2012 Lesotho National Assembly Elections*, SADC Parliamentary SADC Parliamentary Forum, Windhoek.
- Sejanamane, MM 2016, *Election Management Bodies in Southern Africa: Comparative study of the electoral commissions' contribution to electoral processes*, Open Society Initiative for Southern Africa (OSISA) and African Minds, Johannesburg.
- Sekatle, P 1999, June, 'The Lesotho General Election of 1998', *Lesotho Social Science Review*, vol. 5, no. 1, pp. 31-45.
- SEOM 2015, *Preliminary Statement of SADC Observation Mission to Lesotho*, Maseru.
- SEOM 2017, *Preliminary Statement of SADC Observation Mission to Lesotho*, Maseru.
- Southall, R 2012, 'Is Lesotho South Africa's tenth province?', *Indicator SA*, vol. 15, no.4, pp. 83-89.
- The Post*, Available at: <https://www.thepost.co.ls/four-new-mps-to-be-sworn-in/>

# THE TRANSITION AND FORMATION OF GOVERNMENT AFTER LESOTHO'S 2022 ELECTIONS

*Hoolo 'Nyane*

Hoolo 'Nyane is an associate professor and head of the Department of Public and Environmental Law, School of Law, University of Limpopo

## ABSTRACT

*The process of transitioning from one government to another and forming a new government after elections in Lesotho is often fraught with controversy and uncertainty. These problems can be attributed, by and large, to the lack of adequate rules and consistent constitutional practice. The 2022 elections have once again shone the spotlight on these longstanding problems. Like all other elections since 2012, the 2022 elections were inconclusive: no political party received an outright majority to form a government. Since the country uses a parliamentary system, the government depends on the confidence of the National Assembly and the life of the government is pegged to the life of Parliament. The end of the parliamentary term effectively means the end of the government. In terms of the Constitution, once Parliament is dissolved, elections must be held within three months. Within one month after the elections, a new Parliament must sit. While the Constitution provides for the appointment of the prime minister – the king appoints as prime minister a member of the National Assembly who will have the confidence of the House – there are no rules stipulating how the confidence of the House is to be determined. Likewise, the government's position between the dissolution of Parliament and the forming of a new government is often opaque and precarious. This article examines these inadequacies in the context of the 2022 elections. The article uses content analysis – the examination of primary and secondary documents – to analyse the activities that took place during the transition and formation of a new government in the 2022 elections. The article concludes that the 2022 elections serve to confirm a longstanding problem of inadequate rules and consistent practice relating to the transition and formation of government.*

**Keywords:** Lesotho 2022 elections, formation of government, caretaker government, transition, Constitution of Lesotho

## INTRODUCTION

Lesotho's 2022 elections have once again highlighted the perennial problems of inadequate rules and the inconsistency relating to the transition and formation of a government in the mountain kingdom. In terms of the Constitution, an electoral cycle lasts for five years, with the possibility of early termination (Constitution of Lesotho 1993, section 83). Since 2012 parliaments have lasted, on average, three years, due to the instability of coalition governments, with most governments collapsing before the end of a five-year cycle (Weisfelder 2015; 'Nyane & Kapa 2021). The introduction of the Ninth Amendment to the Constitution in 2020 halted this trend to some extent. The Amendment provides that the prime minister no longer enjoys the privilege of advising the king to dissolve Parliament when the prime minister loses the confidence of the National Assembly; previous prime ministers had invoked this power in 2015 and 2017 to ensure the early dissolution of Parliament. The immediate effect of the Ninth Amendment to the Constitution became clear in 2020 when the government transitioned from Prime Minister Thomas Thabane to Prime Minister Moeketsi Majoro without the need to dissolve Parliament and subsequently hold elections (Southall 2022).

The run-up to the 2022 elections was preceded by the official dissolution of Parliament on 14 July 2022. This Parliament was elected in 2017, so it had run its entire five-year course for the first time since the advent of coalition politics in 2012. When Parliament was dissolved at the end of its constitutional term, it was still seized with the much-anticipated Tenth Amendment to the Constitution Bill (2022), the flagship law for the constitutional reforms that had virtually held the country to ransom since 2012 (Monyake 2022). At midnight on 13 July 2022, the National Assembly had not yet finished enacting the Bill, let alone sending it out for Royal Assent. Hence, by operation of the law, Parliament was dissolved before the Tenth Amendment to the Constitution Bill was enacted. This was a clear embarrassment for the government as it had committed to the nation and to the international community that the Bill would pass before the dissolution of Parliament (Louw-Vaudran 2022). Parliament was later recalled on the flawed grounds that the failure to pass such a Bill constituted a state of emergency, allowing the dissolved Parliament to be recalled. Both the High Court and the Court of Appeal correctly invalidated such a recall of Parliament and all the legislative work done by the recalled Parliament (*Boloetse v His Majesty the King* (Cons. No. 0013/0015/2022) [2022] LSHC 2022).

In terms of Westminster caretaker conventions, the dissolution of Parliament spells the start of a caretaker period. Caretaker conventions are based on a salutary theory of Westminster constitutional design that government is based on the confidence of the popular chamber of Parliament (Boston et al. 1998; Simms 2011).



In Lesotho's case, the National Assembly is the popular chamber of Parliament. During the caretaker period, the government rules on the basis of caretaker conventions until a new government is installed after elections. This may be a relatively long period. In terms of the Constitution of Lesotho, once Parliament is dissolved, elections must be held within three months. Thereafter, Parliament must have its first sitting – to swear in new members and elect presiding officers – within 30 days, after which the king may appoint the prime minister (Constitution of Lesotho 1993, section 87). The Constitution does not stipulate when the king must appoint a new government. The entire period between the dissolution of Parliament and the installation of a new government lacks detailed guidelines. It depends largely on convention, practice and general principles governing caretaker governments. The powers of the government and the status of members of parliament in the period between the dissolution of Parliament and the new Parliament after the elections are also unclear.

Once again, in 2022, there was an uproar when it became clear that members of parliament were still receiving salaries after the dissolution of Parliament. Likewise, after the dissolution of Parliament, the government's activities raised a fundamental constitutional question. Much to the chagrin of many observers of constitutional developments, Prime Minister Majoro and his ministers continued with government business as normal; this included appointing diplomatic envoys and dismissing the Commissioner of Police. The same uncertainty about the caretaker period exists around the formation of a new government. The Constitution provides that the king appoints a member of the National Assembly who is the leader of a political party or coalition of parties that will command the majority in the National Assembly (Constitution of Lesotho 1993, section 87(2)). However, there is no judicial authority on when – whether immediately after the announcement of elections or after the first sitting of Parliament – the king appoints such a person. In terms of existing judicial authority, any member, and not necessarily a political party leader, can be appointed prime minister (*Mokhehle v Qhobela and Others* CIV/APN/75/1997).

After the 2022 elections, two incidents related to the transition and formation of the government merit a thoroughgoing analysis. The first incident was the resignation of former Prime Minister Majoro. On 14 October 2022 he resigned from the government, after which the king appointed him to act as prime minister pending the appointment of a new prime minister (SABC 2022). This practice is not new as in the past, when prime ministers have resigned after elections, the king has appointed them to act in the interim. The second incident was the appointment of the new prime minister. On 20 October 2022, the king released a Gazette in terms of which he, 'pursuant to section 87(1) and (2) of the Constitution and acting in accordance with the advice of the Council of State as the Prime Minister of

Lesotho' (Legal Notice 104 of 2022), appointed Samuel Ntsokoane Matekane as the new prime minister of Lesotho. At the time, the outgoing prime minister, Majoro, was still holding the instrument from the king 'to act' as prime minister. These incidents demonstrate that the law and practice concerning the new government's caretaking, transition and formation are still uncertain and obscure.

Hence, this article analyses the practices relating to the caretaking, transition and formation of a new government before and after the 2022 elections in Lesotho. The central thesis is that a lack of consistent practice and insufficient guidelines often render this sensitive period in the electoral cycle susceptible to the cyclical disputes that have characterised electoral politics in Lesotho.

This article uses content analysis as its methodology. The article analyses the Constitution, other statutory instruments such as Government Gazettes, decided cases, and secondary data in the form of newspapers and literature on caretaker conventions, transition and government formation. The article is divided into five main parts: the introduction; a brief background to government design in Lesotho; the conceptual framework; an analysis of significant developments during the 2020 elections; and the conclusion.

#### A BRIEF BACKGROUND TO GOVERNMENT DESIGN IN LESOTHO

Although Lesotho adopted the new Constitution as recently as 1993, the design of the government is still based on the British model of government inherited upon independence in 1966. Matlosa (1997, p. 95) captures this accurately: '[a]fter independence, the country inherited the Westminster model of government which was to ensure parliamentary democracy after the image of its colonial metropole-Britain'. This insistence on modelling the government system on British system has eluded all reform efforts on this design so far. It contrasts sharply with the general pattern that African countries followed after independence. While Westminster still has traces – as seen in the practices of parliament, judiciary and even the executive – in the many African countries that are former British colonies, most of them departed markedly from the classical Westminster design.

Upon independence, African countries retained parliamentarism, the legacy of the colonial era; but soon thereafter, most of them transitioned to presidential and quasi-presidential systems. As Robinson and Torvik (2016, p. 908) observe: 'at the time of independence, parliamentary constitutions outnumbered presidential constitutions ... in Africa. Yet ... country after country, there was a switch towards presidentialism. This happens both in Francophone and Anglophone countries'. Currently, there are only three monarchies throughout post-colonial Africa; Morocco, Lesotho, and Eswatini (formerly Swaziland) (Middleton 2015, p. 202).

However, in Anglophone Africa, only Lesotho and Eswatini remain monarchies. Robinson and Torvik (*ibid.*) observe further that:

At the time of independence, parliamentary constitutions outnumbered presidential constitutions 4 to 1 in Africa. Yet, in country after country, there was a switch towards presidentialism. ... None of the countries that started out with a presidential constitution has adopted a parliamentary constitution. Even in the wave of democracy that has swept over Africa since the 1990s, no country has yet made such a transition.

Lesotho is the only African country with a government that fundamentally resembles the British model (Macartney 1970). Eswatini, which at independence in 1968 also had a classical Westminster design of government, veered towards absolutism in 1973, thereby radically departing from the Westminster model (Proctor 1973; Baloro 1994). In 1993, when Lesotho returned to constitutional democracy with a new constitution, it retained the same design that was adopted at independence. The key features of this design are: the monarch is constitutional; the head of government is the prime minister; the cabinet is derived from parliament; the parliament is bicameral; the people elect a parliament, which in turn produces government; the judiciary is based on British traditions; and the civil service follows British conventions. Theoretically, the system is undergirded by four pillars: it is democratic; it is parliamentary; it is monarchical; and it is a cabinet system (Jennings 1969, p. 13). In elaborating on these four pillars, Jennings (*ibid.*) argues that the system:

...[it]is democratic because it is carried on in the name of the people according to doctrines freely accepted by or acceptable to the people at a general election. It is parliamentary because the people are for the time being represented by the [National Assembly]... . It is monarchical because the titular head of the State is a Sovereign who is the representative for the time being of a dynasty established by law. It is a Cabinet system because responsibility rests, subject to the [National Assembly] and the people, not in a single individual but on a committee of politicians sitting in Cabinet.

These theoretical linchpins directly affect how power transits from one government to another and how a new government is formed. Overall, elections remain important because of the pre-eminence of the principle of democracy. Although the people do not elect the government directly, the government is in the people's

name. Despite democracy being such an integral part of the system, it has had a chequered development since the return to electoral politics in 1993. While the country has held elections and, on some occasions, managed peaceful transitions of power from one government to another, Matlosa and Shale (2008, p. 140) correctly note that 'one prominent feature of the country's political history has been its political instability'.

Since 2012, the country's landscape drifted from single-party governments to coalitions. However, Kapa observes that the shift started earlier. In the run-up to the 2007 elections, political parties formed pre-election alliances which did not culminate with a coalition government; these had started in 2012. Booysen (2015, p. 430) describes this period as an era of 'serial, unstable, vacillating coalition governments'. During an era of hung parliaments, the question of how government forms and how it transits from one ruler to another remains fundamentally important.

The monarch is the titular head of government. The Constitution still makes him or her an indivisible head of the three key branches of government: the executive, the parliament and the judiciary. As Nwafor (2013, p. 58) observes: '[i]n Lesotho, the Constitution is fashioned closely along the Westminster concept of separation of powers, with, however, the peculiarity of a constitutional monarch whose powers cut across the functions of the three arms of government'. Thus, as a Westminster design, Lesotho maintains a weaker separation of powers as there is no clear separation between parliament and the executive. Despite this weaker separation of powers, superior courts in Lesotho often assert that the separation of powers is one of the key features of the constitutional design. In the case of *Swissbourgh Diamond Mines (Pty) v Military Council of Lesotho* (LLR 1991-96, 1481), former Chief Justice Cullinan noted that: 'throughout the ever changing constitutional pattern of the Kingdom a golden thread of the separation of powers is always to be seen'. In like manner, in *Judicial Officers' Association of Lesotho and Another v The Right Honourable The Prime Minister Pakalitha Mosisili NO and Others* (CONST/C/3/2005) [2006] LSHC 32 (4 July 2006), para. 79), Majara reaffirmed that '[t]he Constitution further establishes the three arms of government being the legislature, the executive and the judiciary, all of which are governed under its different Chapters'.

The monarch retains antique prerogatives similar to those of the monarch in the United Kingdom, such as the power to appoint a prime minister, the summoning, prorogation and dissolution of parliament, and the appointment of judges. These prerogatives have indeed been attenuated over time by the ascendancy of democracy: they are no longer within the absolute discretion of the monarch. When Lesotho first gained independence in 1966, the king had two types of power: those that he could exercise 'on advice' and those that could be

exercised in his own 'deliberate judgement'. Intriguingly, the power to appoint the prime minister was within his 'deliberate judgement' (Constitution of Lesotho 1996, sec 76(2)). Under the present design, all the powers and prerogatives of the king are exercised subject to the 'advice' by various institutions created by the Constitution.

## PROBLEMATISING TRANSITION AND FORMATION IN A WESTMINSTER-BASED DESIGN

### *Classical Westminster Principles*

The transition from one government to another is a critical stage in a system of government based on the Westminster design; it needs to be handled with care and circumspection (Martin & Stevenson 2001). Hart and Uhr (2011, p.1) note that: '[t]he peaceful transition of power from one set of hands to another is one of the basic features of a working democracy'. Both the transition and the formation of a new government in a Westminster-based constitutional system are based on one overarching principle: government must at all material times be based on the confidence of the representative chamber of parliament (Heasman 1960; Galligan & Brenton 2015). In a Westminster-based system, a caretaker government arises in two related but distinct circumstances: when the government loses the confidence of the popular chamber of parliament, and when the life of parliament ends. The overarching presumption that binds the two circumstances together is that, in terms of the parliamentary design, the government exists because of the confidence it enjoys from the representative chamber of parliament (Schleiter & Belu 2015).

Hence, when the House has withdrawn its confidence in the government, or the life of Parliament has ended, the government of the day exists without its foundational theory; it is no longer based on the confidence of the House (Boston et al. 1998). In an ideal situation, the life of the government would have to cease and a new government formed. However, since preparation for the formation of the government must be preceded by elections, there must be a caretaker government before a new government can be formed after the elections. It normally takes some time to prepare for elections once the life of Parliament has ended. In the case of Lesotho, an election must be organised within three months of the date of the dissolution of Parliament. So, the period during which the government is in office without the confidence of the representative House, the National Assembly, often evokes controversy.

The usual questions concern (a) the powers of such a government; (b) the length of time that such government must be in office; and (c), much more importantly, the process by which power transits from one government to

another (Boston et al. 1998). Westminster systems have developed a new set of principles to regulate government conduct during the caretaker period, that is when the government exists without confidence. This set of principles has been styled caretaker conventions. During this period it is generally accepted that ‘with the dissolution of the House, the Executive cannot be held accountable for its decisions in the normal manner, and that every general election carries the possibility of a change of government’ (Australian Government 2021, p. 2). The origins of caretaker conventions lie in British constitutional history. Schleiter and Belu (2015, p. 229) contend that caretaker conventions ‘exist to ensure that the country is never left without a fully functioning executive and to prevent a government whose democratic mandate has expired from making decisions that will inappropriately bind the incoming government’.

The theoretical underpinning of these conventions is that a government in a Westminster-based constitutional design is deemed responsible to parliament. This responsibility is encapsulated in the time-honoured doctrine of responsible government. The doctrine of responsible government is ‘a constitutional and political doctrine that refers to the Executive Government’s accountability to the Parliament’ (Lipton 1997, p. 195). It is intricately linked to the Westminster conception that government in a Westminster constitutional design is parliamentary. It is best operationalised through the principle of ministerial responsibility. Ministers are responsible to parliament and are both individually and collectively responsible. Lipton (1997) asserts that a triangulated relationship exists between the executive, parliament and the electorate. In that relationship, parliament has power over the executive because it is the elected arm of government, elected directly by the voters. Hence, ‘this is why the doctrine of responsible government is closely linked with ideas of representative democracy. The Executive government is responsible to the Parliament because Parliament is ultimately accountable to the electorate’ (Lipton 1997, pp. 194-195).

The golden thread that runs through this triangle is the principle of democracy. In the end, power reposes in the people (*demos*) who ‘delegate’ it to parliament, which in turn chooses the government (Bogdanor 2009). Jennings (1969, p. 13) captures this more succinctly when he states that a parliamentary system of government is democratic ‘because it is carried on in the name of the people according to doctrines freely accepted by or acceptable to the people at a general election’.

Hence, when parliament has withdrawn its confidence in the government, or the life of a parliament has ended – either because it has run its course or because of early dissolution – the government that remains in power is called a ‘transitional government’ or a ‘caretaker government’ (Klein 1977). While the government in a parliamentary democracy turns on the confidence of parliament, the principle of

necessity also dictates that a country cannot be without a functioning executive at any given time. A caretaker government serves this latter purpose; its duration is limited, and its powers are highly constrained (Dandoy & Terrière 2021). The principles that regulate a caretaker government are often opaque and context-based. Nevertheless, the literature on caretaker periods demonstrates some semblance of consensus about the two principles governing caretaker periods. The first principle is that the caretaker government cannot resign. This principle relates symbiotically to the purpose of caretaker governments to ensure that there is no vacuum in government. The caretaker government, therefore, holds the fort until a new government is appointed. The second principle is that a caretaker government must maintain the policy *status quo*. What constitutes the policy *status quo* is often uncertain. Governing is a dynamic enterprise: at every turn, the government may be required to make decisions as dictated by practical exigencies. There is, therefore, hardly any consensus about what constitutes the ‘policy *status quo*’. Nevertheless, the literature on caretaker conventions points to three strands of this principle: (a) refraining from making major policy decisions that are likely to commit an incoming government (Boston et al. 1998, pp. 635–636); (b) avoiding making significant appointments; and (c) avoiding the signing of major contracts.

After completing the transition, the moment to form a new government arises. Even in the formation of the government, like during the transition, the animating doctrine of confidence still looms large. Government must at all times be based on the confidence of parliament. This is the prime consideration when the Crown chooses the person to form a government. When appointing the prime minister, the Crown is enjoined to appoint a person who will form a stable government because that person has the confidence of the house. The formation of government starts with the appointment of the prime minister, which is a classic royal prerogative.

However, the ascendancy of democracy has linked the appointment with the principle of electoral democracy, which is manifested in the popular chamber of parliament – the National Assembly in the case of Lesotho and the House of Commons in the case of the United Kingdom. The general principles that have evolved in relation to Lesotho have been adequately canvassed in contemporary literature (Nyane 2016). The main thrust of this article is to gauge how the country applied these well-established principles in the 2022 elections. The following section focuses on this aspect.

### *Lessons from Selected African Countries*

As earlier indicated, most African countries have transitioned from parliamentary designs to presidential and quasi-presidential systems. Hence, lessons for them

and Lesotho – the only country in Anglophone Africa that retains constitutional monarchism – must be approached with great circumspection. As an African country, and in the spirit of decolonisation, Lesotho may find it preferable to align with African patterns rather than cling to the antiquated Westminster design which has its roots in the colonial era. This is in keeping with decoloniality which is ‘not only a long-standing political and epistemological movement aimed at liberation of (ex-)colonized peoples from global coloniality but also a way of thinking, knowing, and doing’ (Ndlovu-Gatsheni 2015, p. 485). According to Le Vine (1997, p. 181): ‘European constitutional forms cannot be expected to take root in African political soil, much less grow and flourish, since they are based on essentially alien predicates and principles’.

The two African systems that may influence Lesotho are those of Botswana and South Africa. While these two systems are quasi-presidential – in that the head of state is the president who is not directly elected – they have a process of forming a government based on an investiture vote. An investiture vote is a process through which members of a parliament positively elect the head of the government or show confidence in the preferred government (Bergman 1993a; Bergman 1993b). As demonstrated above, since classic Westminster designs are based on negative parliamentarism, the parliament does vote for the prime minister.

The Constitution of Botswana (1966) provides for an interesting transition and formation of a government. According to section 32 of their Constitution, the president is nominated by parliamentary candidates before elections. The general election remains parliamentary and not presidential. However, in terms of section 32(2) of the Constitution regarding nomination of the president, ‘the nomination of a candidate in an election of a President shall not be valid unless it is supported, in such manner as may be prescribed by or under an Act of Parliament, by not less than 1 000 persons registered as voters for the purpose of elections to the Assembly’. This means that although the nomination process is mainly parliamentary, there is a way in which the voter participates in the president’s nomination, and not the direct election. According to 32(3)(d), any presidential candidate ‘for whom support has been declared...by not less than such number of persons elected as Members of the National Assembly in the Parliamentary election as corresponds to more than half the total number of seats for Elected Members in the Assembly’ is declared as president. Although the transition and formation of the government ensure that the members of parliament actively choose the president, Botswana’s transition regime has another layer of complication. This has attracted trenchant criticism claiming that it is undemocratic as it implies an automatic succession to the presidency (Good &



Taylor, 2000; Molomo 2000; Ookeditse 2020). In Botswana, the transition starts a year before the general election when the incumbent president steps down, and the vice president becomes the caretaker president until after the elections. The vice president of Botswana is any elected member of parliament whom the president chooses.

The South African transition and formation of a government regime is a simpler version of the investiture vote. In South Africa, general elections are legislative: the people elect Parliament and Parliament, in turn, elects the president. According to section 86(1) of the Constitution of South Africa(1996), 'at its first sitting after its election, and whenever necessary to fill a vacancy, the National Assembly must elect a woman or a man from among its members to be the President'. After the election by the National Assembly, the president ceases to be a member of the parliament. Although the South African version of investiture is simple, it has received criticism that it does not have 'specific provisions regulating the formation and functioning of coalition governments in the national, provincial and local spheres of government' (de Vos 2021). The cases of Botswana and South Africa must be treated with caution when compared with Lesotho. Unlike Lesotho, the two systems have made marked departures away from the Westminster design. The lesson to be taken from these two countries is certainty in the choice of the head of government: the problem with which Lesotho continues to struggle.

## THE FORMATION OF GOVERNMENT DURING THE 2022 ELECTIONS

### *Transition and Caretaking*

The Constitution of Lesotho does not have elaborate guidelines on transition and caretaking, and constitutional practice lacks consistency. Nevertheless, an analysis of the constitutional framework is the safest point of departure for analysing what transpired with the transition in 2022. The Constitution of Lesotho provides that once Parliament has been dissolved, elections must be held within three months (Constitution of Lesotho 1993, section 84(1)). Within 30 days of holding the elections, the new Parliament must have its first meeting. There is no provision on when a new government must be formed, and there is no provision for the powers of government during two critical phases of the transition: the period between dissolution and elections, and the period between elections and the formation of a new government. To remedy the constitutional deficiencies in the transition, Parliament enacted the Ninth Amendment to the Constitution (2020). The Amendment provides as follows:

- (5) Where the office of the Prime Minister is vacant, there shall be a caretaker Government which shall be headed by the Deputy Prime Minister acting as Prime Minister.
- (6) The caretaker Government shall serve prior to the dissolution under subsection (4)(c), until the holding of the next general election.
- (7) The powers of the Prime Minister or Deputy Prime Minister as a caretaker Government are limited in their function, serving only to maintain the status quo.

The Amendment is inelegantly drafted. This 2020 Amendment is the first time that the Constitution has introduced the notion of a caretaker government. Instead of providing the conditions under which a caretaker government will arise, it provides that there shall be a caretaker government 'where the office of the Prime Minister is vacant'. Thereafter it provides for the caretaker period 'prior to the dissolution under subsection (4)(c), until the holding of the next general election'. This is equally problematic. It is unclear what 'prior to dissolution' means because before Parliament is dissolved, the government cannot be regarded as a caretaker government. As indicated above, the government generally becomes a caretaker when it governs without the confidence of the House: when such confidence has been officially withdrawn through a formal motion; when Parliament has been formally dissolved; or when the new Parliament has been sworn in, but the new government has not yet been appointed.

Furthermore, the Amendment's attempt to codify one of the most important caretaker conventions – that a caretaker government shall maintain the policy *status quo* – has drafting problems. Subsection (7) provides that the powers of a caretaker prime minister or deputy prime minister 'are limited in their function, serving only to maintain the status quo'. This formulation is an inelegant codification of caretaker conventions. It is, therefore, arguably responsible for the confusion about what should happen during transitional periods in Lesotho.

An attempt was made to improve the transition and caretaking provision of the Constitution with the enactment of the now-invalid Tenth Amendment to the Constitution Act of 2022. Section 83C(1) of the Act provided that:

There shall be a caretaker government immediately after the dissolution of Parliament and the person who held the office of Prime Minister and his or her Cabinet immediately before dissolution, shall continue as a caretaker government until a new Prime Minister and cabinet is appointed in terms of this Constitution.

Furthermore, section 83C(2) codified the well-known principles of a caretaker government, that a caretaker government shall not: '(a) implement any major

policy initiatives; (b) make appointments of major significance; or (c) enter into major contracts, agreements or undertakings'. This drafting is better than that of the Ninth Amendment to the Constitution Act of 2020. The Tenth Amendment accurately provides that the caretaker government should start immediately after the dissolution of Parliament, and thereafter the prime minister shall be regarded as a caretaker prime minister. And it accurately captures the powers of government in that transitional government. However, the Amendment, when it is reintroduced in future, may have to provide for the resignation of an outgoing prime minister and the status of other political institutions, such as the cabinet and the members of parliament.

During the 2022 elections, the usual confusion about transition and caretaking ensued. The tenth Parliament was officially dissolved on 14 July 2022 by the king in a notice in the Government Gazette. While Parliament was dissolved, Prime Minister Majoro and his cabinet remained in office. The position of government after its dissolution remained opaque. While in office, the prime minister declared a state of emergency, which became a precursor to the dissolved Parliament's recall. Indeed, Parliament was recalled to pass an abortive Tenth Amendment to the Constitution (2022). The caretaker principle of observing the policy *status quo* was thus not adhered to.

These reforms were indisputably intended to usher in huge changes in the country even though they were going to be passed by a Parliament whose five-year tenure had expired. Perhaps out of desperation, the government sought to justify the recall of Parliament from dissolution under section 84(2) of the Constitution, which permits the recall of Parliament when the country is in 'a state of war or of a state of emergency'. The section goes further to provide that 'the King shall recall the Parliament that has been dissolved and that Parliament shall be deemed to be the Parliament for the time being (and the members of the dissolved Parliament shall be deemed to be the members of the recalled Parliament)'. Clearly, as both the High Court and the Court of Appeal agreed in *Boloetse v His Majesty the King* (2022), the drafters' purpose could not have been that the section could be used to extend the life of a Parliament whose constitutional term has expired. Rather, the intention was to ensure that a recalled Parliament deal only with matters incidental to the emergency that necessitated its recall.

Confusion also ensued after the elections that were held on 7 October 2022. In principle, the period between elections and the formation of a new government presents a new set of questions for caretaker governments, because the people have already spoken about the structure of the new Parliament. Thus, the principle of democracy, which is the bedrock of parliamentary practice in Lesotho, begins to dictate the new government's form. This is an opportune moment for the prime minister and the cabinet to decide whether to resign. The Constitution of

Lesotho does not provide for this period either. It can therefore draw from the Westminster conventions. The cardinal convention regulating caretaker periods is that a caretaker government cannot resign. The conventions and their normative justification are captured accurately by Schleiter and Belu (2015, p. 4) thus:

In all countries, even those that do not recognise any other limitations on the caretaker government's powers (e.g. Ireland, Israel or Germany), the caretaker cabinet is constitutionally unable to resign until its successor has been appointed. By placing this requirement on "acting", "continuing" or "managing" governments, as they are respectively referred to, parliamentary systems ensure that the country is never left without a functioning executive.

Contrary to this convention, the day after the Independent Electoral Commission (IEC) announced the election results on 13 October 2022, Prime Minister Majoro resigned. According to his office, 'His Majesty accepted the letter [of resignation] and further asked Dr Majoro to hold [the] fort until the swearing in of the new Prime Minister' (Office of the Prime Minister, 2022). It is imperative to note that the election results returned a hung Parliament: no political party had a conclusive majority to form a government alone. A hung Parliament presents a much more complicated scenario for caretaker governments because it typically takes longer to clarify who the next prime minister will be. In England, an attempt has been made to codify the convention through a Cabinet Manual (§ 2.12), which provides as follows:

Where an election does not result in an overall majority for a single party, the incumbent government remains in office unless and until the Prime Minister tenders his or her resignation and the government's resignation to the Sovereign. An incumbent government is entitled to wait until the new Parliament has met to see if it can command the confidence of the House of Commons but is expected to resign if it becomes clear that it is unlikely to be able to command that confidence and there is a clear alternative.

The first meeting of the National Assembly was held on 25 October 2022. At the time of the prime minister's resignation, the National Assembly had not yet met. Hence, it seems that the prime minister resigned prematurely. It is important to note that the manner of the prime minister's resignation was not unique. In 2012 the prime minister did the same: he resigned after the announcement of election results and was consequently requested by the king to act. It is unclear where

this practice of requesting caretaker prime ministers to act comes from because, in principle, a caretaker prime minister is already acting. Furthermore, it would seem that there is no provision in the Constitution of Lesotho nor an established convention which regulates the King's decision to ask a caretaker prime minister 'to act'.

**Table 1: Important dates in the transition of government during the 2022 elections**

Date	Activity
14 July 2022	Parliament dissolved
16 August 2022	Declaration of State of Emergency
24 August 2022	Parliament recalled from dissolution on account of the State of Emergency
7 October 2022	National Assembly elections
11 October 2022	Revolution for Prosperity (RFP), Movement for Economic Change (MEC) and Alliance of Democrats (AD) announce a majority coalition
13 October 2022	Announcement of election results by the IEC. No party with an outright majority
14 October 2022	Prime Minister Majoro resigns, and king requests him 'to act'
19 October 2022	Prime Minister Majoro meets Matekane in his office 'to consult on the transition to the new government'
20 October 2022	The king appoints the new prime minister, Samuel Ntsokoane Matekane
25 October 2022	The first meeting of the National Assembly to take the oath of office and elect the Speaker and Deputy Speaker
28 October 2022	Inauguration and swearing-in of the new Prime Minister Matekane; the official handover from the outgoing Prime Minister Majoro to the new Prime Minister Matekane
4 November 2022	Swearing-in of a 15-member cabinet

Source: Compiled by author from Appointment of Prime Minister Legal Notice 104 of 2022; and Legal Notice 100 of 2022

As indicated in Table 1, another anomaly was the appointment of incoming Prime Minister Matekane. The king's Gazette appointing the new prime minister is dated 20 October 2022. At that time, two prime ministers were in office: Majoro and Matekane. While it is not clear how the two operated in practice, legally, the

outgoing prime minister officially left office at the time of inauguration, and the handover was organised on 28 October 2022. This is the date which was supposed to be the effective date for his resignation. The king's Gazette, which appointed the incoming prime minister with effect from 20 October 2022, is also flawed in two fundamental respects. First, it was issued before the sitting of the National Assembly. As will be discussed in more detail in the next section, the extra-parliamentary announcement of the majority coalition on 11 October 2022 and the official announcement of the results by the IEC on 13 October 2022 do suffice to meet the requirements of section 87(2) of the Constitution. Second, a practice of the Council of State – the institution that advises the king on the appointment of the prime minister in terms of the Constitution – is to advise the king to appoint someone as the 'prime minister designate'. This practice had been used before Matekane's appointment; it also happened in May 2020 when the Council of State advised the king to appoint Moeketsi Majoro as the 'prime minister designate' before the resignation of the then Prime Minister Thomas Thabane (Posholi 2020). The ultimate effect of this mode of appointment is to have two prime ministers in office at any given time. Neither the Constitution nor the convention sanctions this practice. In terms of the Constitution, there is one prime minister, whom the king appoints in terms of section 87(2) of the Constitution. The king does not have the power to appoint someone 'to act' as prime minister or as 'prime minister designate' (Motanyane 2020).

### *Forming a New Government*

Forming a government is the ultimate goal of political contestation. Although the people do not elect their government directly in Westminster style, there is a symbiotic relationship between the elections and the government formed thereafter. The doctrine of democracy binds together the voter and the government. Democracy is the golden thread that runs from the voter through parliament to the resulting government. Jennings (1969, p. 14) captures the essence of a parliamentary democracy thus: "[t]he House of Commons and the Cabinet are the instruments of democracy. The prerogative of the Crown and, to a less degree, the powers of the aristocracy, have been subordinated to public opinion'. Hence, the confidence of the elected chamber of parliament is the bedrock of government in a parliamentary system: government must at all material times enjoy the confidence of parliament.

The principle of democracy is not diminished in a parliamentary system in juxtaposition to a presidential system where the people elect government directly. In a parliamentary system like Lesotho's, the people elect Parliament and Parliament, on the basis of the majority, produces government. Parliament

clothes the government with a garb of democracy through confidence, which is the manifestation of the majority of the members of the representative chamber of Parliament. Jennings (1969, p. 14) sums up the triangulation thus: '[t]he appeal of the respective parties to the electorate and the choice of the electorate determine the party composition of the House of Commons. The party composition of the House of Commons determines the party origin of the Cabinet'. Hence, confidence in government is important after elections and remains the basis of government for the entire life of parliament. To that end, the United Kingdom Cabinet Manual (2010, sec. 2.7) provides: 'the ability of a government to command the confidence of the elected House of Commons is central to its authority to govern'.

Although the Constitution of Lesotho has limited rules on the formation of the government, it at least embodies the basic principle that government must be based on the confidence of the National Assembly. Section 87(2) of the Constitution, which forms the basis of the formation of the Government in Lesotho, needs to be quoted in full because it is relevant for the subsequent critique of what happened in Lesotho after the 2022 elections. The section provides:

The King shall appoint as Prime Minister the member of the National Assembly who appears to the Council of State to be the leader of the political party or coalition of political parties that will command the support of a majority of the members of the National Assembly.

The section has been the subject of judicial and scholarly engagement (*Mokhehle v Qhobela and Others* 1997; Nyane 2016). Nevertheless, it continues to elude the institutions responsible for its implementation: the king, the National Assembly and the Council of State. The section has four constituent parts that need to be examined in view of what happened in the aftermath of the 2022 elections. Firstly, the prime minister's appointment is a prerogative of the king, not of Parliament or the voters. This prerogative has its origins in British constitutional practice.

Secondly, the prime minister must be a member of the National Assembly. Lesotho has a bicameral Parliament comprising the Senate and the National Assembly. The National Assembly is the elected chamber of Parliament, while the Senate is both appointed and hereditary (Constitution of Lesotho 1993, sec. 55). Hence, by operation of the principle of democracy, the prime minister is appointed from the popular (elected) chamber of Parliament.

In 2002, the country adopted a mixed member proportional (MMP) electoral system. Consequently, members of the National Assembly come in two streams: 40 members are elected based on proportional representation (PR), and 80 members are elected on a constituency-based system. The total number of members of the National Assembly is 120. Since adopting the mixed electoral system, the country

has never had a prime minister elected on the basis of proportional representation; all prime ministers since 2002 have been constituency representatives. However, in terms of the Constitution, it is immaterial whether this is a constituency representative or a PR-elected member.

There is normally no controversy about this part. Since independence, the prime minister has always been a member of the National Assembly. Controversy often arises when one becomes a member of the Assembly. This intractable question has not yet received judicial attention in Lesotho. However, section 71(1) of the Constitution points to the direction that one becomes a member of the National Assembly after subscribing to the oath of office as such. The section provides that every member of either house of Parliament shall, before taking a seat in the house, 'take and subscribe the oath of allegiance before the House, but a member may before taking and subscribing that oath take part in the election of the President or of the Speaker'.

The section seems straightforward. While the political processes will have indicated who will be the prime minister, it is not constitutionally correct to appoint a person to be a prime minister before such a person has become a member of the National Assembly in terms of section 71(1) of the Constitution. After the release of a gazette that officially announces the results, the king often goes ahead with the appointment, even before the first sitting of the National Assembly.

This practice recurred in 2022. As demonstrated in Table 1 above, the National Assembly first sat on 25 October 2022, yet the king appointed Matekane as the new prime minister before he could become a member of the National Assembly; the Gazette that appointed the new prime minister is dated 20 October 2022. Indeed, by all accounts, the political indications were that Matekane was set to be the new prime minister. After his party, the RFP, fell short of an outright majority by only five votes, the party announced a majority coalition with the MEC and the AD on 11 October 2022 to compensate for that deficit. However, the two political and extra-parliamentary processes – the official announcement of results and the announcement of the majority coalition – do not suffice for the king to proceed with the prime minister's appointment.

Thirdly, the National Assembly member who is appointed prime minister must 'appear' before the Council of State to be the leader of the political party or coalition of political parties that will obtain the confidence of the House. This resonates more closely with the British convention. In terms of this convention, the leader must 'appear' before the king; there is no election. However, what has always been a subject of intense disagreement in Lesotho is the role of the National Assembly in the choice of the prime minister. One view is that election by the National Assembly is implied in the section because there is no way that the king can know whether the prime minister has the confidence of the House without the House having expressed itself on the subject.



**Table 2: The votes and seats of parties that formed a governing coalition**

Party	Total Votes	Seats in the National Assembly	Popularity (%)
RFP	199 867	56 <sup>1</sup>	38.89
AD	20 798	5 <sup>2</sup>	4.02
MEC	17 093	4	3.34

Source: Independent Electoral Commission website, [www.iec.org.ls](http://www.iec.org.ls)

Another view is that in exercising the prerogative to appoint the prime minister, the king does not need a positive (investiture) vote. To address the controversy, the Ninth Amendment to the Constitution added the Speaker of the National Assembly to the list of advisors to the king on the appointment. Section 90A(1) of the Amendment provides:

Notwithstanding the provisions of section 87(1) and (2), the King shall, upon the death, retirement or resignation of the prime minister, appoint a member of the National Assembly who appears to be the leader of the political party or coalition of political parties that commands the majority of the members of the National Assembly, as the prime minister, on the advice of the Speaker.

The new section does not necessarily alter the original section 87(2) of the Constitution. It adds the Speaker as another advisor to the king in addition to the Council of State. In a real legal sense, this new section is superfluous: it does not add much value to the pre-existing legal framework. The Speaker is a member of the Council of State in terms of the Constitution. She or he is part of the Council of State when the council considers the factors determining whether someone can be appointed prime minister. In any case, even these factors are fairly straightforward. They include but are not necessarily limited to, the results of elections as officially declared by the IEC, the coalition agreements where applicable, and the political dynamics during the first meeting of the National Assembly. Should there be congruence between these three key factors, it cannot be hard for the Council of State to advise the king to appoint the person who ‘appears’ to be the leader of the party or coalition that will command the majority of the members of the National Assembly.

1 When the government was formed, the RFP had 56 seats in the National Assembly. After the party later won a by-election in the Stadium Area constituency, the number increased to 57.

2 At the time of going to print the IEC had gone to court to seek the reallocation of PR seats, which would see the AD being deprived of one seat.

In 2022, although the king had appointed Matekane as prime minister before the first sitting of the National Assembly, there was congruence between these above-mentioned important factors. The IEC released the results on 13 October 2022. Although the results showed that no party had an outright majority, the RFP had 56 seats which was only five seats shy of an outright majority (Legal Notice 100 of 2022). Therefore, it was apparent that it would not be hard for the RFP to court one or two of the smaller parties to put together a majority coalition. Indeed, the RFP easily won over the MEC with four seats and the AD with five seats to form a majority coalition with 65 seats. As was expected, in terms of the coalition agreement the partners agreed that the prime minister would come from the senior partner, the RFP. In keeping with the other two factors – the election results and the coalition agreement – when the National Assembly first sat on 25 October 2022, the coalition candidates for the Speaker and Deputy Speaker positions were comfortably elected. The two candidates were Tlohang Sekhamane for Speaker and Tšepang Tšita-Mosena for Deputy, both from coalition partners RFP and MEC, respectively.

Fourth, the person appointed as prime minister must be a leader of a political party or coalition of political parties that will command the majority of the members of the National Assembly. The practice in Lesotho is that the leader of the political party that wins the elections becomes the prime minister. While a party leader is often considered to be more influential in a presidential system, studies indicate that there is little difference in how voters relate to a party leader in both presidential and parliamentary systems. According to Bean (1993, p. 112): ‘...attitudes to party leaders do have a significant influence on the vote in countries such as Britain, Canada, Australia, and New Zealand’. Hence, even during elections, the faces of parties’ leaders are hugely crucial because the voters know the potential prime ministers.

In most cases, that image of the prime minister is more important than that of the constituency candidates. Since 1993, when Lesotho returned to electoral politics under the new Constitution, only one person has become prime minister without being the leader of a political party. In May 2020, Majoro was appointed prime minister upon the resignation of the All Basotho Convention (ABC) leader Motsoahae Thabane. In March 2022, Majoro, a member of the then-ruling ABC, received the support of the ABC caucus. The appointment of a party member who is not a leader of that party is not entirely without precedent in the history of Lesotho. According to Khaketla (1972), in 1965 the deputy leader of the Basotho National Party (BNP), Sekhonyana Nehemia Maseribane, became the first prime minister of Lesotho because the leader of the BNP, Leabua Jonathan, had lost the election in his constituency. His deputy in the party, Maseribane, became

the prime minister for about two months under the 1965 Constitution, whose formation of government clause was the same as section 87(2) of the present Constitution.

Indeed, it is not unheard of for a person who is not a political party leader to become the prime minister. What is important is that the person must have the confidence of a majority of the members of the National Assembly. In that way, the person is effectively the parliamentary leader of the party or coalition of parties. Notwithstanding the lack of judicial authority interpreting section 87(2), the topic of who a political party's leader is for the purpose of being a prime minister, once received judicial attention in the case of *Mokhehle v Molapo Qhobela and Others* (1997). There the High Court confirmed that for a person to be the prime minister, she or he simply needs the support of the members of the National Assembly. The court said that 'the position of prime minister depends on the support of the majority of elected members of parliament who are elected to serve for a five-year term'. Hence, the word leader is not taken literally to mean a leader of an extra-parliamentary party. It means someone who can command a majority of the member of the National Assembly.

## CONCLUSION AND RECOMMENDATIONS

This article investigated the application of the principles for the transition and formation of government during Lesotho's 2022 elections. It traced the practice and behaviour of constitutional structures from the dissolution of Parliament on 14 July 2022 until the last activity on the calendar: the cabinet's swearing-in on 4 November 2022. The entire period is properly characterised as a caretaker period. During this period government is transitional and is a caretaker for all intents and purposes. Its activities must be limited to the policy *status quo*. The article demonstrates that the principle that a caretaker government must maintain the policy *status quo* is an elusive practice for governments in Lesotho. The matter is compounded by a lack of constitutional and legislative rules guiding the situation.

As demonstrated in the preceding analysis, the changes made in 2020 through the Ninth Amendment to the Constitution only exacerbated instead of ameliorating the problem. The situation did not improve in 2022 when the government continued its business as usual. The most significant concern is that the government sought to restart the massive reform programme after Parliament's dissolution. Mindful of the importance of Parliament to that reform programme, the government improperly facilitated the recall of Parliament under the false pretence that there was a state of emergency. As demonstrated, the recall of Parliament was against all the major tenets of constitutional democracy (*Boloetse v His Majesty the King* 2022). Extending the term of Parliament is tantamount to

imposing unelected and therefore illegitimate public representatives on the electorate. Hence, such a Parliament cannot legitimise the government.

The handling of the government's formation processes was also irregular. The king's appointment of the prime minister before the first sitting of the National Assembly was irregular. The appointment of a prime minister based on extra-parliamentary coalition agreements and the mere announcement of results by the IEC was premature. As demonstrated, the person appointed prime minister must be 'a member of the National Assembly'. This accords well with the principle of confidence: the government must at all material times enjoy the confidence of the National Assembly. Although the country does not use an investiture vote for the prime minister, logically, the government cannot exist before the National Assembly exists. In a parliamentary system like Lesotho's, the cabinet is a parliamentary committee (Bagehot 1867). It therefore cannot exist before the parliament is sworn in.

Another practice which did not necessarily start in 2022 but also occurred in 2022 was when the outgoing prime minister resigned and was then reappointed in an acting capacity. This offends two principles: firstly, that a caretaker prime minister cannot resign; and secondly that a caretaker prime minister is an acting prime minister. Besides, the Constitution does not provide for the reappointment on an acting basis of a prime minister who has resigned. The proper arrangement is that the caretaker prime minister is already acting; there is no need to appoint him as such. He will formally resign when the king is ready to appoint a new prime minister. To ensure that there is no vacuum in government, the outgoing prime minister leaves office upon the arrival of the new prime minister.

The inconsistencies that occurred in the 2022 elections lend further credence to the longstanding calls for the codification of conventions relating to the transition and formation of the government (Commonwealth Secretariat 2012; Mwangi 2016; Monyake 2022). The intervention of the Ninth Amendment to the Constitution (2020) to arrest the problems associated with the transition and formation of the government is proving inadequate. In fact, it aggravates the situation in two fundamental respects. Firstly, it confuses the appointment process of the prime minister by introducing the Speaker as one of the advisers in the appointment process, without amending the original section 87(2) of the Constitution. Secondly, on caretaker principles, it amends section 83, which provides that 'where the office of the Prime Minister is vacant, there shall be a caretaker Government which shall be headed by the Deputy Prime Minister acting as Prime Minister'. The section complicates the already problematic formation of the government legislative regime. When the prime minister's office is vacant, the king appoints a new prime minister. The acting role of the deputy prime minister

may be limited to unforeseen circumstances such as death. Ordinarily, the king should be able to appoint a new prime minister without much difficulty.

The country must codify the principles of transition and formation of government into constitutional provisions. Section 87(2) of the Constitution, which is the current flagship provision on government formation, needs to be revised. The section is based on antiquated Westminster conventions. The provision is a source of constant uncertainty and inconsistent practice in forming a government in Lesotho. Inconsistencies relating to the transition and formation of a government only lay bare the longstanding call for constitutional changes (Commonwealth Secretariat 2012; Mwangi 2016; Nyane 2016; Monyake 2022).

There are two basic ways to arrest the problems related to formation. The first is to introduce an investiture vote: members of the National Assembly must directly elect the prime minister in their first sitting. The second is to introduce the rules governing the formation of government in the case of a hung parliament. These provisions would recognise coalition agreements and make rules relating to the right to form a government in the event of a hung parliament. In the run-up to drafting the Tenth Amendment to the Constitution – within the National Reforms Authority - the provisions relating to government formation were well-drafted. The problems arose when the government and Parliament sought to change the Bill. On transition and caretaking, the Ninth Amendment to the Constitution Act (2020) provisions must be repealed as they are confusing and not in keeping with the established caretaker conventions.

#### ----- REFERENCES -----

- Australian Government 2021, *Guidance on Caretaker Conventions*. Available at <https://www.pmc.gov.au/publications/guidance-caretaker-conventions>.
- Bagehot, W 1867, *The English Constitution*, Chapman & Hall, London.
- Baloro, J 1994, The development of Swaziland's constitution: monarchical responses to modern challenges, *Journal of African Law*, vol. 38 no. 1, pp. 19-34.
- Bean, C 1993, 'The Electoral Influence of Party Leader Images in Australia and New Zealand', *Comparative Political Studies*, vol. 26, no 1, pp. 111-132.
- Bergman, T 1993a, 'Constitutional design and government formation: The expected consequences of negative parliamentarism', *Scandinavian Political Studies*, vol. 16, no. 4, pp. 285-304.
- Bergman, T 1993b, 'Formation rules and minority governments', *European Journal of Political Research*, vol. 23, no. 1, pp. 55-66.
- Bogdanor, V 2009, *The New British Constitution*, Bloomsbury, Oxford.
- Booyesen, S 2015, 'The 2015 parliamentary elections in Lesotho', *Electoral Studies*, vol. 100, no. 40, pp. 430-433.

- Boston, J, Levine, S, McLeay, E & Roberts, NS, 1998, 'Caretaker government and the evolution of caretaker conventions in New Zealand', *Victoria University of Wellington Law Review*, vol. 28, pp. 629-649.
- Commonwealth Secretariat, 2012, *Report of the Commonwealth Observer Group*, Lesotho Parliamentary Elections, 26 May 2012.
- Constitution of South Africa 1996, Government Printer, Pretoria.
- Constitution of Botswana 1966, Government Printer, Gaborone.
- Constitution of Lesotho 1966, Government Printer, Maseru.
- Constitution of Lesotho 1993, Government Printer, Maseru.
- Dandoy, R & Terrière, L 2021, 'Caretaker governments in Belgium: The new normal?' In D Caluwaerts & M Reuchamps, *Belgian Exceptionalism: Belgian Politics between Realism and Surrealism*, Routledge, New York, pp. 123-137.
- de Vos, P 2021, 'The constitutional-legal dimensions of coalition politics and government in South Africa', in S Booysen (ed), *Marriages of Inconvenience: The Politics of Coalitions in South Africa*, MISTRA, Johannesburg.
- Galligan, B & Brenton, S 2015, *Constitutional conventions in Westminster systems*, Cambridge University Press, Cambridge.
- Good, K & Taylor, I 2000, 'Botswana: A Minimalist Democracy', *Democratisation*, vol. 15, no. 4, pp. 750-65.
- Hart, P & Uhr, J 2011, 'Power Transitions and Leadership Successions in Government', In P Hart, & Uhr (eds) *How power changes hands. Understanding governance series*, Palgrave Macmillan, London.
- Heasman, DJ 1960, 'The monarch, the prime minister, and the dissolution of parliament', *Parliamentary Affairs*, vol. 14, pp. 94-107.
- Jennings, I 1969, *Cabinet government*, Cambridge University Press, Cambridge.
- Kapa, MA 2008, 'The politics of coalition formation and democracy in Lesotho', *Politikon*, vol. 35, no. 3, pp. 339-356.
- Khaketla, BM 1972, *Lesotho, 1970: An African coup under the microscope*, University of California Press, California.
- Klein, C 1977, 'The powers of the caretaker government: Are they really unlimited?' *Israel Law Review*, vol. 12, no. 3, pp. 271-287.
- Le Vine, VT 1997, The fall and rise of constitutionalism in West Africa, *The Journal of Modern African Studies*, vol. 35, pp. 181-206.
- Lipton, J 1997, 'Responsible government, representative democracy and the Senate: options for reform', *University of Queensland Law Journal*, vol. 19, no. 2, pp. 194-214.
- Louw-Vaudran, L 2022, 'Lesotho reforms hang in the balance ahead of elections', 29 September 2022. Available at <https://issafrica.org/iss-today/lesotho-reforms-hang-in-the-balance-ahead-of-elections>.
- Macartney, WA 1970, 'African Westminster? The Parliament of Lesotho', *Parliamentary Affairs*, vol. 23, pp. 121-140.

- Martin, LW & Stevenson, RT 2001, 'Government formation in parliamentary democracies', *American Journal of Political Science*, vol. 45, no. 1, pp. 33-50.
- Matlosa, K & Shale, V 2008, 'The impact of floor crossing on electoral politics and representative democracy in Lesotho', *Journal of African Elections*, vol. 7, no. 1, pp. 138-152.
- Matlosa, K 1997, 'Political instability and elections: a case study of Lesotho', *Lesotho Social Sciences Review*, vol. 3 no.2, pp. 93-107.
- Middleton, J 2015, *World Monarchies and Dynasties*, Routledge, New York.
- Molomo, M 2000, 'Democracy under siege: The presidency and executive powers in Botswana', *Pula: Botswana Journal of African Studies*, vol. 14, no. 1 pp. 95-108.
- Monyake, M 2022, 'Assurance dilemmas of the endangered institutional reforms process in Lesotho', *Canadian Journal of African Studies*, vol. 56, no. 1, pp. 181-198.
- Motanyane, S 2020, *Appointment of prime minister designate: Hon Dr Moeketsi Majoro (MP)*, A letter dated 13 May 2020.
- Mwangi, OG 2016, 'State fragility and electoral reforms in Lesotho', in D Olowu & P Chanie (eds), *State Fragility and State Building in Africa: Cases from Eastern and Southern Africa*, Springer, Dordrecht.
- Ndlovu-Gatsheni, SJ 2015, Decoloniality as the future of Africa, *History Compass*, vol. 13, no. 10, pp. 485-496.
- Nwafor, AO 2013, 'The Lesotho constitution and doctrine of separation of powers: reflections on the judicial attitude', *African Journal of Legal Studies*, vol. 6, no. 1, pp. 49-68.
- 'Nyane, H 2016, 'Formation of a government in Lesotho in the case of a hung parliament', *Law, Democracy & Development*, vol. 20, no. 1, pp. 174-191.
- 'Nyane, H & Kapa, MA (eds) 2021, *Coalition Politics in Lesotho: A Multi-disciplinary Study of Coalitions and their Implications for Governance*, African Sun Media, Stellenbosch.
- Ookeditse, L 2021, 'The "burden of expectation" and political instability: A case for direct election of the President of Botswana', *African Security Review*, vol. 30, no. 1, pp. 121-136.
- Posholi, M 2020, *Appointment of prime minister designate*. A letter dated 18 May 2020.
- Proctor, JH 1973, 'Traditionalism and parliamentary government in Swaziland', *African Affairs*, vol. 72, no. 288, pp. 273-287.
- Robinson, JA & Torvik, R 2016, 'Endogenous presidentialism', *Journal of the European Economic Association*, vol. 14, no. 4, pp. 907-942.
- Schleiter, P & Belu, V 2015, The challenge of periods of caretaker government in the UK, *Parliamentary Affairs*, vol. 68, no. 2, pp. 229-247.
- Simms, M 2011, 'Westminster norms and caretaker conventions: Australian and New Zealand transition debates', in P Hart & Uhr (eds) *How power changes hands. Understanding governance series*, Palgrave Macmillan, London.

SABC 2022, *Lesotho Prime Minister Moeketsi Majoro resigns*, 14 October 2022. Available at <https://www.sabcnews.com/sabcnews/lesotho-prime-minister-moeketsi-majoro-resigns/> (accessed on 15 January 2023)

Southall, R 2022, 'Lesotho', *Africa Yearbook*, vol. 18, pp. 472-478.

United Kingdom Cabinet Manual, 2010. Available at <https://www.gov.uk/government/publications/cabinet-manual> (accessed on 3 December 2022).

Weisfelder, RF 2015, 'Free elections and political instability in Lesotho' *Journal of African Elections*, vol. 14, no. 2, pp. 50-80.



# SCREENING POLITICAL PARTY CANDIDATES AND THE IMPLICATIONS FOR ELECTORAL PERFORMANCE

## *The Case of the Revolution for Prosperity (RFP) in Lesotho's 2022 General Elections*

***Tlohang W. Letsie***

Tlohang W. Letsie is a senior lecturer in the Department of Political and Administrative Studies at the National University of Lesotho

### ABSTRACT

*The formation of the Revolution for Prosperity (RFP) party in March 2022 has radically altered Lesotho's political landscape. Apart from the new calibre of political leadership, the party has, in line with its name, revolutionised some of the traditions long held by Lesotho's political parties. Contrary to the closed primary elections that most parties use, the RFP introduced a combination of centralised and technocratic approaches in determining the list of party candidates for the October 2022 elections. With the former, the party reserved candidatures in eleven constituencies for persons appointed by the leader. Four front runners in the primary elections in the remaining constituencies would be subjected to various screening methods with the final determination to be made by the party leadership. The detractors have mocked the RFP's approach as undemocratic and undermining the will of the people. The party also experienced internal resistance that led to it being taken to the law courts where some decisions were reversed. Using various data collection methods, this paper discusses the strategies used by the RFP and shows that much as they are not common in Lesotho, these strategies are not entirely new in politics as they are used in other democratic systems. An examination of the October 2022 elections results shows that despite the court challenges, the RFP's candidate selection strategies had a positive impact on the party's performance as well as on the profile of the resultant National Assembly.*

**Keywords:** candidate screening, Revolution for Prosperity, electoral performance, Lesotho

## INTRODUCTION

The formation of the Revolution for Prosperity party (RFP) by business mogul Samuel Matekane marked a turning point in Lesotho's politics ahead of the October 2022 general elections. Prior to the formation of the RFP, Matekane had not been known to have any interest in politics, at least publicly. He was better known as the country's most successful businessman and for his philanthropic deeds. These became most apparent during the height of the COVID-19 pandemic when he spent millions of Maloti (Lesotho's currency) helping the country fight the pandemic. In an unexpected move, Matekane was joined by other prominent businessmen and notable individuals including Dr. Retselisitsoe Matlanyane (former Governor of the Central Bank of Lesotho), Justice Nthomeng Majara (retired Chief Justice), and Lebona Lephema (business tycoon).

In line with its name, the Revolution for Prosperity 'revolutionised' Lesotho's politics and deviated from a number of conventional practices in the country. One such deviation was the selection of party candidates for elections. Normally, candidates in Lesotho's elections are elected through primary elections organised by individual parties. However, RFP chose a completely different strategy. In June 2022 the party issued a directive that Matekane and the other ten founding members of the party should automatically represent the party in their respective constituencies without undergoing primary elections. Aspiring candidates in the remaining 69 constituencies (Lesotho is divided into 80 constituencies) would nonetheless have to undergo primary elections. In addition they would have to fulfill other rigorous criteria including checks on their educational backgrounds, and being interviewed by Mr Matekane himself to assess their fitness to represent the party (Zihlangu & Mohloboli 2022). According to the party hierarchy, all the screening processes were made in line with the principle of meritocracy to ensure that the most suitable candidates occupied positions in the party and possibly later in government.

The RFP's unfamiliar methods of candidate selection were described by many – particularly members of rival parties – as undemocratic and the party was ridiculed for having forced candidates on the constituents. One of the objections to the RFP's selection criteria was that it would deter followers and cost the party in elections.

This article sets out to unpack the principle of candidate screening in elections and shows that, much as it might be unfamiliar in Lesotho, the principle is used in other parts of the world. The article also focuses on the results of the October 2022 elections to determine if the screening of candidates had any impact on the performance of the RFP. The paper uses a mix of primary and secondary material, as it is based on both interviews and a literature review. It consists of a

conceptual framework, the formation of the RFP, the October 2022 elections, and the performance of the RFP, as well as the conclusion.

## CONCEPTUAL FRAMEWORK

### *Representative Democracy and the Selection of Representatives*

The key element in the exercise of democracy is the holding of free and fair elections at regular intervals enabling the people's will to be expressed (Garner et al. 2012, p. 242). Elections have become a common feature of modern states because huge populations and vast geographical boundaries make it difficult for citizens to participate directly in public affairs. It is for this reason that representatives are elected to represent the views of their respective communities in different structures of the political systems. In any election, thousands of persons could choose to stand for election, but it would be nearly impossible for voters to make an informed choice from so many. Furthermore, there would be serious logistical and administrative challenges in organising an election with such a huge number of competitors. Political parties therefore act as gatekeepers by narrowing down the list of candidates to a manageable pool.

Through their own internal rules political parties decide who will be on the ballot paper as their recommended candidate(s). The main difference in the rules pertaining to the selection of political party candidates is premised on the levels of centralisation and participation. Centralisation implies that 'what level in the party – local, regional or national – controls the candidate selection, while participation is about who – ordinary members or top leadership – controls the process at the level where the decision is taken' (Electoral Knowledge Network 2000). Below is a detailed description of how these two central concepts apply in the selection of candidates.

### *Centralisation*

In an extremely centralised system, a national party agency would decide on the candidate selection without any involvement by the local branches of the party. At the other end of the scale would be a system where the most local branches of the party would decide on candidates without any approval or participation from the national level.

### *Participation*

Candidate selection is not only important for candidates and their parties, but also for the resultant legislatures and their performance. Candidate selection

influences the balance of power within the party, determines the personal composition of parliaments, and impacts on the behaviour of legislators (Hazan & Rabat 2010; Vandeleene & van Haute 2021, p. 1). It is highly probable that a parliament consisting of members who have undergone a rigorous candidate screening processes is likely to have a better calibre of membership than one where candidates were elected simply through primary elections.

A situation with extremely low participation would be if the party leader alone would decide on the candidates. The other extreme would be if the ordinary members of the party would decide without any participation or involvement of the party leaders.

(Electoral Knowledge Network 2000)

Like many other issues related to elections, the processes of selection (most often election) of candidates has attracted the attention of scholars. For instance, the International Republican Institute (IRI) commissioned the study that

explored candidate selection processes and practices across a dozen countries in Europe, as well as the United States to better understand how political parties navigate the challenges and opportunities of promoting democratic representation and supporting strong contenders to win elected offices.

(Muzergues & Scaduto 2022)

The following points are from a summary of these findings:

- Political parties cannot rely on one-size-fits-all or silver bullet solutions to improve candidate (s)election processes. Parties must explore context-specific options to determine the best solutions for each circumstance.
- While the past 30 years have witnessed the democratisation of candidate (s)election processes across the transatlantic space, a new trend is now developing towards more technocratic solutions that view candidate (s)election processes as a technical issue that necessitates a professional, HR-based approach.
- Centralized processes of party candidate (s)election allow greater control, but often leave parties vulnerable to dynamic outside contenders. Voters may lose interest in parties that exercise opaque candidate (s)election processes (ibid.).

In their work titled *Standing Out from the Crowd Political Parties: Candidate (s)election in the Transatlantic World*, Muzergues and Scaduto (2022) discuss a number of

types used for candidate (s)election. The authors note that each of these types has its own limitations and strengths. The three types relevant for this paper are summarised below.

#### *Closed party/centralised*

This type involves high degrees of centralisation where the party headquarters maintain ultimate control over who becomes the party's candidate. Without doubt, this might seem to compromise democratic tendencies. However, it can also have some merit by imposing changes and enlarging the profile of candidates so that the party more faithfully resembles the constituency it aims to represent (ibid.).

#### *Election or selection in a closed ballot*

This method involves closed primaries in which members of the party at the lowest levels (mostly through representatives of the branches) elect the party's candidate. While it has some democratic characteristics and may create a sense of owning the process for the rank and file of the party, the method 'risks party entrenchment or stagnation as party membership choose candidates that may stick to party orthodoxy but are not suitable to expand the party's appeal to those always elusive "independent" or "centrist" voters' (ibid.).

#### *The technocratic approach*

This approach is relatively new to politics and consists of outsourcing the candidate selection process to an independent, sometimes professional structure to adopt recruitment tactics similar to those found in the private sector. This selection method has the merit of introducing a meritocratic approach to politics but is also less democratic and runs the risk of de-politicising a process that is itself highly political by nature.

#### *Candidate vetting*

Candidate vetting is one of the strategies used in the technocratic approach to the selection of candidate vetting. This is a preventative measure that central party agents use to subject their aspiring candidates to background scrutiny and to reject applicants deemed likely to spark negative publicity for political parties. Marland (2021, p. 573) suggests that:

in Canada a wave of vetting arose in the late 1980s and early 1990s in response to concern about political ethics, and again around 2008 with the growth in the influences of social media. Many election

candidates were resigning when confronted by moral outrage over their indiscretions that were exposed by media.

And in what might appear undemocratic:

central party officers encroach on the role of local party members in the candidate selection process to protect the party's brand and its election prospects. Implications of screening candidates range from rooting out political extremists to fortifying the leader's authority.

(ibid.)

### FORMATION OF THE REVOLUTION FOR PROSPERITY

As noted earlier in the paper, the formation of the RFP came as a surprise to most of the Basotho nation. It is almost impossible to discuss issues related to this party without talking about its founder, Ntsokoane Samuel Matekane. Because of his centrality his name dominates discussions in the following sections. In announcing the formation of the party, Matekane provided the reasons leading to his unexpected move. He detailed that as a businessman, he never dreamt of venturing into politics but believed his role was assisting Basotho society to develop. There is no doubt that he did assist his society in numerous ways. Apart from turning his mountainous village of Mant'sonyane into a small town through numerous infrastructural and agricultural projects, Matekane has made a philanthropic contribution to the welfare of the Basotho nation through various corporate social responsibility activities. He also played a leading role in fighting the COVID-19 pandemic. His initiatives in this regard include purchasing ICU equipment for some hospitals as well as leading a private-sector project named *Sesiu sa Let'soele le beta poho* (fund of 'Unity is power') that procured vaccines for the nation. Matekane received a rare continental recognition for his efforts, and won the Forbes Best of Africa Award in 2021. This recognition is under the auspices of Foreign Investment Network (FIN) in partnership with Forbes Best of Africa for leading persons in business, politics, innovation, leadership and economics of Africa (Senoko 2021).

The socio-economic situation in Lesotho has continued to decline in recent years. This has led to the current situation that, according to Matekane, pushed him into politics – what he reports never having dreamt of doing previously. Narrating how his assistance had been in vain, and how the situation ultimately pushed him into politics, Matekane compared his initiatives in helping the country to those of a man 'who is busy cleaning a sinking ship'. He reiterated that he decided to join politics and take a lead because he realised that the 'ship

is sinking and needs a strong-willed captain to save it' (Seme 2022a). As was to be expected, there were mixed reactions within Basotho society about the formation of this new party. While some Basotho were delighted about the move Matekane had taken, others felt he was tainting his business image by being politically active and taking a lead in politics. Amongst the commentators was the country's renowned academic Professor Motlatsi Thabane, who was not impressed by the formation of the RFP. In a newspaper article titled, 'Revolution for Prosperity: Wealth and state power' Thabane wrote that:

What is abundantly clear, though, is that the RFP party is only a quantitative addition to the over-40 liberal, free-market formations that call themselves political parties in Lesotho. This is to say, there is nothing qualitatively different that the leaders of RFP are proposing to change for the better the lives of Lesotho's poor citizen. ... At all times, the wealthy's pursuit for power is undesirable and not inevitable. Similarly, the powerful's pursuit of wealth is undesirable and not inevitable.

(Thabane 2022)

Upon its formation, the RFP attracted members from different walks of life in Lesotho. As is always the case with any social organisation, members joined the RFP with different motives. For instance, just few months after the party's formation 'already many high-profile people, including some former cabinet ministers had dumped their parties in the hope of riding on the RFP bandwagon to either resuscitate or prolong their political careers' (Zihlangu & Mohloboli 2022). A similar observation is shared by Sithetho (2022) who wrote that 'it was later realised that the goal of the well-known politicians for joining the party was to be granted an opportunity to stand in the constituencies in which they stood for elections in the past'. Most notable of the new defectors were the Alliance of Democrats (AD)'s secretary general Mahali Phamotse (also a former Minister of Sports, Gender and Recreation), AD treasurer and former Development Planning Minister Tlohelang Aumane, and former Deputy Minister of Health, Manthabiseng Phohleli (also from the AD).

The RFP's sudden attraction for so many people became evident through the huge attendances at its rallies, particularly during its manifesto launch in June 2022. The extent of the financial muscle associated with the party became apparent in a number of ways. For instance, contrary to the normal practice in many parties, RFP offered membership cards free of charge. The party also engaged in expensive campaign strategies by flying its banners across the country on helicopters owned by its founders. The exodus of voters to the RFP sent shockwaves through many

established political parties which reacted in different ways. For instance, in April Limpho Tau disbanded his Democratic Party of Lesotho (DPL) and joined the RFP, arguing that the latter was preaching the same message that the DPL had preached since its formation in 2016, which is economic enhancement (Lesotho Tribune 2022). Meanwhile, AD leader Monyane Moleleki raised his fear that the RFP was decimating more established parties, including his own. Furthermore, Moleleki raised fears that if elected, an RFP government ‘could connive to divide lucrative tenders and economic opportunities amongst themselves, thus blocking new people from venturing into and consolidating themselves in business’ (Zihlangu 2022).

Machesetsa Mofomobe of the once-iconic Basotho National Party (BNP) was equally unimpressed and sounded threatened by the formation of the RFP. He criticised Matekane and his colleagues for venturing into politics, saying they were ‘greedy and insatiable despite the huge wealth they had accumulated over the years as beneficiaries of government tenders’ (Zihlangu & Mohloboli 2022). What became obvious, as Seme (2022a) correctly surmised, was that ‘since its establishment two months ago, RFP has stirred the political scene in Lesotho with many of the traditionally dominant parties in Lesotho redefining their policies and countering the RFPs coming in as a substitute instead of talking to their own policies’.

### CANDIDATE SCREENING

As previously indicated, one of the RFP’s fundamental points of departure from Lesotho’s established parties was in relation to the (s)election of candidates for the October 2022 elections. The tradition amongst Lesotho’s parties has been the use of a closed ballot in the primary election whereby the leadership allows members of the party to conduct the election<sup>1</sup>. In these primary elections only the representatives of branches within the concerned constituencies are allowed to cast their votes. Primary elections are regarded to be a good sign of democracy, and as Muzergues and Scaduto (2022) argue, ‘have the added benefit of empowering the party base and giving value to party membership, something increasingly important in an age where more and more citizens are reluctant to get involved in a political party’. However, such praises hardly apply to the primary elections in Lesotho.

The use of primary elections in Lesotho has not only divided parties ahead of elections but has also contributed to the poor calibre of legislatures, in which some members can barely comprehend the business of the legislature due to their

---

1 The IEC accepts candidates presented to it by political parties without asking for details of how such candidates have been selected.



limited educational background. A deep analysis of Lesotho's politics shows that open primary elections have produced legislators elected largely because of their popularity based on social considerations other than political competence. Many of these candidates can barely speak English yet most of the legislature's business is conducted that language.

The RFP was probably aware of the challenges associated with primary elections and opted for the mixture of the closed party/centralised and technocratic approaches discussed above. In a circular issued on Monday 27 June 2022 the party indicated that 11 constituencies would not hold primary elections. Instead, according to this circular, the party's leadership had chosen candidates based on their knowledge of national issues, their background in development, and their educational achievements (Liphoto 2022). This unfamiliar move was justified on the grounds that the eleven candidates were chosen to represent the party because they were an 'embodiment of the RFP's founding principles of meritocracy' (Zihlangu & Mohloboli 2022).

It is worth reiterating that despite the views of detractors, centralised candidate selections have merit. They have worked fairly well in Europe and the United States where personalities have come to matter as much as, if not more than ideologies and manifestos. For instance, for the 2016 and 2020 national elections in Lithuania:

the parliamentary candidate list of the Peasants and Greens Party was ranked by the party council and confirmed by the party board. Similarly, in Polish PiS it is the district board which proposes a list of candidates, and the district council which evaluates it. But the final decisions are taken by the central authorities.

(Muzergues & Scadatu 2022)

Vetting of candidates is necessary to avoid the controversies that might come to haunt the party when the unpleasant past of the candidates is revealed. Focusing specifically on Canadian parties, Marland (2021, p. 573) states that 'often controversy is generated by opponents who conduct American-style opposition research and provide findings to the media'.

In Lesotho's polluted politics, which are characterised by mediocrity and failure, it is easy to believe that Matekane and most founding members embodied the change that was so badly needed. This change mattered more than any democratic rhetoric associated with primary elections within political parties. It was understandable then, under the circumstances, for them to be selected by the party leadership for candidacy without having to undergo primary elections. Looking at the 11 candidates that the RFP selected, it is easy to understand the

argument by Muzergues and Scaduto (2022) that centralised approaches have some merit in imposing changes and enlarging the profile of candidates in the interest of the party. The candidates were mostly new to politics and without any political baggage. Most importantly, they were in general literate people of reputable social standing who have improved the image of the party and can easily learn and comprehend the business of parliament. Table I below shows the constituencies that were to nominate candidates without primary elections, as well as the names of selected candidates.

**Table 1: Constituencies spared from holding primary elections**

Constituency name and number	District	Candidate	Candidate's profile
Hololo # 02	Butha-Buthe	Mr. Lejone Mpotjoane	Educationist with specialities in finance and governance
Thaba-Phatšoa # 08	Leribe	Mr. Thabo Maretlane	Businessman and organisor of the annual Moshoeshoe Walk
Teya-Teyaneng # 24	Berea	Mr. Lebona Lephema	Multi-sector business tycoon
Lithabaneng # 40	Maseru	Mr. Mokhethi Shelile	Businessman
Maseru Central # 33	Maseru	Justice Nthomeng Majara	Retired Chief Justice
Thetsane # 35	Maseru	Ms. Nthathi Moorosi	Independent consultant in communications
Qalabane # 57	Mafeteng	Dr. Retselisitsoe Matlan-yane	Former Governor of the Central Bank of Lesotho
Mohale's Hoek # 61	Mohale's Hoek	Mr. Cloete Mdlokovana	Transport businessman
Moyeni # 65	Quthing	Mr. Thabo Mofosi	Prominent farmer
Lebakeng # 70	Qacha's Nek	Ms. Nt'siuoa Sekete	Media and communications expert and a former employee of the Pan-African Parliament
Mantšonyane # 72	Thaba-Tseka	Mr. Sam Matekane	Country's most prominent businessman and philanthropist

A closer analysis of Lesotho's politics and a look at some of the individuals who joined the RFP will prove that the party's vetting was not a necessary process. It would have been suicidal to subject such a young party to such divisive processes as primary elections that have proved to be sources of conflict even in established parties. Some of the individuals had a bad political reputation from their previous parties which they were likely to bring into the RFP if left unchecked, while others joined to revive their fading political careers, and not necessarily because they shared the party's vision. The need to protect the party from such characters as these is acknowledged by Zihlangu & Mohloboli (2022) when they write that 'although controversial, the decisions to select the 11 unopposed candidates and thoroughly vet the remaining ones could actually save the party from chancers. Lesotho's politics are notorious for opportunists who often defect to other parties as soon as they sense an opportunity to further their own interests'. The fit-for-purpose for political candidates was thus a strategy intended to check whether those nominated candidates could understand the party's philosophy and that they would be able to live by it if elected (Sithetho 2022).

A look at some prominent politicians who defected to the RFP shows why the claim of needing to save the party from 'chancers' is not unfounded. Tlohelang Aumane and Tsepo Lethobane of Semena and Thaba-Putsoa constituencies respectively, are some of the individuals that fit the description of 'chancers', having joined the RFP from other parties. Aumane has a long history of nomadic tendencies in politics having reportedly been a card-carrying member of the Basutoland Congress Party (BCP), Lesotho Congress for Democracy (LCD), Democratic Congress (DC), and Alliance of Democrats (AD) (in chronological order) before joining the RFP (Moleko 2022). He is infamously known in Lesotho politics for crossing the floor immediately after being sworn-in as an MP in 2017, and joining the AD from the DC, under whose banner he had won the Semena constituency. This was after the AD, which was part of the new coalition government, had enticed him with a ministerial post.

True to the nature of his nomadic political life Aumane remained in the RFP for only three months. He dumped the RFP in July 2022 and joined the Socialist Revolutionaries party (SR), the sixth party of his political career, when he failed to secure a ticket to stand for the RPF in the October 2022 elections. Tsepo Lethobane on the other hand joined the RFP after he had previously, and unceremoniously, left the Basotho National Party (BNP) for which he was secretary general. His departure followed the accusations of misappropriating funds collected from the party's property rentals (Mohloboli 2021). The influx of such characters, and lack of proper screening of candidates, made it possible for the primary elections to produce candidates that were well known 'but not suitable to expand the party's appeal to those always elusive "independent" or "centrist" voters' (Muzergues & Scaduto 2022).

## MERITOCRACY UNDER FIRE

It is axiomatic that the RFP's emphasis on the principle of meritocracy, and specifically the resultant screening strategies, was never going to be without criticism and challenges. As Muzergues & Scaduto (2022) warn, 'this selection method has the merit of introducing a meritocratic approach to politics but is also less democratic and runs the risk of de-politicizing a process that is itself highly political by nature'. This was soon to happen in the RFP when some of its strategies were challenged in the courts of law.

The RFP's criteria for selecting election candidates caused discomfort among some members. When the party's leadership held a press conference in Maseru to explain the new requirements, disgruntled members picketed outside the venue, hoisting placards expressing their disgust. Despite obvious signs of discomfort from some members, the party pressed ahead with its decision. Following the party's Circular 0018/2022 dated 27 June 2022, primary elections were held on the 10 July 2022 in the 69 constituencies that were excluded, as shown in Table 1 above. Considering that the party was still very new with few structures in the constituencies, it was no surprise to see primary elections turn into a shambles in some constituencies. As directed by the circular, after the primary elections the names of the four top candidates in each constituency were sent to the party's headquarters in preparation for the interviews that would determine the final candidates following the approval of the party leadership.

The interviews went ahead as planned, and when the final list was released it emerged that candidates who had the highest scores in primaries in 30 constituencies had been substituted. There were mixed reactions from this group with some accepting their fate while others vowed to challenge the outcome of the interviews. Notable among those that accepted their fate (though it turned to be temporarily) was Dr. Mahali Phamotse, a former cabinet minister who had earlier defected from the AD. Phamotse has had her share of controversy as she has a case of corruption hanging over her head. In February 2020 she was charged in the Maseru Magistrate Court 'with corruption for allegedly influencing the awarding of a 2015 high schools textbooks tender to Epic Printers and Molumeli Pty (Ltd)' (Phakela 2020). She was minister of education at the time. As a show of commitment to the party, Phamotse and other losing candidates attended the party's rally held in Thaba-Tseka just two days after the interviews. Explaining her stance, Phamotse indicated:

I attended the Thaba-Tseka rally in solidarity with the RFP because even though I didn't pass my interview, I remain cognizant of the principles which led me to the RFP. The party is working for a better Lesotho for all citizens. I admire Sam Matekane's leadership qualities.

He is an implementer who has done so much for the country even before he ventured into politics.

(Mohlomi 2022)

While Phamotse and others appeared to have accepted their fates, there were five others who kept pushing for recognition as the party's candidates based on their winning primaries in their respective constituencies. After lengthy and unsuccessful deliberations with the party's leadership, the five candidates filed a lawsuit arguing that the party had acted illegally by snubbing them despite their victories in the primaries. The court nullified the party's decision on the grounds that the selection of candidates by the party's leadership would infringe on the applicants' rights to participate in public affairs, and that would be a violation of the country's constitution (*Moloi Ralentsoe & 4 Ors v Motjoka Toloane & 7 Ors LSHC 215 CIV, 01 September 2022*). The party was thus ordered to install the five as the legitimate party candidates.

Immediately after the court had ruled in favour of the five applicants, 17 of the 25 who had appeared to accept the outcome of the interviews wrote to the party asking to be considered in the same way as those five in whose favour the court had ruled. However, the leadership responded by saying that it would execute the court judgement only in respect of the five who had successfully challenged the selection of the party in court. At this point the 17 decided to approach the court as the judgement had convinced them the party had acted illegally.

Explaining the sudden change of heart and deciding to challenge the party's decision despite earlier having accepted it, one of the candidates stated that they had initially accepted the party's decision to snub them in favour of the people they had beaten in the primaries. This after the party had told them this was an entirely new way of doing things 'on the basis of merit as opposed to conventional rules of democracy' (Phakela 2022).

The judgement of their case was handed down on Saturday 10 September 2022 with the judge ruling in favour of the applicants and confirming them as the rightful candidates. Approached for comment, Dr Mahali Phamotse was 'magnanimous in victory, saying even if they had lost, they would have remained in the party as their aim was to work for its growth' (ibid.).

It is noteworthy that the previous day, Friday 9 September, was the nomination day for candidates and the RFP, like other parties, had presented its candidates for the nomination process. Thus, the implication of the judgement was that the party had to write to the Independent Electoral Commission (IEC) and substitute the nominated candidates that were affected by the judgement. Table 2 below reproduces Circular 0022/2022 that the party issued to its structures to communicate these changes.

**Table 2: RFF Circular 0022/2022: Report on the change of candidates**

District	Constituency number	Constituency name	Initial candidate	Replacing candidate	Reasons for replacement
Butha-Buthe	01	Mechachane	Tumo Molefe	Letlotlo Ramaboli	Court decision
Leribe	11	Matlakeng	Kenny Ntoane	Mahali Phamotse	Court decision
	12	Leribe	Mofero Selupe	Khotso Motseki	Court decision
	14	Tsikoane	'Mantsali Yengane	Mabote Malefane	Court decision
Berea	19	Mosalemane	Jonase Petrose Mokete	Matabane Mosese	Court decision
	20	Makhoroana	Koena Marabe	Mphelela Khaoli	Court decision
	21	Bela-Bela	Lekese Matsoso	Teboho Malataliana	Court decision
	23	Khafung	Thabang Rapapa	Chopho Lekholoane	Court decision
	25	Tsoana-Makhulo	Mojalefa Phomane	Teboho Notsi	Court decision
	28	Khubetsoana	Peter Morolong	Lekhotsa Mafethe	The candidate has joined another party
Maseru	30	Motimposo			Court decision
	32	Stadium Area	Palesa Matobako	Mampho Alina Tjabane	Court decision
	35	Tsolo	Talenta Masoatsa	Malothoane Mathiba	Court decision
	38	Lithoteng	Lebohang Letsoela	Kobeli Rethabile Letlailana	Court decision
	43	Machache	Thabiso Lekhotla	Motheo Rali-tapole	Court decision
	44	Thaba-Putsoa	Sheriff Mothopeng	Tsepo Joseph Lethobane	Court decision
	47	Qeme	Malehlanye Ralejoe	Sello Hakane	Court decision
	50	Makhaleng	Motjoka Toloane	Moloi Ralent-soe	Court decision
	51	Maletsunyane	Peete Fusi Mahlaku	Mabahlako-ana Tebello Tau	The candidate remains a civil servant

Mafeteng	53	Phoqoane	Taunyane Tsoeunyane	Matankiso Tekane	The candidate is contesting as an independent candidate
	54	Matelile	Malebohang Sefali	Mmamako Mohale Lerata	Court decision
Quthing	66	Sempe	Lebona Mphatsoe	Monontsi Makiehe	Court decision
Qacha's Nek	69	Qacha's Nek	Maatang Chaka	Maphathe Doti	Court decision
Thaba-tseka	73	Thaba-Moea	Pokello Mahlomola	Puseletso Lejone	Court decision

While it might have been premised on the good intention of shielding the party from self-seeking opportunists and improving the profile of the party, the RFP's policy of candidate screening spelled disaster when the party was dragged to the courts of law and lost the cases, as discussed above. Furthermore, the process of vetting was rushed, leading to insufficient background checks that later necessitated the replacement of other candidates for reasons not necessarily related to the judgement. For instance, the candidate for Maletsunyane constituency had to be replaced on the grounds that he had remained a civil servant when nominated. This is prohibited by Section 40(2)(c) of the Lesotho National Assembly Electoral Act, 2011 as well as Section 143(1) of the Lesotho Constitution.

In yet another case of an inadequate background check, Taunyane Tsoeunyane passed the interviews and was selected for Phoqoane constituency. He was later approached by some of the party's elite and asked to withdraw his candidacy because the party found that he could not afford to run his own constituency campaigns as was required by the party (Seme 2022 b). He was thus asked to support his competitor 'Matankiso Tekane. Though he obliged and resigned, Taunyane ultimately left the party and contested elections as an independent candidate. The challenges to the centralised selection criteria and resultant court cases must have confused the party's prospective voters and possibly affected the party's performance in elections. Whether or not this was the case is to be seen in the following sections.

### ELECTIONS AND RFP PERFORMANCE

Elections were held on Friday 7 October 2022 and the day was declared a public holiday in order to allow citizens an opportunity to cast their votes. Different parties had used the two weekends prior to 7 October to hold their final rallies. For instance, the RFP held its final rally on Saturday 1 October while ABC and DC

held theirs a day later. Judging by the sizes of the rallies it became apparent that the contest between the RFP and DC would be neck and neck, followed by ABC and the Basotho Action Party (BAP). While there was no doubt that the RFP's rally was by far the largest, this attendance would not necessarily translate into votes, given the activities lined up for the rally. The party had brought some famous musicians from South Africa and had also organised an air show consisting of Matekane's jets and some smaller planes that were seen for the first time in Lesotho. As a result, the rally had attracted multitudes of young people. Youth are normally known to be unreliable voters hence some detractors – mostly from rivals ABC and DC – were heard on radio stations mockingly labelling the RFP's rally as a 'festival'. Their prediction – later proved wrong – was that the RFP's performance would not be proportional to the huge attendance at its rally.

A total of 52 parties contested the elections with the RFP fielding candidates in all 80 constituencies. When the ballot counting was concluded it emerged that the RFP had won 56 out of 79 constituencies contested on the day. Overall, the RFP had received 199 867 out of the 515 018 votes cast on the day (EISA 2022). This translated to 38.81% of the national vote. The RFP's final allocation of seats remained 56 as the party did not qualify for proportional representation seats because its percentage of the constituency seats surpassed its percentage of national vote. DC was placed second with a total of 29 seats (18 constituency and 11 PR seats). In line with the Mixed Member Proportional (MMP) model that Lesotho uses, only party voting took place in the Stadium Area constituency, following the death of one of the candidates. By-elections were to be scheduled for a later date to determine who represented the constituency in the National Assembly. However, the results of the party votes gave a clear indication that the RFP's candidate would also win the constituency as the party had scored the largest number of votes.

Further analysis of the performance of the RFP is based on three categories. The first is the 11 constituencies that did not hold primary elections, the second relates to the 24 constituencies affected by court decisions emanating from the screening processes, and the third is based on the 45 constituencies whose primary election victors were endorsed by the NEC after interviews.

**Table 3: RFP performance in the 11 constituencies that did not hold primary elections**

Constituency name and number	Candidate	Result	Party votes	Total votes	Party's vote %
Hololo # 02	Mr. Lejone Mpotjoane	Won	2 405	5 640	42.6



Thaba-Phatšoa # 08	Mr. Thabo Maretlane	Won	2 751	7 760	35.5
Teya-Teyaneng # 24	Mr. Lebona Lephema	Won	4 414	8 236	53.6
Lithabaneng # 40	Mr. Mokhethi Shelile	Won	3 752	6 768	55.4
Maseru Central # 33	Justice Nthomeng Majara	Won	3 138	6 013	52.2
Thetsane # 35	Ms. Nthati Moorosi	Won	2 580	4 619	55.9
Qalabane # 57	Dr. Retselisitsoe Matlanyane	Won	2 870	6 809	42.2
Mohale's Hoek # 61	Mr. Cloete Md- lokovana	Won	3 624	7 190	50.4
Moyeni # 65	Mr. Thabo Mofosi	Won	3 076	7 622	40.4
Lebakeng # 70	Ms. Nt'siuoa Sekete	Lost	1 894	6 386	29.7
Mantšonyane # 72	Mr. Sam Matekane	Won	4 629	7 059	65.6

Source: Lesotho Independent Electoral Commission

Analysis of the RFP's performance, as depicted in Table 3 above, shows that the party won ten of the eleven constituencies that were excluded from holding primary elections. This translates to a 91% win. Nt'siuoa Sekete, the only loser in this category, managed to win only 29.7% of the Lebakeng constituency votes. There are various possible explanations for Sekete's poor performance. Of all the 11 candidates she was the least charismatic and popular in terms of social status. Educated as she is, Sekete is young and not well known in the remote mountainous Lebakeng constituency as she had spent most of her time in Maseru. Furthermore, her constituency was in the Qacha's Nek district which is home of the former Prime Minister Pakalitha Mosisili. Mosisili's party, the DC, has for a very long time dominated the district and that dominance continues as it has still won all the constituencies in the 2022 elections.

The RFP scored more than 50% of the votes in six of the 11 constituencies, a remarkable performance considering the margins in other categories. The slimmest victory came from the Thaba-Putsoa constituency where the party scored 35.5% of the votes. The largest victory was in Mantšonyane where the RFP's leader

Matekane received a massive 65.6% of the constituency vote. Matekane's huge margin came as no surprise considering the level of charisma he commanded, not only in the Mantsonyane constituency, but in Lesotho in general. It might not be far-fetched to argue that the performance of the party in general can be attributed to a great extent to him as a leader.

**Table 4: RFP Performance in constituencies affected by court decisions**

Constituency Name and number	Initial candidate	Replacing candidate	Reasons for replacement	Result	% of the constituency vote
Mechachane # 01	Tumo Molefe	Letlotlo Ramaboli	Court decision	Lost	28
Matlakeng # 11	Kenny Ntoane	Mahali Phamotse	Court decision	Win	36.7
Leribe # 12	Mofero Selupe	Khotso Motseki	Court decision	Win	30.6
Tsikoane # 14	'Mantsali Yengane	Mabote Malefane	Court decision	Win	42.4
Mosalemane # 19	Jonase Petrose Mokete	Matabane Mosese	Court decision	Lost	17
Makhoroana # 20	Koena Marabe	Mphelela Khaoli	Court decision	Lost	21.2
Bela-Bela # 21	Lekese Matsoso	Teboho Malataliana	Court decision	Win	31.4
Khafung # 23	Thabang Rapapa	Chopho Lekholoane	Court decision	Win	35.8
Tsoana-Makhulo # 25	Mojalefa Phomane	Teboho Notsi	Court decision	Win	30.2
Khubetsoana # 28	Peter Morolong	Lekhotsa Mafethe	The candidate has joined another party	Win	50.3
Motimposo # 30			Court decision	Win	45.8
Stadium Area # 32	Palesa Matobako	Mampho Alina Tjabane	Court decision	Failed election	
Tsolo # 35	Talenta Masoatsa	Malothoane Mathiba	Court decision	Win	51.5

Lithoteng # 38	Lebohang Letsoela	Kobeli Rethabile Letlailana	Court decision	Win	42.6
Machache # 43	Thabiso Lekhotla	Motheo Ralitapole	Court decision	Win	43.2
Thaba-Putsoa # 44	Sheriff Mothopeng	Tsepo Joseph Lethobane	Court decision	Lost	27.6
Qeme # 47	Malehlanye Ralejoe	Sello Hakane	Court decision	Win	34.4
Makhaleng # 50	Motjoka Toloane	Moloi Ralentsoe	Court decision	Lost	25.3
Maletsunyane # 51	Peete Fusi Mahlaku	Mabahlakoana Tebello Tau	The candidate remains a civil servant	Lost	18.3
Phoqoane # 53	Taunyane Tsoeunyane	Matankiso Tekane	The candidate is contesting as an independent candidate	Win	36.6
Matelile # 54	Malebohang Sefali	Mmamako Mohale Lerata	Court decision	Lost	27.3
Sempe # 66	Lebona Mphatsoe	Monontsi Makiehe	Court decision	Lost	30.0
Qacha's Nek # 69	Maatang Chaka	Maphathe Doti	Court decision	Lost	26.7
Thaba-Moea # 73	Pokello Mahlomola	Puseletso Lejone	Court decision	Win	59.6

Source: Lesotho Independent Electoral Commission

As seen in Table 4 above, 24 constituencies were affected by the court decisions arising from the party's selection processes. Party votes took place in 23 constituencies as party elections in the Stadium Area were declared failed following the death of one candidate. The RFP won 14 and lost 9 constituencies in this category, a performance that translated to a 60.87% win. Of the nine lost constituencies, the party's worst performance was in Mosalemane (17%) while the best was in Mechachane (28%). The party won T'soana Makhulo with the lowest score of 30.2% while the highest winning margin was at Thaba-Moea where the party registered 59.6%. Of the 14 constituencies they won, only three were won with more than 50% of the constituencies' votes.

The third category is that of the constituencies in which the victors at the primary elections were endorsed by the NEC and remained the same even after the interviews. There were 45 such constituencies, of which the RFP won 32 and lost 13. This indicates a 72.8% win rate. Of the lost constituencies, the party registered the lowest performance in the Motete constituency, scoring a paltry 11.8% of votes. The largest losing performance was recorded in the Phamong constituency with 33.9% of the total vote. The slimmest win was recorded in Pela-Tsoeu where the party won with 27.2%. The widest winning performance was gained at Moselinyane where the party amassed 60.7% of votes.

A closer analysis of the RFP's results shows that the party performed best with a 91% win in the category of constituencies where the selection of candidates remained the prerogative of the party NEC. The second highest performance was recorded in those constituencies in which the NEC approved the winners of primary elections. In this category the party had a 72.8% win. The party's lowest win performance was 60.87% in the constituencies that challenged the decisions of the NEC. Holding all other factors constant and focusing purely on candidate selection as a sole variable for performance in the three categories, it is safe to infer that voters were impressed by candidates who were products of the RFP's screening processes, hence good performance in the two categories. It is also safe to infer that the court cases challenging the RFP's screening process might have divided the party's potential votes, hence the bad performance in the affected constituencies.

The results have also confirmed the assertions of Muzergues and Scaduto (2022) that centralised candidate selection methods are less democratic and run the risk of de-politicising a process that is itself highly political by nature. These methods indeed seemed to compromise democratic tendencies as they led to the court cases that eventually depoliticised the political process. Despite this flaw, there is no doubt that the screening methods had merit as they imposed changes and enlarged the profile of party's candidates, and subsequently also of the National Assembly that resulted from the October 2022 general elections.

## CONCLUSION

This article has shown how businessman Samuel Matekane and other prominent persons in Lesotho formed the Revolution for Prosperity (RFP) party with the aim of reversing the economic downturn that the country has been going through in recent years. The formation of the RFP attracted mixed reactions from different corners of Lesotho and indeed the Basotho nation. While some saw the party as a sign of hope, others took it to be no different from other political parties. The RFP deviated from the conventional practices of other parties in a number of ways, including issuing membership cards free of charge and organising expensive and

entertainment-filled rallies. Most fundamentally, the party spared some selected constituencies from holding primary elections and decided to leave the candidacy for the October 2022 elections in such constituencies to individuals appointed by the leader. Furthermore, the party introduced strict vetting mechanisms through which four leading candidates in the constituencies that had held primary elections would be subjected to interviews by party leadership in order to determine final candidates. The political record of some of the individuals who defected to the RFP justified why the party was right in vetting candidates for the 2022 elections. While this is uncommon in Lesotho, candidate screening strategies are common in parts of Europe and North America.

Apart from criticism by rival parties, the RFP's candidate screening attracted resistance from within the party, and some disgruntled candidates took the party to the courts of law. Ultimately the courts ruled in their favour and the party was ordered to field them as its candidates. Despite the challenges, RFP captured most seats, 56 out of 120, in the National Assembly following the October 2022 elections. The party's best performance came from the category of constituencies that did not hold primary results, followed by those constituencies in which the winners of the primary elections were endorsed by the leadership after interviews. The constituencies whose candidates were fielded following court interventions performed least well. Through its strategies, RFP was generally able to produce high calibre members of parliament.

———— REFERENCES ————

- Constitution of Lesotho* 1993, Government Printer, Maseru.
- Electoral Institute for Sustainable Democracy in Africa* 2022, 'EISA Lesotho: 2022 National Assembly Election Results'. Available at <https://www.eisa.org/wep/les2022results.htm>
- Garner, R, Ferdinand, P, & Lawson, S 2012, *Introduction to Politics* (2<sup>nd</sup> ed), Oxford University Press, Oxford.
- Hazan, R, & Rahat, G 2010, *Democracy within Parties: Candidate Selection Methods and Their Political Consequences*, Available at <https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780199572540.001.0001/acprof-9780199572540-chapter-1>.
- Lesotho Independent Electoral Commission 2022, *Lesotho 2022 National Assembly Elections*, Available at <https://www.iec.org.ls/2022-results/>.
- Lesotho National Assembly Electoral Act* 2011, Government Printers, Maseru.
- Lesotho Tribune* 2022, 'Sam Matekane... ends another political party's existence... more to come', Available at <https://lesothotribune.co.ls/sam-matekane-ends-another-political-partys-existencemore-to-come/>

- Liphoto, N 2022, 'Matekane faces revolt', *The Post*, July 5.
- Marland, M 2021, 'Vetting of Election Candidates by Political Parties: Centralization of Candidate Selection in Canada', *American Review of Canadian Studies*, Vol. 51, Issue 4, pp. 573-591.
- Mohlololi, M 2021, 'BNP SG Lethobane suspended on embezzlement charges', *Lesotho Times*, Available at <https://lestimes.com/bnp-sg-lethobane-suspended-on-embezzlement-charges/>.
- Mohlomi, T 2022, 'Phamotse, 10 others reaffirm allegiance to RFP', *Lesotho Times*, August, 10.
- Moleko, I 2022, 'I just want to see my nation out of poverty', *Public Eye*, September 23.
- Moloi Ralentsoe & 4 Ors v Motjoka Toloane & 7 Ors LSHC 215 CIV*, (2022)
- Muzergues, T & Scaduto, D 2022, 'Standing Out from the Crowd Political Parties' Candidate (S)election in the Transatlantic World', *International Republican Institute*, Available at <https://www.iri.org/resources/standing-out-from-the-crowd/>.
- Phakela, M 2020, 'Phamotse charged with corruption over 2015 books tender', *Lesotho Times*, February 07.
- Phakela, M 2022, 'Another massive court blow for Matekane', *Sunday Express*, September 11.
- Revolution for Prosperity*, 2022, 'Circular 0018/2022: Khetho ea Bakhothaletsua', 27 June
- Revolution for Prosperity*, 2022, 'Circular 0020/2022: Sephetho sa khetho ea Bakhothaletsua', 22 July.
- Seme, I 2022a, 'I am tired of corruption and nepotism: Matekane', *Public Eye*, Available at <https://publiceyenews.com/im-tired-of-corruption-and-nepotism-matekane/>.
- Seme, I 2022b, 'Death threats rock RFP', *Public Eye*, Available at <https://publiceyenews.com/death-threats-rock-rfp/>.
- Senoko, N 2021, 'Matekane wins Forbes award', *Maseru Metro*, August, 6.
- Sithetho, M 2022, 'Analysing the value for political parties in relying on and retaining traditional strongholds when contesting for elections?', *Democracy Dialogue*. Available: <https://thizkingdom.com/news/influence-of-strongholds-tight-grips-in-electoral-victory/>
- Thabane, M 2022, 'Revolution for Prosperity: Wealth and state power', *The Post*, April 19.
- The Electoral Knowledge Network 2000*. Available at <https://aceproject.org/ace-en/focus/elections-and-security/onePage/>
- Vandeleene, A & van Haute, E 2021, 'A Comparative Analysis of Selection Criteria of Candidates in Belgium', *Frontiers in Political Science*. 25<sup>th</sup> November. Available at <https://www.frontiersin.org/articles/10.3389/fpos.2021.777747/full>

- Zihlangu, B 2022, 'Moleleki reveals deep-seated fear of Matekane', *Sunday Express*.  
Apr 12. Available at: <https://sundayexpress.co.ls/moleleki-reveals-deep-seated-fear-of-matekane/>
- Zihlangu, B & Mohloboli, M 2022, 'Matekane directives spark fresh squabbles in RFP'. *Lesotho Times*, July 6.

# THE IMPACT OF INTRA-PARTY CONFLICTS ON THE ELECTORAL PERFORMANCE OF THE ALL BASOTHO CONVENTION IN LESOTHO'S 2022 ELECTIONS

*Frank Lekaba*

Frank Lekaba is a senior lecturer at Wits School of Governance,  
University of the Witwatersrand

## ABSTRACT

*The literature on Lesotho's politics and political parties, particularly after 2012, focuses on their alliances and coalitions, their relationships with the military and the seemingly instability of coalitions. There is less focus on intra-party instability and its impact on political party electoral performance. This article uses a critical literature review to analyse the poor electoral performance of the All Basotho Convention (ABC) in the October 2022 elections and how this is a consequence of its internal conflicts. The ABC experienced intra-party conflicts that increased with the removal of its leader, Prime Minister Thomas Thabane, in 2020. The argument advanced in this article is that the ABC experienced a dramatic decline in electoral support in October 2022, with the drastic loss of forty seats, as a result of its internal conflicts. The party's support had grown gradually since its formation in 2006 but dropped suddenly and dramatically in the 2022 elections. This article will contribute to the scholarship on the analysis of the electoral performance of political parties in the continent.*

**Keywords:** All Basotho Convention, splinter groups, floor-crossing, elections, intra-party democracy, Lesotho

## INTRODUCTION

Lesotho's electoral politics have been widely studied, documented and analysed from various vantage points (Kapa 2009; Letsie 2015; Nyane 2016, Kadima 2018 & Nyane 2019). The key issues arising from this body of scholarship include: no clear basis for coalition making among political parties; the collapse of coalitions due to malfeasance; and the role of the military in politics. The scholarship is



thus more about inter-party relations and less about intra-party characteristics such as the parties' lack of institutionalisation, the function of ideology, and internal democracy keeping the party coherent, relevant, agile and sustainable. Lack of these qualities could contribute to problematic inter-party relations and consequently the collapse of coalition governments.

At each stage since 1997, governance has been negatively affected whenever there has been an intra-party conflict in the governing parties of Lesotho, as with the case of Basotho Congress Party (BCP). Within this identified gap, the article analyses the intra-party conflicts of the All Basotho Convention (ABC) and how they impacted the party's performance in the 2022 elections. One stubborn and persistent view emerging from this body of literature is the assumption that attributes the emergence of coalitions in Lesotho, which are seemingly unstable, to the electoral reforms of 2007. Instead, these coalitions should be attributed to the lack of institutionalisation of political parties, lack of clear ideological orientation, and lack of intra-party democracy in Lesotho. To substantiate this argument, the analysis focuses on the ABC and its poor performance in the 2022 elections.

The ABC has been one of the key political parties in the Kingdom of Lesotho since its formation in 9 October 2006 (ABC Constitution 2006). With hindsight, it has become clearer that it was not so much the party as its former leader, Thomas Thabane, who was a key political figure and a cornerstone of the party. His removal as prime minister in 2020 led to the dramatic loss of electoral support in the 2022 elections and near death of the party. He formed the ABC in 2006 as a breakaway from the Lesotho Congress for Democracy (LCD), which was the governing party winning elections in 1998, 2002, and 2007 (Likoti 2008). It was Thabane's ABC that brought the LCD's electoral dominance to a halt and ushered in coalition governments characterised by 'peaceful transfers of power after elections' after the 2012 elections (Fogelman & Aerni-flessner 2020). The ABC's dramatic loss of electoral support in 2022 was not unexpected. Thabane had hinted at this possibility in 2018, when he stated that 'he hoped the party would grow so that it could govern on its own, but ...this won't be possible if the challenges facing it are not immediately addressed' (*Mail & Guardian* 2018). Without realising it, Thabane was talking about the party's challenges, and overlooked how his own role weighed heavily on the party's progress and its lack of functioning as an institutionalised party.

Thabane was the party's cornerstone and this was both a blessing and a curse as the 'strongman' phenomenon Barack Obama warned Africans against (Obama 2009). Thabane apparently managed the organisation's electoral fortunes in the period between 2012 and 2017, while leader of the party, until his removal in 2020. What is apparent is that it is how his removal was managed, not necessarily his removal per se, that was responsible for the ABC's dire electoral misfortune

in 2022, and in particular the political wrangling that ultimately resulted in his removal. Although Thabane reigned supreme as a focal figure of the ABC's misfortunes in the 2022 elections, this article concentrates on the ABC in totality and examines the internal party dynamics which precipitated the party's poor electoral performance. This analysis is hinged on the assumption that 'political parties require, among other things, internal cohesion, democratic and visionary leadership, intra-party democracy and constructive management of internal conflicts as well as mutually beneficial inter-party relations if they are to add value to representative democracy' (Matlosa & Shale 2006, p. 2).

Political parties require these attributes not only to add value to representative democracy, but also for their sustainability and continued electoral support. In the political setting of Lesotho, where coalition government has been the order of the day since 2012, these attributes are sacrosanct. If the parties in a coalition government do not have these attributes, they could disrupt and collapse the functionality of the coalition government. In fact, Thabane, as a party leader, was supposed to be the epitome of all these values and steer the party away from issues that could negatively affect its electoral performance.

The lack of institutionalisation of political parties is not unique to the ABC but cuts across the spectrum of political parties in Lesotho. This phenomenon may be linked to the poor electoral performance of those parties in the October 2022 elections. Although the focus of this paper is on the ABC and its internal factions, an important point is that key competitive political parties in previous elections in Lesotho also registered poor electoral performances in the 2022 elections. Looking at the results of top five, in no particular order, compared to the 2017 election results: the ABC received 37 553 votes down from 235 729, the Democratic Congress (DC) 128 105 down from 150 172, and the Alliance of Democrats (AD) received 20 798 votes down from 42 686. There are new entrants in the top five: the Revolution for Prosperity (RFP) party with 199 867, and Basotho Action Party (BAC) with 29 118. These two parties replaced both the LCD and the Movement for Economic Change in the top five political parties (EISA 2012; EISA 2015; IFES 2017; IEC 2022). The RFP did not only become one of the top five, but also accumulated a substantial number of votes. Some reporters even claimed that these fortunes are conditioned by the fact that the current prime minister Sam Matekane is a billionaire and because of his wealth he did not struggle with criss-crossing the country during the campaign season (*Mail & Guardian* 2022).

This picture could give credence to the argument that Lesotho's politics needs a change, coupled with a generational change of the country's leadership. Following the retirement from active politics of Pakalitha Mosisili, a friend and rival of Thomas Thabane, the question loomed large: 'do the leadership shuffles portend long-awaited generational change that will lead to better outcomes

for Basotho, or will Lesotho politics stumble along in a familiar quagmire of scandals, party splits and leadership battles?' (Fogelman & Aerni-flessner 2019). This curious question was inspired by 'the emergence of two 41-year-old leaders at the helm of opposition political parties – the Movement for Economic Change (MEC) and the Democratic Congress (DC) – in the wake of Mosisili's retirement' (ibid.). What intrigued Fogelman and Aerni-flessner, and was possibly the basis for their approximation of the hopeless future of the country's politics, was the fact that the winds of change did not blow 'on the other side of the parliamentary aisle' when Thabane had announced plans to retain power until 2027 when he would be 88 years old. Perhaps Thabane was ignoring the writing on the wall, signalled by both the dynamics in his own party and the changes taking place in the opposition parties. He had failed to stop Nqosa Mahao from becoming his party's deputy leader although he was visibly opposed to Mahao's candidature. The leadership of the country had been contested by Mosisili and Thabane from the 2007 elections until 2017. The dominance of politics by these two leaders is a lesson for Lesotho's political parties, and that imposing a term limit on leaders, especially those leading the party, would help ensure that succession is forced on the political parties. A term of limit for holding the office of prime minister would not serve the purpose, given the unstable nature of Lesotho's politics and the stubborn reality of coalition governments. Thabane has had his two terms as prime minister disrupted by the collapse of coalition governments and the involvement of the military in Lesotho's political battles.

The analysis of the impact of intra-party wranglings within the ABC and its linkage to the party's electoral performance of 2022 is paralleled with other political parties on the continent. This analysis is aimed at deducing, in a generalised manner, the internal and external factors that drive the dominance and decline of political parties. The analysis examines the causes of fissures and fractures within the ABC; the impact of splinter groups coupled with the phenomenon of floor-crossing; the role of internal party democracy in its sustainability; and the role of ideologies in maintaining party discipline. These are the key aspects of this article's analysis.

#### INTERNATIONAL AND DOMESTIC EVOLUTION OF POLITICAL PARTIES

Political parties and politics have evolved over the years, conditioned by national and international dynamics. These dynamics are crucial to understanding the nature and state of national politics and political parties. The post-World War II era was dominated by the so-called 'Cold War' between 1945 and 1989. Those years were characterised by a sustained ideological battle between the Union

of Soviet Socialist Republics (USSR) (the Soviet Union) and the West led by the United States of America (US). The post-Cold War era has been characterised by liberal democracy. The rise of China economically, in global politics, has added a new dimension and different challenges to the dominant liberal democracy, and observers have characterised this as a 'China challenge' (Cao & Poy 2011; EIU 2022). In each epoch, global dynamics have set the scene for national politics and political culture. In analysing the post-Cold War era and predicting its political outcome, Francis Fukuyama (1989, p.3) famously proclaimed:

The twentieth century saw the developed world descend into a paroxysm of ideological violence, as liberalism contended first with the remnants of absolutism, then bolshevism and fascism, and finally an unupdated Marxism that threatened to lead to the ultimate apocalypse of nuclear war. But the century that began full of self-confidence in the ultimate triumph of Western liberal democracy seems at its close to be returning full circle to where it started: not to an end of ideology or a convergence between capitalism and socialism, as earlier predicted, but to an unabashed victory of economic and political liberalism.

Fukuyama had to clarify his conception of 'the end of history', as he believed that he had been misunderstood for arguing that '...events would somehow stop happening, or there would be perpetual peace' (Fukuyama 1995, p. 28). His view is that the triumph of liberal democracy would not have its competitiveness and emerging alternative conceptions of political systems and development. This description of the post-Cold War era helps to understand the evolution of politics and political parties in the 21<sup>st</sup> century, and that the political events in this epoch should be understood as a continued deepening of liberal democracy and a search for its alternative. This deepening of democracy, or search for its alternative, rests on the programmes, policies, ideologies and leadership of political parties as vehicles for the accomplishment of these political ideals. The assumption that emerged with the notion of liberal democracy as a universal political system, was that only political parties that are not on the left, would advance development and prosperity while pursuing the consolidation and deepening of democracy. However, this myth was dismantled by the rise of China with the Chinese Communist Party (CCP) at the helm. In its 2021 Democracy Index report, the Economic Intelligence Unit (EIU 2022, p. 3) observed that:

How much of a challenge does China pose to democracy, the model of governance to which most people in the world have aspired for the past century? The potency of this political challenge is inextricably linked

to China's incredible economic success over the past three decades. The Chinese economy has grown at almost triple the pace of the US economy in nominal GDP terms since 1990, turning China from a poor developing country into an economic superpower with the second largest GDP in the world. China's rulers have become more confident about promulgating the alleged superiority of their system over that of the West, and COVID-19 pandemic has accentuated this trend.

The same report acknowledges that China's rise is capitalist, but not democratic. This is where the major challenge lies regarding the rise and prosperity of authoritarian capitalism. On the African continent, a potential China could be Rwanda under Paul Kagame, which has a democracy ranking of 126 but the fastest economic growth rate projected at 6.9% and 7.9% respectively in 2022 and 2023 (EIU 2022; AFD 2022). The argument advanced here, is that the end of history has not been reached and it continues to encounter competition in a form of the 'China challenge', basically the rise of an authoritarianism inimical to liberal democracy. It would be amiss to analyse the nature of a political party and its electoral performance outside of what characterises global politics in the 21<sup>st</sup> century. The analysis of the ABC is situated within these analytical parameters.

In the context of this evolution of international politics, a few points could be attributed to the political system in Lesotho since 1993's democratic transition. Firstly, the BCP had, since its formation, positioned itself in the fold of liberation politics which were unfortunately categorised in the eastern bloc under the USSR. But the BCP was best described by the politics of the Non-Aligned Movement (NAM), aligned with neither the USSR nor the West, but seeking national liberation. It subscribed to Pan-Africanism as a political ideology. Thus, it was not a catch-all party, but a liberation party. As a liberation party, its major purpose was to fight for the independence of Lesotho, leading the national agenda for self-determination. This national agenda reverberated with most of the Basotho. Hence the ABC was victorious in the 1970 elections, due to its popularity and status as a party that agitated for Lesotho's right of self-determination. With this purpose, it was not designed to compete in popular elections. However, it is not evident how it continued in government after the elections of 1993. Secondly, the apparent reincarnation of Cold-War politics in the form of rivalry between China and the US has narrowed the space for political parties to articulate their ideological positions. This has created the problem of ideologically incongruous members, with factional battles aimed at party leadership rather than policy outlook. It has also reduced political parties to catch-all mass parties, with no political programmes to develop party cadres. Arising out of this is the phenomenon of presidential authoritarianism or the strongman phenomenon. The net effect of

presidential authoritarianism or the strongman phenomenon in political parties is the stifling of internal party democracy and breakaway/splinter groups. All these issues are at the core of why political parties, in Lesotho and worldwide, do not have a stranglehold over the government, or why dominant political parties are experiencing declining electoral support.

Lesotho's electoral reform in 2007 did not only usher in a period of coalitions in government, but also helped the country rank higher in the EIU democracy index. In the 2007 report, Lesotho was ranked at 71 out of 167 ranked countries, and in the category of flawed democracies (EIU 2008) Lesotho scored 7.42 out of 10.1 in the variable of electoral process and pluralism, signalling good management of elections and openness of the electoral system (*ibid.*). In the 2021 report, Lesotho is ranked 64 out of 167 countries, also in the category of flawed democracies (EIU 2022). Again, the strongest feature of Lesotho's democracy is the electoral process and pluralism, with a score of 9.17 out of 10.0 (*ibid.*). The 2021 report indicates a poor score, only 4.14, for the functioning of government variable (EIU 2022). In the 2007 report, however, functioning of government scored 6.07 (EIU 2008). This means the functionality of government in Lesotho has deteriorated, although there has been more openness and competition in the electoral politics. This points to the net effect of unstable coalition governments since 2012. In the ten years between 2012 and 2022, Lesotho held four national elections. These elections were not followed by disputes on the results, nor were they plagued by a lack of credibility or unfairness. But the point is that instead of holding national elections just twice in the space of ten years, the instability of coalition politics resulted in snap elections and the dissolution of Parliament. In order to understand these unstable coalition governments it is necessary to take a closer look at one of the dominant political parties, the ABC, which had intermittently led the coalition governments.

### FISSURES AND FRACTURES WITHIN THE ABC

Specific issues within ABC were both contentious and responsible for the party's poor performance in the 2022 elections. Firstly, the breakaway or splinter group led by Nqosa Mahao. Secondly, the perceived meddling in both the party and state affairs by Thabane's wife, Maesiah. Thirdly, preferential business treatment for Mr Stone Shi, in the wool and mohair industry. Fourthly, the removal of Thomas Thabane as prime minister (*The Post* 2022).

Mahao left the ABC during dramatic developments because of Thabane's attitude, as Thabane did not hide the fact that he no longer wanted Mahao in the party. Responding to Mahao's allegations that Thabane was orchestrating a plot to oust him from ABC, Thabane commented: 'tell him I said he is speaking

nonsense and disrespecting me because he is a child to me. I am not his agemate, you can tell him that' (Kabi 2021). Clearly the feud between Thabane and Mahao was not political but personal and irreparable.

The battle between Mahao and Thabane symbolises what Peter Anyang' Nyong'o qualifies as 'presidential authoritarianism' (Nyong'o 2021, p. 18). He argues that:

... I do believe that the instability, the fragility, the continuous fractioning and the high tendency towards personalising the leadership of political parties is not simply the outcome, or function, of tribal politics as is popularly narrated (I would hesitate to call it 'explained'). It is more a function of the culture of authoritarian presidential politics that easily survives by weakening political elites so as to institutionalise that authoritarian hegemony. Presidential authoritarianism is antithetical to the institutionalisation of political party politics.

(Nyong'o 2021, p. 18)

This phenomenon of presidential authoritarianism is not unique to the ABC, but it also plagues other political parties in Lesotho. This could explain why a change of leadership brought about electoral misfortunes for the BCP in 1998 and the LCD in 2012. What is common to the electoral misfortunes of these three political parties is that they performed badly in the elections after a splinter or breakaway party had been formed and led by their incumbent leader. The BCP suffered the catastrophic effects of Ntsu Mokhehle's breakaway LCD in the 1998 elections. In the 2012 elections, the LCD lost 35 seats due to a breakaway by party leader Pakalitha Mosisili, who formed the DC. This was paralleled by the smooth transition of leadership evidenced by Mosisili in 2019, and the DC's performance in 2022 elections. The DC experienced a slight decline in the 2022 elections; 128 105 in comparison to the 150 172 votes in the 2017 elections (IFES 2017; IEC 2022). Clearly, this is not as catastrophic as the consequences of Thabane's forced exit from the ABC.

If indeed, the assumption of Nyong'o holds true that 'presidential authoritarianism is antithetical to the institutionalisation of political party politics', then what are the indicators of an institutionalised political party, and what are its politics? How do the answers to these questions relate to the party dynamics of political parties in Lesotho? What obtains from the body of scholarship on political parties as institutions are some interesting observations. In a study titled *Measuring party institutionalisation in Developing Countries: A New Research Instrument Applied to 28 African Political Parties*, Basedau and Stroh (2008 p. 3) '...understand the institutionalisation of political organisation as progress in four dimensions:

roots in society, level of organisation, autonomy, and coherence'. They argue that political party institutionalisation is a process in which individual political parties that participate in elections experience an increase in organisational stability and value (ibid.). A political party's stability is informed by external and internal factors, its rootedness in the society and its level of organisation. Its value lies in its autonomy and coherence to both external and internal factors. Basically, an institutionalised political party is one that survives external and internal contradictions.

A measure of political party rootedness in society lies in its electoral performance. This is an external factor, but it has a direct correlation with the party's level of organisation and coherence, which are internal. It has to do with how the society views a political party, and how it manages its internal contradictions. In Lesotho, the phenomenon of breakaway parties is symptomatic of the failure to manage internal party contradictions, and to greater extent the party's lack of institutionalisation. Two important aspects in this regard are internal party democracy, and political party ideological orientation. Internal party democracy relates to how debates are managed within the party, and whether there is space for the competition of ideas without any persecution of those party members holding a dissenting view from the party's leadership or dominant faction. Ideological orientation helps with fostering party coherence and avoiding incongruent members. Basically, this is a tool for developing a new cadre of the party's leadership and membership to pave the way for succession and the party's autonomy.

In terms of its organisational structure, the ABC's constitution leaves much to be desired regarding the functionality needed to ensure party coherence. It has structures which are important for its internal coherence, such as the National Executive Committee, Executive Working Committee, Conflict and Dispute Resolution Committee, National Women's Committee, National Youth Committee, *Komoto ea Khokahanyo ea Ntlafatso ea Setereke*, Disciplinary Committee, Branch Committee which includes Branch Committees Outside the Country, and Constituency Committee which includes these committees: *Likomiti tsa Mabatooa a ka Ntle ho Naha (Ho Kenyeletsa: Gauteng, North West, Mpumalanga, Foreisetata, Kapa le Natala, Kimi tea Lebatooa ea Mafumahali, Kimiti ea Lebatooa ea Bacha, Likimiti tsa Mabatooa a Kantle ho Naha tsa Bacha)* (ABC Constitution 2006). The party's coherence is linked to its level of organisation. However, its functionality relates to party politics. If the party's politics are not democratic, this would mean a rise of presidential authoritarianism and, in the context of Lesotho's broader politics, a party's breakaway or splinter group.

The application of the four dimensions of political party institutionalisation presents a correlation between poorly institutionalised political parties, with



presidential authoritarianism and polarised electoral politics in Lesotho. Nonetheless, a body of literature on the electoral politics of Lesotho since 2012 attributes the reality of coalitions to the electoral reform of 2007. What obtains from the analysis of political party institutionalisation seems to differ from this widely-held view. While electoral reforms did contribute to polarising votes, the electoral reform laid bare the link between political party institutionalisation and electoral performance. Mwangi (2016) argues that, 'Lesotho can be considered as a fragile state due to its weak governance institutions like the electoral system, which produces persistent and perverse political conflicts'. Instead of blaming the country's political instability on the electoral system, the onus should be on political parties and their lack of institutionalisation, societal rootedness, level of organisation, and autonomy and coherence.

The last factor that contributed to the ABC's electoral misfortune of 2022 is how Thomas Thabane stepped down as party leader. The controversy that implicated him in the killing of his estranged second wife Lipolelo, by his third wife Maesiah, did not help the party to handle the transition smoothly. Someone of Thabane's stature within the party, with his control over the party for nearly 14 years, would inevitably create discontent among party members and followers. Added to this, he was forced out of government as prime minister. Not only did his removal signal the end of presidential authoritarianism, but it also signalled to the Basotho that Thabane enjoyed some immunity, which led to the withdrawal of the charges against him and Maesiah, and a miscarriage of justice for Lipolelo Thabane.

### SPLINTER GROUPS AND FLOOR-CROSSING

One of the defining features in the downfall of political parties in the Mountain Kingdom of Lesotho, is the phenomenon of splinter groups or breakaway political parties. This is normally followed up by floor-crossing in Parliament. These partially account for the catastrophic decline of political parties in the country. Although these two variables account for the ever-changing political dynamics in Lesotho, literature points to the fact that the political parties that have dominated the political scene since independence of many countries in southern Africa generally had a life-span of no more than 20 years in power. Their decline is due to various factors including internal dynamics; factions; the sins of incumbency; stifling internal democracy; and the dominant leader syndrome.

In addition, external dynamics included the wave of democratisation; the collapse of the Soviet Union; and the end of bipolarity in international politics. The African National third Congress (ANC) in South Africa, the Zimbabwe African National Union-Patriotic Front (ZANU-PF), and Zambia's United National Independence Party (UNIP) are examples of parties that are declining because

of these issues. UNIP is unique in suffering the consequences of the third wave of democratisation. ZANU-PF presents an interesting case of a party that has tried to halt its decline through the tight control of state machinery and by acting against its opponents and those party members holding critical views about its leadership and policy positions (Kriger 2005).

Lesotho is spared these issues; however, the common trend that erodes the electoral competitiveness of political parties is the phenomenon of breakaways or splinter groups coupled with floor-crossing in parliament. This started with the BCP in 1997, followed by the LCD in both 2001 and 2006 and now the ABC haemorrhaging into two splinter groups: the BAP and Basotho Patriotic Party (BPP). In 1997, the BCP lost its leader, Ntsu Mokhehle, who formed the LCD. The LCD suffered the same fate in 2001, when the then deputy prime minister, Kelebone Maope, formed the Lesotho People's Congress (LPC). LCD suffered another blow when Thomas Thabane broke away and formed the ABC in 2006. Most of these breakaway parties were bolstered by members of parliament migrating to join new formations. This would have a long-term effect on the political parties losing members and seats in Parliament.

Floor-crossing, a constitutionally permissible migration of members of parliament from one party to the other, strengthened the impact of splinter groups within Lesotho's political parties. BCP had won 65 seats in the 1993 elections in a clean sweep (Matlosa & Shale 2008). This dramatically changed when Mokhehle formed the LCD in 1997 and crossed the floor with 40 members, thus becoming the new ruling party. The formation of the LCD had a lasting effect on the electoral performance of BCP in the subsequent elections, as it failed to gather enough parliamentary seats even to become the official opposition after the elections of 1998 and 2002 (Matlosa & Shale 2008). The LCD also suffered the same fate as BCP, haemorrhaging 20 parliamentary seats in 2001 to its splinter group, LPC.

The decline of ABC's electoral support is similar to that of the BCP. In 1998, Ntsu Mokhehle broke away from the party he had established, the BCP, to form the LCD. This was a catastrophic blow for the BCP, as its fortunes declined and it became a minority party. In 2006, Thabane led a breakaway that did not completely annihilate LCD's electoral support but became the main competitor as the second biggest party with parliamentary seats. The ABC did not only mount intense electoral competition to the LCD, but also made it challenging for the LCD to govern after the 2007 elections, raising key issues that resulted in electoral reform and ushered in the first coalition government in 2012. The EISA report (2007, p. 4) describes the post-electoral scene of 2007 thus:

The post-election political atmosphere was characterised by controversies, conflicts and complaints. The opposition parties decried

the state of the voter's roll on the polling day, the allocation of the PR seats and the perceived patron-client relationship between the IEC and the ruling LCD.

What is observable and interesting about these two breakaways is that they changed the political scene, and also broke away in a form of floor-crossing in Parliament. These breakaways were led not by political novices, but by key political figures with their own considerable influence. Ntsu Mokhehle founded BCP in 1959 and mounted a serious challenge to Chief Leabua Jonathan from the time of independence until the coup of 1986. He continued to be a towering figure until his death in 1999, having been prime minister from 1993 until 1999 (Edwards 1999). The BCP won the elections in 1970 and Mokhehle should have become the first prime minister of Lesotho. He was, however, thwarted by incumbent Prime Minister Chief Leabua Jonathan who 'refused to relinquish power, suspended the constitution, declared a state of emergency, annulled the election results and detained Mokhehle for two years' (Edwards 1999, p. 1).

Like Ntsu Mokhehle, Thomas Thabane is charismatic and popular with the Basotho electorate, hence the continued political competition between the ABC-led coalitions and Democratic Congress (DC)-led coalitions between 2012 and 2017. The results of 2022 elections indicate that Thabane dominated the party's popularity. His removal, coupled with the breakaway of the Basotho Action Party (BAP) led by ABC former deputy president Nqosa Mahao, resulted in the dramatic electoral decline of ABC. Mahao's BAP accumulated 29 118 votes from the 2022 elections, becoming the fourth largest political party in terms of electoral performance (IEC 2022).

In a nutshell, floor-crossing is a legalised parliamentary coup d'état. Repealing the act that legitimises floor-crossing, or broad electoral reform, could serve the political landscape of Lesotho well and refocus political parties on developmental issues, rather than state power and zero-sum political games. It could also help reduce the phenomenon of splinter groups, as they would not have to gain parliamentary seats through floor-crossing but would be required to run election campaigns that would earn them seats. These common bedfellows, i.e. breakaway parties and floor-crossing, could also account for the poor functioning of government due to unstable coalitions.

### ABC'S IDEOLOGICAL DISORIENTATION

One of the key features of political party sustainability is its ideological orientation. If the party has no clearly defined ideological standing, then it become amorphous, basically, a 'catch-all party' (Hague, Harrop & McCormick, 2019). Catch-all

parties, or amorphous parties, are a dominant feature of liberal democracies. In this system:

no longer do parties seem to be energetic agents of society, seeking to bend the state towards their supporters' interests. Instead, they appear to be at risk of capture by the state itself. They also often seem to be less concerned with offering voters alternatives than with promoting their own interests, and competing for power for its own sake. As a result, parties have lost much of their attraction to the politically engaged, who seem to be increasingly disillusioned with achieving democracy through competing political parties.

(Hague, Harrop & McCormick 2019, p. 272)

Catch-all parties seek to govern in the national interest, rather than as representatives of a social group or groups, thus need no unique ideological programme (ibid.). The top five political parties in Lesotho are mainly catch-all parties vying for electoral support instead of development founded on ideology. By characterising ABC as *Kobo-Tata ea Basotho* in its constitution, the party clearly denotes its ideological posturing and falls under the category of catch-all parties with no clear ideological programme. Secondly, to denote the character of an amorphous party in its constitution, the ABC states its objectives thus, 'ho kopanya baahi bohle ba kahare le kantle hon aha tlas'a Lekhotla le le leng la lipolotiki ka sepheo sa ho loantša le ho fenyā Tlala, BOFUMA, MAFU LE TLHOKAHALO EA TSEBO; Ho apesa Basotho bohle kobo-tata e akaretsang Banna, Bacha, Babolli, Barutehi, Batho ba litumelo ka ho fapana, tlas'a leano le le leng la LESOTHO FATŠE LA BO NTATA' RONA'.

It could be argued that Lesotho has no history of social or political cleavages of ethnicity, racism and religious fundamentalism, thus no need for a cadre and mass parties. It is inevitable that a party standing against hunger and poverty, 'Tlala le BOFUMA', needs a radical ideological programme in order to identify the systemic roots of these challenges. Hunger and poverty are systemic consequences of the country's political and economic policies. Thomas Piketty in *Capital and Ideology* (2020, p. 1), makes this compelling observation;

Every human society must justify its inequalities; unless reasons for them are found, the whole political and social edifice stands in danger of collapse. Every epoch therefore develops a range of contradictory discourses and ideologies for the purpose of legitimizing the inequality that already exists or that people believe should exist. From these discourses emerge certain economic, social and political rules, which

people then use to make sense of the ambient social structure. Out of the clash of contradictory discourses – a clash that is at once economic, social, and political – comes a dominant narrative or narratives, which bolster the existing inequality regime.

Although Piketty focused on inequalities, his observation that a social condition needs to be justified or else it threatens the political and social edifice can be applied to how political parties discuss and resolve issues such as hunger and poverty. These are the main points of the ABC in line with its constitution, and a resolution of these social conditions is founded on the party's ideological programs. The ideology of a political party does not necessarily diminish its electoral support, nor does it guarantee its longevity, but it functions as the basis of party discipline and foundation of policy. This is to manage the membership and hold the leadership accountable. It also assists in developing a new cadre for the party's leadership and managing leadership succession. The lack of succession planning within the ABC was catastrophic for the BCP. Pule (1999, p. 2), when writing about the power struggles in BCP between 1991 and 1997, notes that:

chief among the problems was the insufficient attention given to issues of leadership and succession. The advanced age and failing health of the party leader, and the single-most dominant personality in the party's history, Ntsu Mokhehle, gave rise to intense jockeying for position as different factions anticipated his inevitable departure from public life.

Using the same script but in altered circumstances, the ABC did prepare the next cohort of party leaders, but failed to protect the apparent successor, Mahao, from the fury of the elderly Thabane. Secondly, it was apparent that the controversy around the killing of Thabane's first wife would have a catastrophic effect on the party, but this was also not handled properly to ensure a dignified and seamless transition of leadership. The lack of ideological orientation of the ABC is the main reason why the political differences between Thabane and Mahao were not properly managed and were catastrophic for the party. The electoral support that Mahao's party, the BAP, garnered, arguably included former ABC members. Mahao rose to be Thabane's deputy at the ABC conference against Thabane's wish and thus commanded the support of the party membership.

In the larger scheme of things, the ABC's lack of clear ideological orientation and tendency to be a catch-all party is a consequence of the global move towards liberal democracy. What is characterised as a third wave of democratisation, was in fact, a force towards liberal democracy. Lesotho too was swept up in this

wave. The overthrow of Lesotho's military junta, which had reigned between 1986 and 1993, came on the back of the third wave of democratisation (Mothibe 1999). Demonstrating the importance of ideological clarity, a left-leaning and pan-Africanist BCP reigned between 1993 and 1997, but collapsed due to internal dynamics. It was not dogmatic in its approach, and thus enjoyed electoral support of Basotho. Unlike the BCP, the instability of the ABC did not threaten the stability of democracy in Lesotho; on the contrary, it enhanced it by allowing space for new players, the RFP and BAC.

### STIFLING INTERNAL PARTY DEMOCRACY

Nqosa Mahao rose to the rank of deputy leader of the ABC after some conflict, but his departure was symptomatic of the stifling of internal democracy within the party. In addition, the lack of term limit on the leader of the party also contributed to the stifling of internal democracy, particularly as the leader of the party was not prevented from leading in government. Although Thabane had led the party in government between 2012 and 2020, with interruptions, it should have been made clear to him that the party would not support his candidature in 2022, in order to prepare for his departure. He was set to retire from active politics only in 2027 (Fogelman & Aerni-flessner 2019).

Internal party democracy is interwoven with party ideology. Ideology as a fulcrum lays the parameters of and justifies what is acceptable and not acceptable within the party. The ideology provides a basis for the party's traditions and processes, programmes and membership recruitment – basically the party's internal democracy. Ideology gives the party both a sense of character and a role in society. In the words of Piketty, 'social and political rules' to make sense of the social structure. So a party with no ideology would inevitably stifle internal democracy and be riddled with policy inconsistencies.

One of the ABC's objectives in its constitution, in line with the party proclaiming itself to be a democracy, '*ho thehela Basotho bohle Lekhotla la bolokolohi le oho lona bohle ba tlahlahisa maikutlo a bona, ho se khethollo le khethollano*'. However, Nqosa Mahao was victimised for expressing this principle, and was not supported by the party's national executive committee. Mahao's case demonstrates the party's inconsistency in its supposed internal democracy and democratisation.

The party's internal democracy should also be in harmony with the country's democratic culture. This is facilitated by the country's constitution, and is applied to political party constitutions. In the case of Nqosa Mahao, simply approaching the country's High Court could have provided him with political recourse. This principle applies to the country's constitution allowing for floor-crossing, which has become a political tool for splinter groups.

Allowing a floor-crossing process in a multiparty democracy is undemocratic. In a representative democracy like Lesotho, political parties vie for seats in Parliament through the elections. It could lead to instability, as in the case of the post-2007 splinter of LCD from BCP. What this illustrates is that internal party democracy could strengthen the country's deepening consolidation of democracy, and the inverse is true for political parties. To substantiate this observation, the score of Lesotho on the democracy index report of 2022, particularly on the variable of political culture, is 5.63 out of 10.0. The political culture and the function of government are the two variables that contributed to Lesotho's ranking as one of the most flawed democracies in the world. The report takes stock of five key variables in the rankings: electoral process and pluralism; functioning of government; political participation; political culture; and civil liberties. These same variables are helpful in assessing a political party's adherence to liberal democracy. They reflect the country's democratic culture, and also extend to political parties as entities that serve as vehicles for the deepening and consolidation of democracy in any country.

## CONCLUSION

This article took a close glance at the ABC as a former governing party in Lesotho. It presents the mismanagement of internal democracy and the lack of ideology as key variables for the party's poor electoral performance in the elections of 2022. The party's national leadership was oblivious to clear signs of what was imminent, and ignored learning lessons from the BCP's electoral misfortunes in 1998. Among others, the party did not prepare itself for its future without its founder Thomas Thabane, and took for granted the impact on its electoral fortunes of a splinter group led by Nqosa Mahao.

The article adds to the body of scholarship on political parties in Africa and analyses how a party, through its leader, is a dominant force to reckoned with. The article also lays bare the intricacies of Obama's thesis, that Africa must forgo the phenomenon of the strongman in terms of political power, in preference to strong institutions. Ideally, this is how political parties should conduct their business, but in practice it is difficult and almost always comes at a great cost to the party.

One of the lessons emerging from this analysis is the fact that political parties need, for their own sustainability, to balance between building a new cadre for the future and a mass-based, sometimes amorphous party for electoral purposes. Building a cadre would help to maintain the party's ideological outlook, while a mass party appeals to the national interests and interprets these interests in line with its own ideology. Integral to this process is the function of political education as a process both to build new cadres in the party and create awareness

of the myriad policy challenges of political parties driven by both national and international dynamics. Thomas Thabane, a leader with formidable credentials, sank his party with him, exacerbated by the controversy around the killing of his wife. He presents a classic example of a strongman over a strong institution. His political demise and the decline of his party provide a case for the inquiry and analysis of political parties and their electoral performance in Africa. He, like Robert Mugabe of Zimbabwe, represented their political parties' fortunes and misfortunes. Although ZANU-PF appears to be recovering from Mugabe's downfall, the ABC does not seem to be recovering from the aftermath of Thabane's exit from active politics.

A final point of reflection, not related to the internal dynamics of the ABC, is the supposed nature of Lesotho's politics as a zero-sum game, whereby the state is the centre of accumulation and contestation. The arrival of a business mogul in politics, Sam Matekane, may prove this argument still to hold true or it may change the nature of Lesotho's politics.

----- REFERENCES -----

- ABC Constitution 2006, *Motheo oa ABC/Kobo-Tata e a Basotho*, viewed 19 January 2023, [https://webcms.uct.ac.za/sites/default/files/image\\_tool/images/495/country\\_documents-2020/Lesotho/ABC%20Constitution-1.pdf](https://webcms.uct.ac.za/sites/default/files/image_tool/images/495/country_documents-2020/Lesotho/ABC%20Constitution-1.pdf)
- AFD 2022, *African Economic Outlook 2022: supporting Climate Resilience and a Just Energy Transition in Africa*, viewed 12 February 2023, <https://www.afdb.org/en/documents/african-economic-outlook-2022>
- Basedau, M & Stroh, A 2008, 'Measuring Party Institutionalisation in Developing Countries: A New Research Instrument Applied to 28 African Political Parties', *GIGA Working Papers*, viewed 7 February 2023, <https://www.files.ethz.ch/isn/48121/wp69.pdf>
- Cao, H 2011, 'Introduction: Canada's Response to China's Increasing Role in the World', in H Cao and V Poy (eds) *The China Challenge: Sino-Canadian Relations in the 21<sup>st</sup> Century*, University of Ottawa Press, Ottawa.
- Edwards, V 1999, 'Ntsu Mokhehle Obituary: Democracy Deferred', *The Guardian*, 22 February. Available at <https://www.theguardian.com/news/1999/feb/22/guardianobituaries1> >. [6 January 2023]
- EISA 2007, *Election update 2007: Lesotho*, No. 3. <<https://www.eisa.org/pdf/euls200703.pdf>> [8th December 2022].
- EISA 2012, *Report on the Lesotho 26 May 2012 National Assembly Elections*. Available at <<https://www.eisa.org/pdf/les2012iec.pdf>>. [8th December 2022].



- EISA 2015, *Lesotho: 2015 National Assembly election results*. Available at <<https://www.eisa.org/wep/les2015results.htm>> [8th December 2022]
- Fogelman, C & Aerni-flessner, J 2019, 'Goodbye to the godfather of Lesotho politics', *Mail & Guardian*, 22 September. Available at: <<https://mg.co.za/article/2019-02-22-00-lesothos-godfather-bows-out/>> [6th December 2022].
- Fogelman, C & Aerni-flessner, J 2020, 'It's the end of an era in Lesotho', *Mail & Guardian*, 13 May. Available at <<https://mg.co.za/africa/2020-05-13-its-the-end-of-an-era-in-lesotho/>> [6th December 2022].
- Fukuyama, F 1989, 'The End of History', *The National Interest*, no. 16, pp. 3-18, viewed 6 January 2023 [https://www-jstor-org.nwulib.idm.oclc.org/stable/pdf/24027184.pdf?refreqid=excelsior%3A4ce55a52fa4a7214fda74f1eecd8919a&ab\\_segments=0%2F5SYC-6744\\_basic\\_search%2Fcontrol&origin=&initiator=&acceptTC=1](https://www-jstor-org.nwulib.idm.oclc.org/stable/pdf/24027184.pdf?refreqid=excelsior%3A4ce55a52fa4a7214fda74f1eecd8919a&ab_segments=0%2F5SYC-6744_basic_search%2Fcontrol&origin=&initiator=&acceptTC=1)
- Fukuyama, F 1995, 'Reflections on the End of History, Five Years later', *History and Theory*, vol. 34, no. 2, pp. 27-43, viewed 6 January 2023, [https://www-jstor-org.nwulib.idm.oclc.org/stable/pdf/2505433.pdf?refreqid=excelsior%3Ad9465798f8e51ac1b6188a8bb47b7c9&ab\\_segments=0%2F5SYC-6744\\_basic\\_search%2Fcontrol%2Cfe-placement-accordion&origin=&initiator=](https://www-jstor-org.nwulib.idm.oclc.org/stable/pdf/2505433.pdf?refreqid=excelsior%3Ad9465798f8e51ac1b6188a8bb47b7c9&ab_segments=0%2F5SYC-6744_basic_search%2Fcontrol%2Cfe-placement-accordion&origin=&initiator=)
- Hague, R, Harrop, M, & McCormick, J 2019, *Comparative Government and Politics*, Red Globe Press, London.
- IEC 2022, Results Per Party. Available at <<https://www.iec.org.ls/wp-content/uploads/2020/07/Results-Per-Party-NAE-2022.pdf>> [8th December 2022].
- IFES 2017, *Election for Lesotho National Assembly*. Available at <<https://www.electionguide.org/elections/id/3016/>> [8th December 2022].
- Kabi, P 2021, 'Lesotho: Thabane on Mahao Defection "He can go wherever he wants..."', *Lesotho Times*, 27 April. Available at <<https://allafrica.com/stories/202104270423.html>> [6th December 2022].
- Kadima, D 2014, 'An introduction to the Politics of Party Alliances and Coalitions in Socially-divided Africa', *Journal of African Elections*, vol. 13, no 1, pp. 1-24.
- Kapa, MM 2009, 'The Politics of Coalition Formation and Democracy in Lesotho', *Politikon*, vol. 35, no. 3, pp. 339-356.
- Kruger, N 2005, 'ZANU (PF) Strategies in general elections, 1980-2000: Discourse and Coercion', *African Affairs*, vol. 104, no. 414, pp. 1-34, viewed 4 January 2023 [https://www.researchgate.net/publication/31106608\\_ZANUPF\\_strategies\\_in\\_general\\_elections\\_19802000\\_Discourse\\_and\\_coercion/link/54b9266b0cf28faced6270c8/download](https://www.researchgate.net/publication/31106608_ZANUPF_strategies_in_general_elections_19802000_Discourse_and_coercion/link/54b9266b0cf28faced6270c8/download) .
- Letsie, T 2015, 'Lesotho's February 2015 Snap Elections: A Prescription that never cured the Sickness', *Journal of African Elections*, vol. 14, no. 2, pp. 81-109.
- Likoti, FJ 2008, 'How Parties Fared in the 2007 Elections: A Theoretical Exploration of the Outcome', *Journal of African Elections*, vol. 7, no. 1, pp. 75-94.
- Mail & Guardian* 2018, 'Fractures weaken Lesotho's ruling party', 5 September. Available at <<https://mg.co.za/article/2018-09-05-00-fractures-weaken-lesothos-ruling-party/>> [4 January 2023].

- Mail & Guardian* 2022, 'Who is Lesotho's new Prime Minister, mogul Sam Matekane?', 12 October. Available at: <<https://mg.co.za/africa/2022-10-12-who-is-lesothos-new-prime-minister-mogul-sam-matekane/>> [4 January 2023].
- Matlosa, K & Shale V 2006, 'Impact of Floor-Crossing on Party Systems and Representative Democracy: the case of Lesotho', *Paper prepared for a Workshop on "Impact of Floor Crossing on Party Systems and Representative Democracy in Southern Africa"*, co-hosted by EISA and KAS, The Vineyard Hotel, Cape Town, South Africa, 15 November. Available at: <https://www.eisa.org/pdf/les2006floorcross.pdf> [10 January 2023].
- Matlosa, K & Shale, V 2008, 'The impact of floor-crossing on electoral politics and representative democracy in Lesotho', *Journal of African Elections*, vol. 7, no. 1, pp. 138-152.
- Mokotso, R 2019, 'Citizenship education for Lesotho's context: Towards a stable democracy', *The Journal for Transdisciplinary Research in South Africa*, vol. 15, no. 1.
- Mothibe, T 1999, 'The Military and Democratizaion in Lesotho', *Lesotho Social Science Review*, vol. 5, no. 1, pp. 47-63.
- Mwangi, OG 2016, 'State Fragility and Electoral Reforms in Lesotho', in D Olowu & P Chanie (eds), *State Fragility and State Building in Africa*, Springer, London.
- Nyong'o, PA 2021, 'Rethinking African Politics: The New Age of Political Parties' *CODESRIA Bulletin*, no. 4, p. 17, 6 February 2023, <https://journals.codesria.org/index.php/codesriabulletin/article/view/734/832>
- 'Nyane, H 2016, 'Formation of a government in Lesotho in the case of a hung parliament', *Law Democracy & Development*, vol. 20, pp. 174-191.
- 'Nyane, H 2019, 'Coalition agreements in Lesotho: binding legal instruments or "Gentlemen's Agreements"?', *African Journal of Democracy and Governance*, vol.6, no.1, pp. 96-122.
- Obama, B 2009, *Remarks by the President to the Ghanaian Parliament*. Available at <<https://obamawhitehouse.archives.gov/the-press-office/remarks-president-ghanaian-parliament>> [8<sup>th</sup> December 2022]
- Piketty, T 2020, *Capital and Ideology*, Belknap, Cambridge, Mass.
- Pule, N 1999, 'Power Struggles in the Basutoland Congress Party, 1991-1997', *Lesotho Social Science Review*, vol.5, no. 1, pp 1-30.
- The Economic Intelligence Unit (EIU) 2008, *Democracy index*. Available at: <https://graphics.eiu.com/pdf/democracy%20index%202008.pdf> [8 december 2022]
- The Economic Intelligence Unit (EIU) 2022, *Democracy Index 2021; the China challenge*. Available at: <https://media2-col.corriereobjects.it/pdf/2022/esteri/eiu-democracy-index-2021.pdf> [8 December 2022]
- The Post* 2022, 'Why ABC lost the elections', 18 October. Available at: <https://www.thepost.co.ls/comment/news-pst/why-abc-lost-the-elections-2/> [8 December 2022].

# ETHICS IN ELECTORAL DEMOCRACIES

## *A Critical Reflection on Lesotho's 2022 Elections*

*Khali Mofuoa*

Khali Mofuoa is a research associate at the University of Pretoria

### ABSTRACT

*This study is a critical reflection on how the positive impact of ethics in Lesotho's political elections and democracy could be amplified for lasting peace and political stability. It is based on secondary data from available literature against the background of Lesotho's existing, mixed-member proportional (MMP) electoral system. The MMP system has given birth to the political phenomenon of inconclusive electoral results and unstable coalition governments in recent years. This political phenomenon emanates from intra- and inter-party conflicts, which often led to undesirable and premature dissolutions of parliament and snap elections. Here, ethics should be understood as an essential component of a healthy process in electoral democracy and a practice necessary for arresting the enduring political instability in Lesotho.*

**Keywords:** Lesotho, ethics, elections, democracy, electoral democracies

### INTRODUCTION

The positive influence of ethics in advancing democracy in modern political elections cannot be overstressed, as attested by numerous scholars (Mozumder 2022, pp. 821–835; Bagg & Tranvik 2019, pp. 1-40; White 2018, pp. 1–17)). Lindberg hails political elections as 'the hallmark of democracy' (2006, p. 139) and the cornerstone of democratic dispensations in viable and vibrant electoral democracies.

Despite the fact that ethical behaviour is expected of political elections in electoral democracies, ethical issues continue to present a challenge in political elections to the detriment of democracy ((Bagg & Tranvik 2019, pp. 1-40; White 2018, pp. 1–17). For instance, in some electoral democracies, political elections continue to attract 'calls for increased regulation in response to what is dubbed an "arms race" in elections' (Anderson & Tham 2014, p. 84). In political elections,

such a metaphorical arms race refers to ‘a cost explosion in electoral expenditure driven by the competitive dynamic of elections’ (ibid.).

Unfortunately, the disconcerting status quo in the political elections of some electoral democracies is that:

Existing approaches to campaign ethics fail to adequately account for the “arms races” incited by competitive incentives in the absence of effective sanctions for destructive behaviors... [political] elections present even more difficult challenges than other adversarial contexts, because no centralised regulation is available to halt potential arms races.

(Bagg & Tranvik 2019, p. 973)

The absence of appropriate regulation in political elections, particularly in most of Africa’s modern-day democracies, negatively impacts ethical integrity as a building block of ethical conduct in political elections, making ‘elections appear to be a fading shadow of democracy, endangering the fragile democratic project itself’ (Adejumobi 2000, p. 59). Adejumobi further argues that ethically run political elections ‘constitute an important element in [electoral] democracy’ (ibid.). This is because political elections in electoral democracies are a ‘viable means of ensuring the orderly process of [political] leadership succession and change [and serve as] instruments of political authority and legitimation’ (ibid.). Sadly, however, the continued presence in some African countries of thriving undemocratic regimes masked in democratic garb is hurting the democratic project in Africa, and political elections are the victim as they simply become ‘a fading shadow of democracy’ (Adejumobi 2000, pp. 59–73).

In this paper ethics in relation to political elections is understood to embody the normative ideals, principles, or standards of conduct or behaviour that those involved in political elections should strive for and are expected to display. This is to maintain the ethical integrity of the electoral process, system, and practice, irrespective of the electoral outcome. For example, there could be an inconclusive election outcome resulting in the formation of often short-lived coalition governments, as in the case of Lesotho in recent times. The collapse of coalition governments in Lesotho raises ethical questions about the normative considerations that inform or guide such arrangements in relation to the conduct of politics or the behaviour of politicians in coalition governments (White 2018, pp. 1–17; Atkinson & Bierling 2005, pp. 1003–1028). Thus, the role of ethics in shaping the political values of those involved in coalition politics, and therefore, their political behaviour in coalition governments, is of critical importance for advancing a thriving and viable democracy in electoral democracies like Lesotho.

Since 2012, the political landscape of governments in Lesotho has changed dramatically as coalition politics entered the political space because of inconclusive elections. The advent of coalition politics gave birth to coalition governments, as political parties were forced to form coalitions to govern the country. However, these coalition governments were often short-lived and they collapsed before they could finish the normal five-year parliamentary term. The unwarranted intra- and inter-party conflicts of those in coalitions often triggered the collapse of the coalition governments, leading to undesirable, premature dissolutions of Parliament and snap elections with huge costs to the public purse.

Although Lesotho has had coalition governments since 2012 and has a coalition government now after the 2022 elections, it seems that the ethics of political leadership in coalitions has not yet evolved to ensure the stability of such governments. Against this background the article embarks on a critical reflection of the positive impact of ethics in Lesotho's political elections and democracy under the auspices of coalition governments. The article also considers how this could be amplified for lasting peace and political stability. The article is broken down into five sections. The first section outlines how the article is structured, giving its contextual background. The second section presents the history of political elections and coalition governments in Lesotho. The third section provides perspectives on Lesotho's 2022 elections against the backdrop of coalition government led by the Revolution for Prosperity (RFP), speculating on challenges, opportunities, and promises. The fourth section explores the RFP-led coalition government's clean governance mantra and speculates on how this could be amplified for desirable lasting peace and political stability in Lesotho. The fifth and final section concludes the article, arguing that ethics is a vital and neglected resource necessary for healthy electoral democracy process and practice in Lesotho.

#### HISTORY OF ELECTIONS AND COALITION GOVERNMENTS IN LESOTHO

In Africa, political elections as 'a critical ingredient of democracy' (Matlosa 1997, p. 93) started with the era of independence from colonial rule (Willis, Cheeseman & Lynch 2021, pp. 1–25). Indeed, it was during the early period of independence in the 1960s that Africa first experienced political elections (Young 1993, pp. 299–312). It was during this time that Africans determined the 'democratically elected political leaders of their newly-independent states in the process of nation-building and democratisation' (ibid.). As such, political elections in nation-building and democratisation in most African countries are a phenomenon of the post-

independence era that was eagerly expected to ‘play a crucial role in deepening and sustaining democratic governance’ (Matlosa 2003, p. 80).

In Lesotho, as in many African countries, the history of political elections dates to the early 1960s (Matlosa 1997). When Lesotho became independent in 1966 as a newly founded electoral democracy, it inherited the British electoral system dubbed ‘first-past-the post (FPTP) or single-member-constituency’ (Matlosa 2003, p. 84). This electoral system works on the cardinal principle of a simple majority, in which the majority wins simply by winning more than half the seats, even if it receives a minority of the popular vote. All political elections in Lesotho held between 1960 and 2002 were based on the Westminster FPTP system. Instead of bringing peace and stability, the aftermath of general elections using the FPTP system in Lesotho since 1960 has been characterised by conflicts over the election outcome (Matlosa 1997) prompting the need for electoral reform to address the undesirable ‘deficiencies of political representativity in the FPTP system’ (Matlosa 2003, p. 86).

Indeed, the FPTP fallacy of political representativity prompted amendments to Lesotho’s constitution and electoral law (Matlosa 2003), paving the way for the adoption of a mixed-member proportional (MMP) electoral system in 1998. The MMP electoral system was officially adopted to address representativeness in electoral system as ‘a major democratic deficit in Lesotho’s political landscape’ (Matlosa 2003, p. 95). As an electoral system adopted by Lesotho, MMP combines elements of first-past-the-post (FPTP) and proportional representation (PR) systems, resulting in ‘a dual ballot system in which each voter casts two votes – a constituency vote and a party vote’ (Matlosa 2003, p. 91). One of its more admirable and positive attributes is to work for the deepening and sustaining of democratic governance in terms of improving political accountability and representation. Typically, ‘in comparison with other systems, MMP electoral systems are said to keep legislators more accountable and to maximise the representativeness of the legislature’ (The Electoral Knowledge Network, para.2).

MMP was first used by Lesotho as an electoral system in the 2002 elections, which, according to Elklit (2002, p. 1) resulted in the country being known as:

the first African country to test the MMP electoral model in a parliamentary election... the elections went very well, and the results produced by the new MMP system represented a significant political and democratic achievement, [and]... the level of disproportionality between vote and seat shares declined dramatically compared to previous elections.

Elklit adds that ‘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’ (ibid.). Nevertheless, Lesotho’s legislature benefitted from the use of the MMP electoral system as it improved proportionality and broadened representation of political parties (The Electoral Knowledge Network).

Despite its well-documented performance in the 2002 elections, the MMP results in the 2007 elections were violently contested by several political parties (ibid.). The bone of contention by political parties was the way in which seats were allocated or distributed by the Independent Electoral Commission (IEC) following the coalitions that the Lesotho Congress for Democracy (LCD) and All Basotho Convention (ABC) had formed with the National Independence Party (NIP) and Lesotho Workers Party (LWP) respectively (ibid.). Their argument was that ‘[the]... IEC should have taken into consideration that LCD and NIP were in fact acting as one party (as were ABC and LWP) and should be treated as one party. They argued that treating these coalitions as a single entity would have significantly changed the seat allocation.’ (ibid.).

Whether or not there was merit in their argument, it was clear that coalition politics had entered Lesotho’s political landscape, signalling the need for better management in a way that would ‘avoid instability arising from the manipulation and misunderstanding of the MMP electoral system in Lesotho’ (ibid.).

The 2012 general elections in Lesotho took place under the MMP electoral system, making a significant impact on the political landscape of the country (Weisfelder 2015; Kapa & Shale 2014). By producing no outright parliamentary majority winner, the 2012 elections fast-tracked the advent of coalition politics in Lesotho’s body politic that started in 2007 with the LCD/NIP and ABC/LWP pre-election coalitions (Weisfelder 2015; Kapa & Shale 2014). The advent of coalition politics gave birth to Lesotho’s first coalition government, led by the ABC with 61 seats in the 120-member National Assembly. This ABC-led coalition government consisted of the ABC, the LCD, and the Basotho National Party (BNP), following the inconclusive 2012 elections (Weisfelder 2015; Kapa & Shale 2014).

The ABC-led coalition government was, however, short-lived. It collapsed in 2014 following the defection of the LCD from the coalition causing ‘political instability that culminated in an attempted coup d’état and intervention by external third-party mediators’ (Banerjee & Rich 2017, p. 2). The collapse of the ABC-led coalition government paved the way for the snap elections in 2015, which saw the formation of the Democratic Congress (DC)-led coalition government comprising seven parties and controlling 66 seats in the 120-member National Assembly. Like its predecessor, the DC-led coalition government was short-lived

as it also collapsed 'due mainly to splits in the leading alliance partners [resulting in] dissolution of parliament and proclamation of 2017 elections' (EISA 2017, p. 6).

As in previous elections under the MMP electoral system, the 2017 general elections produced no outright parliamentary majority winner to form the government (EISA 2017, p. 38). However, based on its pre-election pact, the ABC-led coalition government was formed with the BNP, the Alliance of Democrats (AD), and the Reformed Congress of Lesotho (RCL). They controlled 63 seats in the National Assembly, two more than the 61 required to form a government (EISA 2017). The ABC-led majority government fell apart in 2020. All coalition partners withdrew their support for the initial four-party coalition government that came into power following the 2017 elections, due to unresolved intra- and inter-party conflicts.

The collapse of the ABC government majority led to the resignation of Thomas Thabane as Lesotho's prime minister and his replacement by the finance minister Dr Moeketsi Majoro, under the banner of the ABC's new coalition with the opposition Democratic Congress (DC). The premiership of Dr Moeketsi Majoro remained unscathed until the 2022 general elections that resulted in the Revolution for Prosperity (RFP)-led government in coalition with the Alliance of Democrats (AD) and the Movement for Economic Change (MEC). This was despite the ABC splits in Parliament in 2022 resulting from infighting in the party over the prime minister's post, which Dr Majoro continued to occupy although he had lost the leadership contest within the party.

#### CHALLENGES, OPPORTUNITIES AND PROMISES AFTER THE 2022 ELECTIONS

On 7 October 2022, the much-anticipated general elections were held in Lesotho against the backdrop of years of unstable coalition politics, a string of rickety coalition governments, and endemic political instability. Ushering in the populist RFP-led coalition government with the AD and the MEC, the 2022 elections gave a glimpse of hope to the ordinary Basotho that the next five years would bring about much-needed urgency to the country's elusive 'developmental agenda' (Moyo 2022). As soon as they had taken the reins of government after winning the 2022 elections, the RFP-led coalition government lost no time in broadcasting opportunities for change and made promises to provide much-needed ethical political leadership for the country. In this regard, the RFP-led coalition government vowed to uphold 'clean leadership' and to provide 'lean and clean government' (Moyo 2022; Mohloboli 2022) geared towards Lesotho's development.

As presented in its 'clean governance' plan for the next five years, the RFP-led coalition government promised to lead on a platform of eradicating corruption



(Mohloboli 2022). Indeed, the pervasive scale of corruption in Lesotho, particularly in the public sector, is alarming (Rakolobe 2019, pp. 1013–1108; Toeba 2018, pp. 397–431). In order to tackle corruption in all its manifestation, the newly-formed coalition government ‘promised to do away with rampant corruption [with] focus on economic growth’ (Mohloboli 2022, para. 4). In this regard, the RFP-led coalition government tasked itself with ‘tackl[ing] crime and eradicating [its associated] corruption with the first 100 days in office’ (Mohloboli 2022, para. 6).

Mindful that Lesotho has been marred by political instability for the past decade, the RFP-led coalition government promised to push through outstanding political reforms aimed at strengthening political stability (France24 2022). In this regard, the government admitted that it was aware that ‘The outgoing parliament failed to pass a law aimed at strengthening political stability’ (ibid.). The much-anticipated law ‘would ban lawmakers from switching party allegiance within the first three years of their tenure’ (ibid.). Put differently, the law would have prohibited lawmakers from switching party allegiance within the first year of their mandate. To end the string of rickety coalition governments that had resulted in Lesotho’s political instability, the RFP-led coalition government vowed that ‘pushing through this reform will be part of its agenda in its first 100 days in office’ (ibid.).

Coupled with curbing the graft to stop a rampant embezzlement of public funds, the pro-business RFP-led coalition government promised to ‘reform a public service to make it more efficient, transparent, accountable and effective’ (Africanews 2022, para.7). This reformation of the public service was probably expected to involve ‘depolicitising the public service’ (Rakolobe 2019, pp.1013–1108; Ntaote 2017) and ‘cutting down on government expenditure [to improve] the delivery of government services’ (Moyo 2022). It is an open secret that runaway government expenditure is a direct consequence of the politicisation of the public service through the practice of political patronage (Rakolobe 2019; Ntaote 2017). Cognisant of the root cause of runaway government expenditure, one of the immediate tasks of the incoming RFP-led coalition government was to manage government expenditure cost effectively through best practice in procuring goods and services.

Closely linked to having a tight rein on runaway government expenditure, the business-oriented RFP-led coalition government promised ‘to stabilize the economy in its first 100 days in office to arrest widespread poverty and stubborn unemployment’ (Senoko 2022). Poverty and unemployment remain rife, chronic, stubborn, persistent, and pervasive in Lesotho (Hapazari & Loubser 2021; Kali 2020; Hapazari 2019; Damane & Sekantsi 2018); and one of the government’s priorities is its inclusive approach to stabilise the economy, which is good news for the ordinary Basotho (Kali 2020; Hapazari 2019; Damane & Sekantsi 2018).

Hapazari (2019, p.1) notes that ‘poverty and unemployment are rife’, making them ‘ticking timebombs’ ready to explode at any time (Mohloboli 2021) if not strategically addressed, as they are at the head of [socio-economic] malaises (Mokhatla 2004). Thus, the political intent of the RFP-led coalition government to address poverty and unemployment through the stabilisation of the economy is a welcome move in a country like Lesotho, which is plagued by widespread poverty and unemployment with devastating effects for the country’s ailing economy.

On the promise of drastically altering the way the country had been governed by previous coalition governments, the action-oriented RFP-led coalition government delivered on its promise of slashing the country’s bloated cabinet (Mohloboli 2022). They dramatically reduced ‘the country’s bloated cabinet to just 15 members including the prime minister and the deputy prime minister with a provision of 15 principal secretaries [but] no deputy ministers’ (ibid.). This was an enormous political decision by the business-minded RFP-led coalition government in a country which had been known for its political patronage and excessive cabinet appointments since the first coalition governments, at huge cost to the public purse. For instance, the ABC-led coalition governments of 2012–2014 and 2017–2020 had 27 and 35 cabinet personnel respectively, including ministers and deputy ministers (ibid.). The DC-led coalition government of 2015–2017 had 35 cabinet personnel including ministers and deputies (ibid.). The reduction of cabinet positions by the RFP-led coalition government was a huge relief to the country’s overstretched national fiscus, which was reeling from wasteful expenditure by previous coalition governments.

#### RFP COALITION GOVERNMENT VOWS CLEAN GOVERNANCE

Upon assuming the reins of government in Lesotho, the RFP-led coalition government vowed to give the country clean governance as it rallied the nation around what it dubbed ‘a developmental agenda’ (Moyo 2022). By vowing to have clean governance in running the country, the RFP-led coalition government provided a reason for optimism for the ordinary Basotho, and that the post-2022 elections had at last given Lesotho principled political leadership geared towards the functioning of democracy. Indeed, in an extraordinary political move, the RFP-led coalition government has given the Basotho hope that upholding clean leadership in government is indispensable for the consolidation and functioning of electoral democracy in Lesotho (Moyo 2022; Mohloboli 2022).

The renewed optimism and hope that the RFP coalition government would lead Lesotho to a ‘clean’ governance trajectory ‘comes against a backdrop of loss of [public] confidence [and trust in the current crop of the country’s] political elite [and its] electoral democracy’ (Kurtz 2021, p.1). The fragile ABC and DC-led

political coalitions that preceded the RFP-led coalition have unfortunately given the Basotho no reason to continue believing in the country's electoral democracy. Since its independence in the 1960s, Lesotho's electoral democracy has regularly produced what could be dubbed a 'crisis of ethical political leadership' (Mayanja 2013, p. 113) that has grossly undermined and inhibited the country's democratic consolidation (Kali 2022; Fogelman & Aerni-flessner 2019). This crisis of ethical political leadership is responsible for Lesotho's current political governance crisis or problems: a string of rickety coalition governments, years of unstable coalition politics, and endemic political instability. Cultivating ethical political leadership in Lesotho's politics is tricky given the familiar quagmire of political scandals, party splits and leadership battles in coalitions that have benefited political elites rather than the public.

Can ethical political leadership of the RFP-led coalition government restore public confidence and trust in Lesotho political leaders? The resounding answer is yes, but with the proviso that the RFP-led coalition leaders in government are committed to principles of clean governance by word and deed and keenly interested to walk the paths of Mohlomi and Moshoeshoe as ethical leaders in Basotho history (Mofuoa 2022, pp. 64–81; Prozesky 2016, pp. 6-16; Mofuoa 2015, pp. 21–35). In a recent article titled 'Can ethical political leadership restore public trust in political leaders', Mozumder (2022, p. 821) writes that:

ethical leadership practices can restore public trust in political leaders... being a moral person, an ethical political leader sets good examples of behaviour, sets the tone at the top and challenges those who do not behave ethically, as well as encourages, supports and rewards those who perform and conduct themselves well.... As result of [ethical leadership practices], the level of public trust in political leaders is likely to increase gradually).

Here, ethical political leadership in government is understood to refer to 'the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships and the promotion of such conduct through two-way communication, reinforcement and decision-making' (Brown et al. 2005, p. 120). In electoral democracies, ethical political leadership is accepted as 'a socio-political process where [political] leaders are duly elected, guided by [ethical] principles, motivated by public values and trust, and act within the socio-legal framework to impact the lives of citizens' (Mozumder 2022, pp. 824–825).

The dilemma of Lesotho is the absence of the ethical political leadership necessary for the country's consolidation and the proper functioning of electoral democracy and governance. Absence of ethical political leadership is a clear and

present danger confronting the country, and it has been the bane of socio-economic and political development in Lesotho. The major inhibition of development in Lesotho in the absence of ethical political leadership is basically what Bayart (2009) calls 'the politics of the belly' or what Commey (2014) dubs 'Stomach politics' and what Mkhize (2016) similarly names 'politics of the stomach'. This phenomenon is manifest in the body politic of the country driven by 'Leqe-Leqe', literally meaning 'Eat-Eat' ethics popularised some years ago by Monyane Moleleki, the former AD leader and a renowned political veteran in the country's politics. There is no doubt that the now infamous 'Leqe-Leqe' ethics in the country's political lexicon has opened the door to a new way of doing politics in Lesotho.

The ugly face of the 'politics of the belly' has shown itself in what, economically speaking, has become a popular African expression, or political jargon: 'What is in it for us' (Commey 2014, p. 1). This unfortunate phrase drives the formation of political alliances and coalitions by political elites (Mkhize 2016; Commey 2014; Bayart 2009) for the purposes of '[political] careerism and economic opportunism' (Mkhize 2016, p. 2). In this regard, Kapa and Shale (2014, p. 96) wrote that 'the only convincing explanation for the formation of alliances [or coalitions in Lesotho] seems to be office-seeking motives of or by political elites'. Unfortunately, these office-seeking motives of political elites are often driven not by ideology nor policies (*ibid.*). In the absence of ideological or policy orientation, such motives can only be motivated by the sheer 'politics of the belly' that fosters 'ineffective, stagnant or counterproductive political leadership' (Mkhize 2016, p.3) whose only motive for seeking office is 'to feed [their stomach] on the state' (Mayanja 2013, p. 14) driven by 'Leqe-Leqe' ethics.

With the incoming era of clean governance under the RFP-led coalition government, it is hoped that the political contests that characterise Lesotho politics will not degenerate into the 'politics of the belly' (Fan 2017) and/or 'politics of the stomach' (Mkhize 2016). What is reassuring in this regard is that the positive signs immediately after the 2022 elections (that is, the public acceptance of regime change) indicate increasing Basotho confidence in the RFP-led coalition government and public support for democracy. That being the case, however, the RFP-led coalition government is yet to demonstrate that it can deepen and sustain democratic values and governance for Lesotho's evasive political stability. So far, their assurances and promises offer hope for the public to believe in the future of coalitions in Lesotho politics as positive vehicles for electoral democracy and political stability.

Prospects for clean governance, as professed by the RFP-led coalition's political leadership, are expected to restore public confidence and inspire public support. The RFP-led coalition government's moral commitment to clean governance has been characterised by a crackdown on corruption and an

adherence to fiscal discipline to ensure that government secured value for money in its spending. This has received and continues to receive widespread public approval. What remains to be seen now is whether this coalition government will deliver on its commitment to clean governance in its administration in the coming five years. The biggest political question for the RFP-led coalition administration in the next five years is whether it will use its hard-earned administrative authority in a more decisive and bold manner. Put differently, recognising that it is in a powerful position to institute its clean governance agenda, would the RFP-led coalition administration seize the moment and provide the much-needed ethical political leadership necessary to fix Lesotho's ailing economy as well as its persistent political instability?

Effectively addressing the rampant corruption in all spheres of Lesotho's public service is the first acid test for the RFP-led coalition administration. The administration needs the moral authority to direct the public conscience towards corruption in the public service. The war against corruption in Lesotho's public service can only be won through concrete, bold, and principled actions by the RFP-led government. One such action would be to improve the anti-corruption legal framework and systems (Toeba 2018, p. 424), and strengthen anti-corruption bodies by ensuring their independence in the execution of their mandates (Toeba 2018, p. 417). Principled anti-corruption actions of this nature will speak volumes about the extent to which the RFP-led coalition administration is serious about tackling corruption in the public service by providing the insulation from political interference that it badly needs in order to function for the good of every Mosotho, irrespective of her or his political affiliation and inclination.

Strengthening governance systems across Lesotho's public service machinery to improve service delivery is another acid test for the incoming coalition administration. It is no secret that Lesotho's public service is cluttered with well-envisioned public service policies gone wrong (Lebakeng 2021, pp. 205–222). These policies are adopted but badly executed, or at worse, fall prey to corruption and ineptitude due to the absence or lack of governance supporting systems. More often, governance problems in Lesotho's public service machinery has revealed itself in many ways (*ibid.*). These include but are not limited to corruption, misaligned policy objectives, regulatory and administrative capture, the unintended effects of badly thought-through policies, nepotism, incompetence, and difficulties with long-term planning (*ibid.*).

Thus, the poor quality of systems supporting governance in the public service results in policy failures or policy inefficiency that 'negatively affect service delivery' (Lebakeng 2021, p. 205) causing 'considerable lack of service delivery' (Matsieli 2020, p.16). Commitment to strengthening governance-supporting systems in Lesotho's public service machinery through concrete deeds would go

a long way in demonstrating the RFP-led coalition administration's intention to improving service delivery. This is an area that demands the political attention and commitment of the RFP-led coalition administration if public service delivery is to be improved during the next five years.

Attracting potential foreign investors to invest in Lesotho's ailing economy amid its perennial political instability is another acid test for the incoming administration. Since independence, Lesotho has favourably attracted investors (Makhetha & Rantaoleng 2017; Malefane 2007). It has recorded 'a substantial increase in levels of foreign direct investment (FDI) inflows, part of it prompted by trade privileges' (Malefane 2007, p. 99). In addition to the trade privileges that the country enjoyed, Lesotho's economy 'benefited from a more export-oriented investment promotion strategy [that country effectively runs]'. In fact, Malefane and Odhiambo (2016, p. 211) argue that 'the increasing role of international trade in the economy of Lesotho has become evident, particularly with the impetus from the country's export sector'.

Although open to foreign investment, Lesotho has 'critical issues that must be addressed if the country is to attract more FDI and retain existing investors' (Malefane 2007, p. 99). According to Malefane, 'These issues pertain to bureaucratic red-tape, corruption and political instability'(ibid.). Here, Makhetha (2008, p. 153) agrees that these issues 'are associated with very low levels of investment and economic growth'. Makhetha further argues that '[they hinder] domestic investment and foreign direct investment, therefore retarding economic growth'. He argues further that '[they generate] inefficiently high inflation, which hinders investment, reduces welfare and retards economic growth'.

Effectively attracting and managing international development aid and assistance to boost Lesotho's ailing economy and fiscus during its perennial political instability is another acid test for the RFP-led coalition administration. As a least developing country, Lesotho is historically one of the largest recipients of international development aid and assistance from the international donor community, according to Johnson (2016, p. 473) who asserts that 'Since independence in 1966 the country attracted a lot of [international] aid interventions in most of its development programmes'. Historically, Lesotho has used and continues to use international development aid and assistance to boost its ailing fiscus to finance development projects, and potentially attract investors as much of the aid is directed towards development.

According to Hongli and Vitenu-Sackey (2020, p. 79), however, 'the undermining factors hindering aid-growth relationships in Africa, [including Lesotho] are high levels of corruption, political instability, and poor institutional quality'. Indeed, Lesotho's widespread corruption, well-recorded perennial political instability and poor institutional quality over the years have negatively

impacted on the political accountability and good governance of international development aid and assistance. These factors require urgent attention and commitment from the RFP-led coalition administration in Lesotho in order to improve 'political governance - voice and accountability and political stability - no violence, economic governance - regulation quality and government effectiveness, institutional governance - rule of law and corruption control, and general governance - political, economic, and institutional governance' (Asongu & Nnanna 2019, p. 807).

Effectively propagating growth and development in Lesotho under its 'developmental agenda' is another acid test for the RFP-led coalition administration. Lesotho is not new to developing and implementing growth and development programmes and policies (see Monaheng 2016, pp. 31–46; Rantso 2015, pp. 2651–2661). After years of investment in growth and development since independence, however, Lesotho does not seem to be 'a success story in the neoliberal "Africa Rising" narrative' (Fogelman & Aerni-flessner 2016 p. 1). The authors argue that 'Despite post-Millennium development programs like Millennium Challenge Corporation (MCC) and African Growth and Opportunity Act (AGOA), most Basotho still live in poverty' (ibid.).

Hence, these authors suggest that 'the now-public critique of development only benefiting the well-connected in Lesotho be taken seriously', and 'addressing this has the potential to help rebuild trust in government' (ibid., p. 2). In this context they ask: 'Can Lesotho survive more development?' This is an interesting, timely, and urgent question for the RFP-led coalition administration if its much-propagated 'developmental agenda' for Lesotho is anything to go by 'in making development more effective [and relevant for most Basotho]' (ibid., pp. 2–3). They add:

Real development [for most Basotho] would address the labour and border policies of South Africa that contrive to keep out Basotho workers, focus aid on raising household income for the poor and otherwise vulnerable, provide direct health and education services with fees eliminated, and provide an opportunity for substantive poverty reduction and increased life expectancy in Lesotho.

It is this kind of development that is 'more important to Lesotho's economic viability' (ibid.), and it should take the lion's share of the developmental agenda of the governing RFP-led coalition administration in the next five years. All the Basotho require to implement this kind of development is that the governing RFP-led coalition administration should have ethical and courageous leaders who put the good of the people before their own interests, and are not in government for

their 'bellies' or 'stomachs' as it is often the case in Lesotho's politics. The Basotho need this calibre of ethical political leadership which unfortunately has become a rare commodity in Lesotho since independence.

The dearth of ethical political leadership demonstrated in the recent serial collapse of coalition governments is a clear and present danger for Lesotho. Indeed, the decades since independence have seen the Basotho forced to endure an erosion of ethics in political leadership in government. It is this void, this absence of ethical political leadership in government that the governing RFP-led coalition administration is expected to fill through its much publicised 'developmental agenda'. There is a critical need for ethical political leadership to address governance ills confronting Lesotho. As such, cultivating the culture of ethical political leadership in government must be central to the 'developmental agenda' of the governing RFP-led coalition administration in the next five years.

In Lesotho, it is no secret that ethical political leadership practices are essential in building trust and confidence in the governance of the country, and in implementing effective ethical standards in government. No one can deny that there is an ethical and political failure of leadership facing Lesotho that needs addressing. By both acting ethically and setting the ethical standards for others, the governing RFP-led coalition administration is in enviable position to effectively address the endemic problem of 'dirty hands' in Lesotho's politics that negatively impacts the governance of the country. Since independence, the Lesotho democratic experience has not resulted in the much-expected good governance necessary for development. The problem of dirty hands in the county's politics is a roadblock to a strong electoral democracy in Lesotho and poses a major threat to the consolidation of democratic governance.

Can the governing RFP-led coalition administration address the endemic problem of 'dirty hands' in Lesotho's politics? The resounding answer is yes, the governing RFP-led coalition administration can do so if it can ride the current tide of public trust and confidence by seriously 'taking politics as a vocation' (Kure 2022, pp. 1–9). Here, for the governing RFP-led coalition administration, political vocation means delivering on the promises of developmental agenda, clean governance, and service delivery they have made to the Basotho people. The signs in Lesotho's politics indicate that political leaders can no longer be wishfully blind to the ethics of the political promises they make. The days are gone when dishonest political behaviour in Lesotho was considered as not having anything to do with morality but more as being a function of political cost-to-benefit ratio. In a Weberian sense, the time has come for political leaders in Lesotho 'to face the ethical irrationality of the world and take responsibility for its bearing on political action in pursuit of an ethical good in politics' (Gane 1997, pp. 549–550). This will undoubtedly take Lesotho on a new political trajectory where the pursuit



of ethical excellence becomes a norm in politics and a sought-after quality in the quest for political leadership in the future for the country's political aspirants.

### CONCLUSION

Neglecting ethics as a vital resource necessary for a healthy and vibrant electoral democracy is holding back the political development of Lesotho. The urgency of cultivating ethics in the political leadership of Lesotho at all levels across the political landscape is clearly evident, given the political instability the country has experienced since independence. Remarking on the absence of ethics in the political leadership of Lesotho, Kapa and Shale (2014, p.111) were moved to write, 'Yet the parties' [political leadership] manipulation of the MMP electoral system through what is seen as unethical alliances indicates their unwillingness to accept [electoral and constitutional] reforms'. Lamenting the unethical behaviour of Lesotho's political leadership in conducting their political affairs, these authors added:

the formation of the political party alliances [in Lesotho] can be explained in terms of office-seeking theory, leading to relationships characterised by conflict between parties inside and outside Parliament, as well as effectively changing the proportional electoral system into a parallel one in violation of the spirit of the MMP system.

Addressing the urgent need for ethics in fixing the crisis of principled leadership in politics, Fox (2020, p. 37) writes that [the] 'importance of ethics in all human activities [including politics] cannot be overstressed'. He emphasises that 'Ethics is a must in all human activities [because] if a leader is not an ethical person, things will go wrong' (ibid.). Specifically referring to the importance of ethics in the political leadership of countries like Lesotho, Fox adds that

One of the most important human activities is politics since politicians manage whole countries. [Politics] is the field where leaders can do their best for their societies and the human race or they can do the greatest harm, as leaders like Hitler did harm to his country and to the whole world.

Writing passionately about the enormous moral responsibility that political leadership has in the public affairs of countries across political systems, Fox (ibid.) further notes that :

Political leaders have a tremendous task in a wide spectrum because of social, economic, legal, [political], security challenges – in short, solving all the problems of coexistence is part of their job. When we are talking of coexistence, it includes everyone sharing the very same existence, the same community, the same planet; that is why ethics is the most important issue here.

Stressing the importance of ethical leadership in the political systems around the world, he adds (2020, pp. 111):

I strongly believe the bright future of the human race rests on ethics, and anything lacking ethics can be a curse. Take scientific progress for example: in the hands of greedy or evil persons it will hurt humanity. However, the very same knowledge employed by ethical people will do much good.

Much the same can be said about politics as Fox's comments about scientific progress. If the country's government in any given political system is in the hands of greedy elites, it will hurt the citizens of that country. However, if ethical political leaders run the political governance of the country, politics will do much public good for the citizenry.

Political leaders in Lesotho can take positive cues for ethics in political leadership from Fox (2020, p. 38), who commented that 'to realise the political governance of their respective countries, political leaders need a flight chart and a moral compass'. He explains, 'The flight chart is the government's plan for the time [political leaders] are in office and beyond, [and] the moral compass – or ethical GPS, to reference a more modern tool – consists of the principles and qualities required to be an ethical leader' (ibid.). In this regard, it remains to be seen whether or not the governing RFP-led coalition administration has 'a flight chart and ethical GPS' to navigate the uncharted waters of Lesotho's political, economic, and institutional governance for the benefit of the Basotho people. Firstly, they need to tackle the country's dearth of ethical political leadership for the benefit of the Basotho people now and in the future. Secondly, they should lead the country on a new socio-economic and political trajectory in pursuit of ethical good.

## ----- REFERENCES -----

- Adejumobi, S 2000, 'Elections in Africa: A Fading Shadow of Democracy', *International Political Science Review*, vol. 21, no.1, pp. 59-73.
- Africanews 2022, 'Lesotho's new millionaire prime minister takes office', October 28, Available at <https://www.africanews.com/2022/10/28/lesothos-new-millionaire-prime-minister-takes-office/> [January 25, 2025].
- Africanews 2022, 'Matekane announces three-party coalition in Lesotho', October 11, Available at <https://www.africanews.com/2022/10/11/matekane-announces-three-party-coalition-in-lesotho//> [January 25, 2025].
- Anderson, M & Tham, JC 2014, 'Dynamics of electoral expenditure and the 'arms race' thesis: The case of New South Wales', *Australian Journal of Political Science*, vol. 49, iss.1, pp. 84-101.
- Asongu, SA & Nnanna, J 2019, 'Foreign Aid, Instability, and Governance in Africa', *Politics & Policy*, vol. 47, no. 4, pp. 807-848.
- Asongu, SA 2014, 'On taxation, political accountability and foreign aid: empirics to a celebrated literature', *AGDI Working Paper, No. WP/14/017*, African Governance and Development Institute (AGDI), Yaoundé.
- Atkinson, MM & Bierling, G 2005, 'Politicians, the Public and Political Ethics: Worlds Apart', *Canadian Journal of Political Science*, vol. 38, no.4, pp. 1003-1028.
- Bagg, S & Tranvik, I 2019, 'An Adversarial Ethics of Campaigns and Elections', *Perspectives on Politics*, vol. 17, no. 4, pp. 1-40.
- Banerjee, V & Rich, TS 2017, 'Lesotho's 2015 Legislative Election: Providing or Undermining Stability?' *Journal of Asian and African Studies*, vol. 52, no. 5, pp. 586-597.
- Bayart, JF 2009, *Politics of the Belly: the State in Africa*, 2<sup>nd</sup> Ed, Wiley, Hoboken NJ.
- Brown, ME, Trevino, LK & Harrison, DA 2005, 'Ethical leadership: A social learning perspective for construct development and testing', *Organizational Behaviour and Human Decision Processes*, vol. 97, pp. 117-34.
- Comme, P 2014, 'The era of "Stomach politics"', June 25, Available at <https://newafricanmagazine.com/6065/> [January 28, 2023].
- Damane, M & Sekantsi, L 2018, 'The Sources of Unemployment in Lesotho', *Modern Economy*, vol. 9, pp. 937-965.
- Elklit, J 2002, 'Lesotho 2002: Africa's first MMP elections', *Journal of Africa Elections*, vol.1, no. 2, pp. 1-10.
- Ellis, S 2000, 'Elections in Africa in Historical Context', In: J Abbink, & G Hesselting (eds) *Election Observation and Democratization in Africa*, (pp. 37-49), Palgrave, London.
- Fan, L 2017, 'Politics of the belly', May 18, Available at <https://mitgovlab.org/news/politics-of-the-belly/> [January 30, 2023].

- Fogelman, C & Aerni-flessner, J 2016, 'Can Lesotho survive more development?' January 20, Available at <<https://africasacountry.com/2016/01/can-lesotho-survive-more-development>> [February 05, 2023].
- Fox, PV 2020, 'The Urgency of Ethics in Political Leadership', *The International Journal of Ethical Leadership*, vol. 7, no. 6, pp. 37-40.
- France24 2022, 'Lesotho tycoon forges coalition after poll breakthrough', October 11, Available at <<https://www.france24.com/en/live-news/20221011-lesotho-tycoon-forges-coalition-after-poll-breakthrough>> [January 24, 2023].
- Gane, N 1997, 'Max Weber on the ethical irrationality of political leadership', *Sociology*, vol. 31, no. 3, pp. 549-564.
- Hapazari, J & Loubser, ND 2021, 'Rural people's perceptions regarding causes and solutions of poverty: The Lesotho milieu', *Eastern Africa Social Science Research Review*, vol. 37, no. 1, pp. 103-121.
- Hapazari, J 2019, 'Challenges faced by unemployed people in Lesotho: A case of Manonyane rural community', *South African Review of Sociology*, vol. 50, no. 3, pp. 1-18.
- Hodgson, JD 2021, 'The Role of Parties in Democracy: Coalitions and an Ethic of Compromise', *Representation*, vol. 57, no. 3, pp. 347-362.
- Hongli, J & Vitenu-Sackey, PA 2020, 'Assessment of the effectiveness of foreign aid on the development of Africa', *International Journal of Finance and Economics*, vol. 28, no. 1, pp. 79-92.
- Johnson, LR 2016, 'Partnerships between Foreign Agencies and Civil Society Organisations in Lesotho: A Marriage of Convenience', *Sociology and Anthropology*, vol. 4, no. 6, pp. 473-481.
- Kali, M 2020, 'Causes and Solutions of Poverty in Lesotho', *European Journal of Behavioural Sciences*, vol. 3, no. 2, pp. 23-38.
- Kali, M 2022, 'Rebellious civil society and democratic consolidation in Lesotho', *Journal of Social and Economic Development*, vol. 24, pp. 565-577.
- Kapa, MA & Shale, V 2014, 'Alliances, coalitions, and the political system in Lesotho 2007-2012', *Journal of African Elections*, vol. 13, no. 1, pp. 93-114.
- Kure, KU 2022, 'Politics as a vocation in the African context? An African theological engagement with Max Weber', *HTS Teologiese Studies/Theological Studies*, vol.7, no.4, pp. 1-9.
- Kurtz, T 2021, 'A Kingdom in Troubled Waters: Lesotho's Forgotten Political and Security crisis', April 28, Available at <<https://www.ifri.org/en/publications/notes-de-lifri/kingdom-troubled-waters-lesothos-forgotten-political-and-security-crises>> [January 25, 2023].
- Lebakeng, TJ 2021, 'Political Polarisation, Compromised Procurement and Poor Service Delivery in the Kingdom of Lesotho', In: N Dorasamy, & O Fagbadebo (eds), *Public procurement , Corruption and Crisis of Governance in Africa*, (pp.20-222), Palgrave Macmillan, Cham.

- Makhetha, L & Rantaoleng, J 2017, 'Foreign direct investment, trade openness and growth nexus in Lesotho', *South African Journal, Economic and Management Services*, vol. 10, no 1, pp. 145-159.
- Makhetha, MP 2008, 'The socio-economic cost of the post-election conflict', *Journal of African Elections*, vol. 7, no.1, pp. 153-163.
- Malefane, M & Odhiambo, N 2016, 'The Role of International Trade in Lesotho's Economic Growth: A Review', *ÆCONOMICA*, vol. 12, no. 5, pp. 211-226.
- Malefane, MR 2007, 'Determinants of foreign direct investment in Lesotho: Evidence from co-integration and error correction modelling: economics', *South African Journal of Economic and Management Services*, vol. 10, no. 1, pp. 99-106.
- Matlosa, K 1997, 'Political Instability and Elections: A Case Study of Lesotho', *Lesotho Social Science Review*, vol. 3, no. 2, pp. 93-97.
- Matlosa, K 2003, 'The electoral process and democratic governance in Lesotho: lessons for the Democratic Republic of Congo', *Journal of African Elections*, vol.2, no. 1, pp. 77-98.
- Matsieli, ML 2020, 'E-government in Lesotho: a policy analysis of the government websites with reference to service delivery', Thesis (PhD.), School of Social Sciences, University of KwaZulu-Natal (UKZN), South Africa.
- Mayanja, E 2013, 'Strengthening ethical political leadership for sustainable peace and social justice in Africa: Uganda as a case study', *African Journal of Conflict Resolution*, vol.13, no.2, pp.113-146.
- Mkhize, S 2016, 'Politics of the stomach', July 27, Available at <<https://www.news24.com/news24/politics-of-the-stomach-20160727>> [January 30, 2023].
- Mofuoa, K 2015, 'The Exemplary Ethical Leadership of King Moshoeshoe of Basotho of Lesotho in the Nineteenth-Century Southern Africa,' *Journal of Public Administration and Governance*, vol. 5, no.3, pp. 21-35.
- Mofuoa, K 2022, 'A Mosotho model of ethical leadership,' *The international Journal of Ethical Leadership*, vol. 9, no. 1, pp. 64-81.
- Mohloboli, M 2021, 'Lesotho: High unemployment a ticking time bomb – Mahao', 2 June, Available at <<https://allafrica.com/stories/202106020538.html>> [January 25, 2023].
- Mohloboli, M 2022, 'Lesotho's RFP party forms coalition government with other opposition after election win', October 11, Available at <<https://www.cnbc africa.com/2022/lesothos-rfp-party-forms-coalition-government-with-other-opposition-after-election-win/>> [January 24, 2023].
- Mokhatla, DM 2004, 'The socio-economic impact of poverty reduction in Lesotho: a survey of poor households at Taung in the Mohale's Hoek district, Lesotho', Thesis (M.A.), University of Natal, Durban.
- Monaheng, T 2016, '3. Integrating Indigenous Knowledge in the Development of Cultural Tourism in Lesotho', In: H Manwa, N Moswete, N. & J Saarinen,

- (eds), *Cultural Tourism in Southern Africa*. Bristol, Blue Ridge Summit: Channel View Publications, pp. 31-46.
- Moyo, H 2022, 'Lesotho's Election Winner Announces New Coalition Government', October 11, Available at < <https://www.usnews.com/news/world/articles/2022-10-11/lesothos-election-winner-announces-new-coalition-government>> [January 24, 2023].
- Mozumder, NA 2022, 'Can Ethical Political Leadership Restore Public Trust in Political Leaders?' *Public Organization Review*, vol. 22, pp. 821-835.
- Ntaote, B 2017, 'Depoliticising Public Service Urgent Priority', March 25, Available at < <https://lestimes.com/depoliticising-public-service-urgent-priority/>> January 25, 2023].
- Prozesky, M 2016, 'Ethical leadership resources in southern Africa's Sesotho-speaking culture and in King Moshoeshoe I,' *Journal of Global Ethics*, vol.12, no.1, pp. 6-16.
- Rakolobe, M 2019, 'Politicised Public Service and Corruption in Lesotho', *Strategic Review for Southern Africa*, vol. 41, no.1, pp. 1013-1108.
- Rantso, TA 2015, 'Rural development policies and programmes under colonialism and during the five-year development plans in Lesotho', *African Journal of Agricultural Research*, vol. 10, no. 27, pp. 2651-2661.
- The Electoral Institute for South Africa 2017, 'EISA election observation mission report No 56 - Lesotho', June 3, Available at < <https://www.eisa.org/pdf/les2017eom4.pdf> >[January 18, 2023].
- The Electoral Knowledge Network (2007?), 'The MMP electoral system faces political challenges in Lesotho', Available at <<https://aceproject.org/today/feature-articles/the-mmp-electoral-system-faces-political-challenges-in-lesotho>> [January 17, 2023].
- Toebea, T 2018, 'Corruption in public procurement in Lesotho', *Law and Development Review*, vol. 11, no.2, pp. 397-431.
- Weisfelder, RF 2015, 'Free Elections and Political Instability in Lesotho', *Journal of African Elections*, vol. 14, no.2, pp. 50-80.
- White, J 2018, 'The Ethics of Political Alliances', *British Journal of Political Science*, vol. 48, no. 3, pp. 1-17.
- Willis, J, Cheeseman, N, & Lynch, G 2021, 'The history of elections in Ghana, Kenya and Uganda What We Can Learn from These "National Exercises"?' *Journal of African Elections*, vol. 20, no.2, pp. 1-25.
- Young, T 1993, 'Introduction: Elections and electoral politics in Africa', *Africa*, vol. 63, no. 3, pp. 299-312.

# REASONS FOR THE LOW VOTER TURNOUT IN LESOTHO'S 2022 ELECTIONS

*Paul Mudau and Hoolo 'Nyane*

Paul Mudau is a research associate at the Ismail Mahomed Centre for Human and Peoples' Rights, Faculty of Management, Commerce and Law at the University of Venda

Hoolo 'Nyane is an associate professor and head of the Department of Public and Environmental Law, School of Law at the University of Limpopo

## ABSTRACT

*Voter turnout in Lesotho's 2022 National Assembly elections was at an all-time low of 37%. Since the country returned to multi-party electoral democracy in 1993, voter turnout has steadily decreased. Studies have been undertaken in Lesotho and globally to investigate the reasons for this phenomenon. While the turnout in the 2022 elections is a continuation of the pattern of declining voter turnout in Lesotho and globally, factors specific to each election may provide further insight into this intractable problem. The purpose of this article is to critically analyse the main reasons for the low turnout in the 2022 elections. The study uses qualitative methodology: it relies on primary and secondary data sources such as reports, targeted interviews, newspapers and literature, and legislation. The paper uses Stockemerian clustering of turnout variables to contend that election-specific factors can help to explain the steep decrease in voter turnout in the 2022 elections in Lesotho. Those factors are poor civic and voter education, political fragmentation, and some institutionalist variables.*

**Keywords:** voter turnout, Lesotho 2022 elections, civic and voter education, Independent Electoral Commission, electoral participation, Constitution of Lesotho

## INTRODUCTION

Africa saw a groundswell of democratisation in the early 1990s, which ushered in unprecedented changes such as the institutionalisation of pluralism, electoral democracy, popular participation, and increased accountability (African Union Panel of the Wise 2010, p. 2). As Southall (2004, pp. 6-7) instructively observes, this

is the period during which 'many African states found themselves now embracing the basic tenets of liberal democracy via the re-constitutionalisation of liberal rights, and most notably, multipartyism and competitive elections'. Lesotho has been no exception to this African pattern.

The beginning of the 1990s was a period of enthusiasm and optimism in Lesotho. This was the period when the country transitioned from authoritarian rule to multi-party democracy (Mothibe 1990, p. 242). From 1986 to 1993 the country had been ruled by a military junta. This transition culminated with the adoption of the new Constitution and the subsequent holding of pathbreaking elections in March 1993 (Letsie 2013; Southall 1994; Matlosa 1997). In the 1993 elections, 736 930 people registered to vote, and 532 678 voted, achieving an impressive 72% voter turnout (Matlosa 1997, p. 148). Voter turnout in this election remains the highest ever since Lesotho returned to multi-party democratic elections. Those elections were crucial and consequently generated much agitation amongst the voting population. Thereafter, the country experienced a steady downward spiral in voter turnout (Likoti & Likoti 2008, p. 216).

In a period of 25 years, from 1993 to 2017, voter turnout decreased by an incredible 25% (IEC 2021, p. 6). At 37% (IEC 2022), voter turnout in 2022 was at an all-time low. The trend of declining voter turnout in Lesotho is not unique – it is in keeping with global patterns. Globally, voter turnout has been decreasing since the beginning of the 1990s (Solijonov 2016, p. 8). This has raised questions about the future of democracy and the challenges that democracies face today. The main question confronting democracies today is whether this freefall in voter turnout indicates that elections are increasingly losing credibility as the main instrument for selecting government leaders.

Paradoxically, while there is a decrease in voter turnout globally, there is an upsurge in citizen activism through other non-conventional means. People seem to be gravitating towards non-formal means of participation, away from formal mechanisms like elections (Hague, Harrop & Breslin 1998). As Leterme (2016, p. 9) notes: 'lower citizen participation in elections does not necessarily mean that citizens are becoming less active in politics'. On the contrary, citizens increasingly participate through other forms of citizen activism, such as mass protests, occupy movements, and the increased use of social media as a new political engagement platform. These measures may be adopted in response to undesired and disputable electoral processes and/or outcomes, especially in circumstances where electoral fraud is used to secure electoral victory. Another irony, which is more manifest in Lesotho, is that while voter turnout has been on a steady downward spiral in every election since 1993, there have been more political parties competing (Malephane 2019, p. 2). This undesirable pattern is



sometimes called ‘the paradox of the declining trend in voter turnout despite the rise in the number of political parties’ (IEC South Africa 2008, p. 5).

As shown in Table 1 below, 1 375 753 people registered for the Lesotho 2022 elections, while 515 018 people voted on election day. The turnout was, therefore, 37.44% (International IDEA 2022).

**Table 1: Voter turnout in the Lesotho National Assembly Elections (1965-2022)**

Year	Voter turnout	Total vote	Registration
2022	37.44%	515 018	1 375 753
2017	46.37%	581 692	1 254 506
2015	46.61%	563 972	1 210 079
2012	50.04%	564 451	1 127 980
2007	49.00%	448 953	916 230
2002	66.69%	554 386	831 315
1998	71.83%	617 738	860 000
1993	72.28%	532 678	736 930
1970	81.90%	306 529	374 272
1965	62.32%	259 844	416 952

Source: International IDEA (2022): <https://www.idea.int/data-tools/country-view/174/40>

It is generally accepted that countries with smaller populations have a higher turnout. This theory may not necessarily hold for Lesotho. The country is tiny in terms of population and land mass. The country’s population is only 2.2 million, with a land mass of approximately 30 355 square kilometres, yet this has not impacted voter turnout positively.

Hence, the purpose of this article is to critically analyse the reasons for the low voter turnout in the 2022 National Assembly elections in Lesotho. The study uses a qualitative methodology and relies on primary and secondary data sources such as reports, targeted interviews, newspapers and literature, and legislation. The article comprises four major parts. The first part is the introduction. The second part provides a conceptual framework. The third part analyses the factors contributing to low voter turnout in the 2022 elections. The final part is the conclusion and recommendations.

## THEORETICAL FRAMEWORK

### *Problematising Voter Turnout as a Concept*

The participation of citizens in the political process in general, and in elections in particular, is the bulwark of viable democracies (Cancela & Geys 2016, p. 264). It is a measure of the health of democracy, and it imbues governors with legitimacy (Dalton 2008; Norris 1999). As Leterme (2016, p.9) observes: '[l]ower turnout suggests that fewer citizens consider elections the main instrument for legitimising political parties' control over political decisionmaking.' Voter turnout is also important for the performance of democracies: democracies tend to perform better when more people participate in elections (Bonica & McFaul 2018).

While there is a consensus about the importance of voter turnout in elections, there is a divergence of views about how to define voter turnout (Geys 2006). There is also a notable disagreement in the literature about measuring voter turnout. The disagreement is principally about the three ways of measuring turnout: the percentage of registered voters who actually turn out, called 'registered voter (RV) turnout'; the percentage of a country's voting-age population who voted on election day, called 'voting-age population (VAP) turnout'; and the percentage of eligible voters who actually voted, called 'voting-eligible population (VEP) turnout' (Stockemer 2017). Many countries use RV turnout and VAP turnout to measure voter turnout.

This is unsurprising because many studies use these two or either of these two common measurements of voter turnout. There is an upsurge in the critique of the accuracy of RV and VAP turnouts. RV turnout has been criticised for its two critical deficiencies as a measurement of voter turnout using only registered voters (Stockemer 2017; Highton 2004; Endersby & Krieckhaus 2008).

First, RV turnout ignores people who are eligible to vote but cannot do so because they are not registered. There are many reasons why people do not finally appear on the voters' rolls. Some of the reasons are systemic, such as the failure of the system to register everyone who is eligible to vote, like people who live in far-flung areas or those who may be outside of the country on the dates designated for registration. Some may not be registered because they simply choose not to participate in electoral activities. Secondly, national voters' rolls are often inaccurate; as they are not a true register of people who should be on the roll. They may include people who are dead or there may be data-capturing errors.

The use of VAP turnout is equally beset by shortcomings. Stockemer (2017, p. 944) criticises VAP turnout for its propensity to distort the calculation because 'it includes into the calculation of electoral participation individuals who, by law, are not allowed to vote such as foreigners or individuals serving a prison sentence.

It might overestimate turnout if more citizens of a country live abroad than there are foreigners or ineligible citizens in that country’.

Stockemer (2017, p. 944) consequently argues for the use of VEP turnout, which includes the number of voters in a jurisdiction who are eligible to vote (not disqualified due to mental incapacity, incarceration or immigration status, or another disqualifying reason), regardless of their registration status. The literature on turnout is demonstrably moving towards VEP turnout due to the compelling criticisms of RV turnout and VAP turnout (Blais, Massicotte & Dobrzynska 2003). However, for the purposes of the argument made in this paper, and because of the lack of data to measure VEP turnout in Lesotho, the definition of voter turnout adopted in this study is the RV turnout: the number of people who are on the voters’ roll who actually voted, against the total registration. The reason is that it is a form of turnout where there is data. Other types of turnouts may bring more accuracy challenges as such data not being readily available in Lesotho. As UNDP stresses, there is a need to collect and report data on the proportion of a particular target group, for instance, women and men who voted. This is because ‘without this data, it is not possible to know if there is a gender gap in turnout overall or for a particular geographic area or age group in any given country’ (UNDP 2015, p. 46). As a result, election management bodies can determine how to report turnout results in a meaningful and open manner while also protecting the secrecy of each individual voter at the voting centre, constituency, or regional level.

Importantly, civic and voter education are a precondition for enhancing massive and meaningful voter participation in the democratic electoral processes. It focuses on the citizen’s role as a voter (Nokshuwan et al. 2020, p. 35). It also serves as a panacea for, among other tribulations, low voter registration, spoilt ballot papers, election-related disputes, and electoral violence (Mudau 2022, p. 111; African Union Panel of the Wise 2010, pp. 1-2).

While the two are symbiotically related, they also have marked differences (Ibeanu & Orji 2014, p. 13). Civic education has three elements: civic knowledge, skills, and disposition. Civic knowledge refers to citizens’ understanding of how the political system works and the kind of rights and responsibilities that they have in relation to such a system. This involves the awareness of rights such as ‘the rights to freedom of expression and to vote and run for public office, and the responsibilities to respect the rule of law and the rights and interests of others’ (Rietbergen-McCracken 2012, p. 9). Civic skills are at a slightly higher cognitive level. They refer to citizens’ ‘ability to analyse, evaluate, take and defend positions on public issues, and to use their knowledge to participate in civic and political processes (e.g., to monitor government performance or mobilise other citizens around particular issues)’ (ibid.). Civic dispositions refer to ‘the citizen traits

necessary for a democracy (e.g., tolerance, public spiritedness, civility, critical mindedness and willingness to listen, negotiate, and compromise)' (ibid.).

Voter education is a sub-set of civic education and is narrower and more targeted. It imparts information about the electoral system. Most of the time, the content is about who is eligible to vote; where and how to register to vote; how voters can check the voters' roll to ensure that they have been duly included; what type of elections are being held; who the candidates and political parties are; where and when the election is taking place; how to complete ballot papers; and how to lodge electoral disputes (Nokshuwan et al. 2020, p. 36; Ogbu 2020, p. 29). Voter education provides a 'good time to inform voters and electoral stakeholders about changes in the law and to raise awareness about citizens' rights' (Evrensel 2010, p. 25).

Therefore, civic and voter education teaches 'citizens about the dynamics of democracy, their rights and duties and the skills and virtues necessary to live in a democratic society' (Barbosa 2014, p. 1). It must ensure that voters are ready, willing, and able to participate in electoral activities while reaching both disadvantaged social groups as well as mainstream voters (Ogbu 2020, p. 29). It is also important, as Ogbu emphasises, to achieve universal coverage of the electorate by accommodating 'differences in illiteracy rates, differences in languages, religion, cultures, and ethnic backgrounds in a country' (ibid.). Hence, poorly funded voter education, which was hurriedly provided within the space of three weeks, arguably had a negative impact on the turnout.

### *Factors that Influence Turnout: A Stockemerian Clustering*

Literature on voter turnout diverges markedly regarding the factors that influence people's participation in the electoral processes. Different studies place a premium on variables such as specific countries, regions, and types of the elections. The list of variables is so wide as to be inexhaustive. Nevertheless, Stockemer (2017) has attempted to cluster the variables under three main heads: institutional, socio-economic, and circumstantial or election-specific variables.

Under the first cluster – the institutional variable – there are four common variables: compulsory voting, the electoral system type, the election's importance, and the number of parties. On the first variable, studies demonstrate that countries where voting is mandatory tend to have a higher turnout than countries where voting is voluntary.

Another institutional variable impacting the turnout is the number of political parties contesting elections. Studies demonstrate that a plurality of political parties in an election has a positive impact on voter turnout 'because the more parties that compete and win seats, the more choices are available to

voters to vote sincerely' (Stockemer 2017, p.705). However, the plurality of parties is a double-edged sword: some studies show that as much as it positively impacts turnout, it may also have a negative impact as it contributes to voter apathy. More often than not, the proliferation of political parties in Lesotho is not necessarily in the voters' interest, nor does it always represent a diversity of choices.

The second cluster – socio-economic factors – has three main variables: development, population size and income inequality. Low-income citizens tend to be less politically engaged (Solt 2010; Lister 2007). Burns et al. (2001) postulate that material affluence tends to foster participation in political processes. Just as affluence impacts turnout at the macro level, so it impacts turnout at the micro level. The level of development, education and awareness of the citizenry also impacts the turnout. The literature and practice on voter turnout confirm that factors such as higher levels of education, level of interest in politics, perception of civic duty, and age may influence voter behaviour and are associated with higher voter turnout rates (Solijonov 2016, p. 40).

Therefore, the provision of civic and voter education is germane to voter turnout. The absence or insufficiency of civic and voter education programmes in any country dilutes the ethos of electoral democracy when there is low voter turnout. Therefore, civic and voter education is integral to the project of democratisation in general and electoral processes (Uhunmwuango & Aibieyi 2012, p. 239). It goes beyond the limits of knowledge interpretation: it spells a cognitive orientation bearing affective and evaluative orientations. As Lohani and Pandey (2021, p. 11) contend, it 'necessitates access to information that facilitates critical thinking, paving the way to informed choice'. De Kock and Schutte (1994, p. 28) argue that the conditions influencing voters' participation in an election are objective-technical and subjective-perceptual. The objective-technical variables are those factors that are the responsibility of the election organisers, and subjective-perceptual factors are those that are subjective to voters. They relate to the voters' perception of the need to vote.

The democratic electoral process is enhanced when individuals process complex information and engage actively in political activities (Onuigbo, Eme & Asadu 2018, p. 246). Consequently, cognitive mobilisation assists individuals in overcoming the bureaucratic obstacles associated with voting. Interestingly, Onuigbo, Eme and Asadu (2018, p. 248) highlight the importance of education for civic skills thus: 'the better educated [citizens] receive more gratification from electoral participation'. In equal measure, Kostandinova & Power (2007) contend that smaller countries tend to have higher turnout because of citizen homogeneity and geography, and relations between voters amongst themselves and between them and their representatives.

The third cluster relates to factors that affect a specific election. This may be related to the changes introduced during such an election, the day on which

the election was held, the weather, and other conditions. The election-specific circumstances may also be institutional or socio-economic. Such factors may help to explain the all-time low turnout in Lesotho. This is the convenient cluster used in this study to analyse the factors that are related to the Lesotho 2022 elections.

## ELECTION-SPECIFIC FACTORS THAT IMPACTED TURNOUT IN THE 2022 ELECTION

### *Poor Civic and Voter Education*

Civic and voter education has always been integral to electoral democracy in Lesotho. It is no coincidence, therefore, that section 66A of the Constitution expressly provides that one of the duties of the Independent Electoral Commission (IEC) is 'to promote knowledge of sound democratic electoral processes'. Promoting citizens' knowledge about the electoral process is a duty that the Constitution places squarely on the IEC – not on government, political parties, or civil society organisations. To operationalise the Constitution, section 135(d) of the National Assembly Elections Act, 2011 provides that '[f]or the purpose of carrying out its functions under the Constitution and this Act, the Commission shall ... promote the knowledge of sound electoral practices and processes through the media and other appropriate and effective means'. There is an increasing trend towards incorporating civic education in legal frameworks, such as constitutions and national legislation in Africa. This affirms the role and significance of civic and voter education in enlightening citizens (Mudau 2022, p. 111).

The downward spiral in voter turnout persists even though civic and voter education has been a longstanding activity of the IEC in every election. The IEC often adopts a dual approach: insourcing and outsourcing. It hires its own voter educators and outsources voter education to civil society organisations (Letsie 2013, p. 68). Civil society organisations contribute to shaping democracy as they assist in encouraging massive electoral participation (Katusiimeh 2003, p. 8). In keeping with its practice, in the 2022 elections the IEC implemented this dual approach to civic and voter education. It deployed its own 446 voter educators and contracted 16 civil society organisations to undertake civic and voter education responsibilities.<sup>1</sup>

---

1 The organisations were: Development for Peace Education, Disabled and HIV/AIDS Organization, Women and Law in Southern Africa, Monna ka Khomo, Lesotho National Council of Women, Christian Council of Lesotho, Lesotho Association of Non-Formal Education, Lesotho Youth Federation, Bacha ba re Bacha Youth Forum, Migrant Workers Association of Lesotho, Patriotic Vision in Action, Transformation Resource Centre, Catholic Commission for Justice and Peace, Lesotho National Federation of Organisation of the Disabled, Campaign for Education Forum, Lesotho Federation of Women Lawyers.

The effectiveness of the IEC's civic and voter education methods is always under immense scrutiny. To assess the effectiveness of its civic and voter education programmes, the IEC commissioned a study after the 2017 elections (IEC 2021). The report finds that voter education efforts are generally ineffective. One key finding in the study is that IEC public outreach tends to weigh heavily in favour of time-limited electoral education against long-term civic education. While the study did not explore the differential effects of either emphasis, it is generally agreed that civic education has a more enduring effect on changing political behaviour (IEC 2021, p. 9). Despite this self-critique, the IEC continued with the same civic and voter education approach in the run-up to the 2022 elections. Its approach was still predominantly limited to electoral education. Resources largely inform the approach of the IEC. Ordinarily, voter education is covered in the election budget, often made available to the IEC during the election year. The provision of civic and voter education has always been hampered by inadequate resources (Lesotho Times 2011).

The lack of political will in funnelling adequate resources to the IEC may be a reason for its reluctance to directly assume its constitutional and legal responsibility for conducting civic and voter education. The amount of money allocated to voter education in the 2022 election was M28 million, expected to facilitate voter turnout within three weeks. The delay in the start of the voter education programmes is the result of the government's late allocation of funds to the IEC. This compromised the timely implementation of voter education outreach activities. Voter education commenced in earnest three weeks before the election. These sixteen organisations were expected to cover the entire country in three weeks. As the EU Election Observation Mission to Lesotho (2022, p. 13) noted: 'the late allocation of funds to the IEC by the government compromised the timely implementation of voter education outreach activities, which had to be reduced from three months to three weeks prior to election day ....' Most critics have considered voter education for these elections as insufficient and inadequate, given the legal uncertainties and recent changes to some constituency boundaries.

The education of voters in Lesotho has been criticised for being principally electoral, without adequately imparting civic education knowledge. The conflation of these two forms of education often undermines efforts to mobilise citizens to participate in the electoral process.

### *Political Fragmentation*

Political fragmentation and the constant proliferation of political parties are defining features of the political landscape in Lesotho (Matlosa & Shale 2011; Aerni-Flessner 2022). Political fragmentation is a contentious phenomenon: there

is always a divergence of views on whether it impacts voter turnout positively or negatively. Admittedly, the plurality of political parties attests to the ability of a democracy to tolerate different views and freedoms, such as freedom of association (Repucci & Slipowitz 2022; Ezrow 2007). It affords the electorate broad policy choices and generates agitation among the voters to vote for their preferred choices. The flip side is that it can also contribute to a decline in voter interest in political processes. According to Solijonov (2016, p. 36), 'too many options can confuse voters and make it difficult for them to judge whether their vote will have the desired impact on the election outcome'. This is even more true when the plurality of political parties does not necessarily represent the substantive diversity of policy options, as in Lesotho. As Booysen (2015, p. 432) notes: '[l]ittle separates Lesotho's parties ideologically'. Two main factors have encouraged the proliferation of political parties in Lesotho: economic appurtenances associated with occupying public office, and adopting the MMP electoral model after the 2002 elections.

The system is more inclusive of smaller parties than the pure majoritarian system the country used since independence. As Malephane (2019, p. 7) observes:

the introduction of the mixed member proportional electoral system was expected to improve the representation of voters in Parliament, in citizens' eyes it seems to have led to political fragmentation and made it very difficult to have one party winning the seat majority required to form a government.

The plurality of political parties in Lesotho is therefore viewed negatively rather than positively by the electorate. This contributes to the apathy of voters about electoral processes in general and elections in particular. According to the Afrobarometer Round 9 Survey in Lesotho (Afrobarometer 2022, p. 38), 57% of people in Lesotho believe that '[p]olitical parties create division and confusion; it is, therefore, unnecessary to have many political parties in Lesotho'.

Citizens do not believe that having many political parties presents them with policy choices. Intriguingly, trust in elections has also diminished: 45% of citizens believe that '[s]ince elections sometimes produce bad results, we should adopt other methods for choosing this country's leaders' (Afrobarometer 2022, p. 38). Studies on Lesotho also do not regard the proliferation of political parties as contributing to the development of democracy in the country. Matlosa and Shale (2006, p. 147) contend that the proliferation of political parties has created a weak and fragmented party system in Lesotho. In like manner, Monyake (2021, p. 272) notes that 'where political parties are ideologically identical and their



policy disagreements cosmetic, as is the case in Lesotho, proliferation can erode both citizens' confidence in multi-party politics and their willingness to vote'.

In 2022, the number of political parties registered to contest the election soared. The country saw an 85% increase in the number of registered political parties between 2017 and 2022. This unprecedented jump in the number of registered political parties caused an uproar in society. People associated it with the economic appurtenances of leaders rather than the country's interest. *The Economist* (2022) called the phenomenon 'a growth industry'. *The Economist* further noted that despite the depressed state of the country's economy, '[t]here is one booming sector, though: political parties. It is one of the only growth areas [because] the only available means of survival is to be close to the state'. This association of political parties with self-aggrandisement, rather than the country's development, discourages voters.

The conduct of political parties and party systems may contribute to democratic performance and consolidation (Goeke 2016, p. 294). However, between 2015 and 2017, Lesotho experienced political upheavals that obviously affected voters' willingness to participate. Weisfelder (2015, p. 51) argues that these political upheavals were not ideological or policy-driven but precipitated by the desire for 'access to power, succession to party leadership, and personal rivalries'. Political strife and a persistently unstable coalition government charged the national atmosphere in the build-up to the 2022 elections ('Nyane 2022). Lesotho has a chequered history of intra-party conflicts, fragile and unstable coalition governments, and military intervention intended to maintain order or sustain the elected government (Weisfelder 2015, p. 50). Lesotho's coalition politics began after the 2012 elections ('Nyane 2022). Since then, no coalition government has been able to complete a five-year term ('Nyane 2022).

It must be noted that political parties in Lesotho may be partly responsible for growing voter apathy because of the creation of a tense and hostile political environment marred by political crises, unstable governments, and the frequency of snap elections. Lesotho is often seen as the hotbed of political instability in the Southern African Development Community (SADC) region. This points to jostling for access to power, without considering the possibility of inadvertent voter disenfranchisement in the process. Political participation is 'determined, influenced and shaped by the type of government in a polity' (Uhunmwangho & Aibieyi 2012, p. 241). Also, Uhunmwangho and Aibieyi (ibid.) argue that 'popular political education and participation [are] limited by the nature and realities of governance'. This means that the state of governance may largely influence citizens' perception of politics and conceivably transcend their participation in the democratic electoral processes from this lens.

### *Institutionalist Variables*

Scholars of the institutionalist theory contend that contextual or institutional factors impact voter turnout. The basic premise for this theory is that 'voting is a political act, and turnout depends not only on social and economic factors but also on how elections and politics more broadly are structured' (Blais & Dobrzynska 1998). Hence, institutional variables have a bearing on incentivising or disincentivising people to vote. For purposes of the argument being made in this study, two institutional factors directly affected the 2022 elections: the electoral laws and the registration. Electoral laws influence turnover in two fundamental respects. Firstly, the turnout increases when the laws permit diaspora voting. Secondly, voter turnout improves in situations where there is compulsory voting. According to Stockemer (2017, p. 698), the strong consensus in the literature shows 'that turnout is higher under compulsory voting if the election is important, and if it is held in a small country'.

Regarding diaspora voting, Lesotho does not permit eligible voters outside the country to vote. In terms of the Constitution, the right to vote is a universal right, guaranteed to every citizen. However, the National Assembly Electoral Act of 2011 only permits people inside the country to cast their votes on election day. The only people allowed to vote externally are government officials deployed to foreign missions and their families (National Assembly Electoral Act, section 73). This is the case even though many Basotho live in neighbouring South Africa for work, business or study purposes. Others are living in South Africa irregularly. Lesotho has a long and unique history of its productive workforce being migrant workers in South Africa. For instance, in 2015, the South African government announced that citizens of Lesotho who were working, studying or running a business in South Africa without proper documentation would have the opportunity to regularise their status for up to four years. It was estimated that 400 000 Basotho might be affected (Aerni-Flessner 2016). This number, measured against the 515 018 people who voted in the 2022 elections, suggests that about 80% of eligible voters in Lesotho are not in the country and are probably unable to vote on election day.

As part of the reforms rendered invalid by the courts, Parliament passed the National Assembly Electoral (Amendment) Act, 2022, which introduced diaspora voting. However, the law could not be implemented in the 2022 elections because it was rendered invalid by the courts. The exclusion of diaspora voters is not necessarily specific to the 2022 elections; people outside the country on election day have not been allowed to vote in any elections. But, in 2022 there was a high expectation that diaspora voting would be legalised as part of the broad-based

reforms. To the chagrin of many, the reforms were aborted, which dampened voters' interest in the electoral process.

Another institutionalist factor that has a bearing on turnout is voter registration. The registration of voters in Lesotho seems to be an intractable problem. The main problem is that the roll is not clean; there is a high probability that it is inflated. According to the study commissioned by the IEC (2021, p. 36), the problem of a bloated voters' roll is estimated to have started with the 2012 elections, where the voters' roll exceeded the population register of eligible voters by more than 100%. The report notes that the voters' roll cannot exceed the population register of eligible voters: the maximum it can reach is 100% of the population register of eligible voters. However, it is equally impossible for the voters' roll to surpass 100% of the eligible voters as contained in the national census. Even in developed countries where the accuracy of the two registers is high, it is hard to attain 100% parity between the census register of eligible voters and the voters' roll. Consequently, the study notes that:

It is therefore precise that Lesotho's voters roll has some defects. However such defects are not intentional and are caused by a number of factors ... The plausible reasons behind these overestimates include: lack of resources to clean voters roll; lack of consensus between political parties on whether voters roll should be cleaned; or difficult terrain in the country which has made continuous cleaning of voters roll more difficult although on paper it is claimed that the country's voters roll is open one with continuous registration.

(IEC 2021, pp. 39-40)

In addition, relying on the voters' roll to measure voter turnout often results in an inaccurate measurement. The problem of inaccurate voters' rolls is common in Lesotho. In 1998, when the post-election conflict turned violent and resulted in loss of life, the voters' roll was one of the causes of the conflict. Even during the 2022 elections, there were still complaints about the voters' roll (Ngoepe 2022). The problem of a bloated voter's roll is not unique to the 2022 elections but became more pronounced in these elections. Several political parties complained about the voters' roll. The RFP accurately charged that '[t]he voters' roll that the IEC made public on its website is riddled with clerical errors, inconsistencies, duplicates and other egregious errors. It is unusable for a credible, free and fair election, and must be thoroughly revised before any voting takes place' (Ngoepe 2022). The problem of an inaccurate voters' roll was also noted by the EU Observer Mission, which stated that '[t]he accuracy of the voter register has been questioned by many interlocutors, pointing at the inclusion of names of deceased persons

and reported data errors in the voter register'. Hence, it is highly probable that the RV turnout of 38% is a result of an error-riddled voters' roll. It is likely that the voters' roll has exaggerated the number of eligible voters. This not only impacts the measurement of the turnout; it also affects the credibility of the elections in the eyes of voters.

Another institutionalist factor that negatively affected the turnout was the late re-demarcation of constituencies. In the run-up to the elections, there was a legal battle about the demarcation of constituencies. The IEC had demarcated constituencies in terms of the Constituency Delimitation Order of 2022 (Legal Notice No. 37 of 2022). The demarcation increased the number of urban constituencies, reducing the rural ones. The then-ruling Democratic Congress (DC), which deemed the rural constituencies its stronghold, rejected the demarcation as gerrymandering (*The Post*, 2022). The matter was contested in the High Court (*Democratic Congress and Another v Independent Electoral Commission and Other* (2022)). The High Court, sitting in its constitutional jurisdiction, decided the case on 8 August 2022, exactly two months before the election, which was scheduled for 7 October 2022. The court invalidated the Constituency Delimitation Order (2022) in respect of twenty out of eighty constituencies. The effect was that the IEC had to re-demarcate twenty of the country's eighty constituencies. The decision sent shockwaves across the country. There was doubt about whether the IEC could re-demarcate the twenty defective constituencies without affecting all the others (Rickard 2022). There was a significant concern that if the IEC had to redo the demarcation of all eighty constituencies, the election would have to be postponed. While the IEC announced later that it had successfully regularised the twenty defective constituencies, the problems associated with the last-minute changes did not end: they manifested again on election day. As the EU Observer Mission (2022) notes, '[a] late change in the constituency delimitation of 20 constituencies also posed a challenge to registered voters whose constituency and polling stations changed'. This late change confused many voters as they were no longer sure where they should cast their votes. This factor also impacted negatively on the turnout.

Another institutional variable is the type of electoral system. Countries that use proportional representation electoral models tend to have improved voter turnout. However, this theoretical proposition may not necessarily be true in relation to Lesotho. In 2002, Lesotho changed its electoral system from the constituency-based model to a hybrid system, the mixed member proportional (MMP) system. As demonstrated in Table 1, voter turnout dropped exponentially from 66.7% in the previous election (1998) to 49% in 2002. In the 2022 elections, the country was still using the MMP electoral system. The extent to which the electoral system impacts turnout is still unclear. Nevertheless, the electoral system

is often derided for being 'difficult' for the voters to understand and for the election management body( IEC) to administer.

In 2007 and 2022, the IEC could not allocate proportional representation seats. In the aftermath of the 2022 elections, IEC had to approach the High Court for a self-review of the 'mistake' it made in allocating proportional representation seats (*Independent Electoral Commission V Speaker of the National Assembly* Const. No. 0022/2022). Furthermore, another discouraging aspect of the electoral system is that political players occasionally abuse the electoral to attain political ends. In 2007, the political parties manipulated the electoral system through decoy pre-election alliances, which plunged the country into a long, drawn-out political conflict.

Furthermore, the importance of an election is an important variable for turnout (Stockemer 2017). In elections where the stakes are high or carry a certain importance, such as transitioning from one era to another, turnout tends to be high. The 1993 elections are a typical example. The elections which saw the country transit from the military junta to electoral politics, had the highest turnout of 72.3% since the country returned to electoral politics. Similarly, the 2012 elections, which ushered in the era of coalition politics, marginally reversed the previous election (2002) voter turnout, which had dipped below 50%. While the 2007 elections had a 49% voter turnout, the 2012 elections saw a marginal improvement, and the voter turnout was 50%.

The 2022 elections were highly competitive but not necessarily a landmark. The earthmoving debut of the Revolution for Prosperity( RFP), hardly seven months before the 2022 elections, suggested that the election would be competitive and ramp up voter turnout. However, the election's outcome was the opposite: voter turnout was at its lowest. Although the election broke the domination of the two political parties in the recent electoral history of the country – the All Basotho Convention(ABC) and the Democratic Congress (DC) – it was just a normal election which continued the pattern of coalition politics in the country.

## CONCLUSION AND RECOMMENDATIONS

This article set out to analyse the election-specific variables that could explain the unprecedented decrease in voter turnout in the 2022 elections in Lesotho. The study finds that the variables impacting voter turnout are generally diverse and inexhaustive. However, it is possible to explain the decrease in voter turnout in terms of election-specific factors. The paper has identified the factors that, although they have only occurred in the 2022 elections, may have impacted negatively on the turnout. The first variable is electoral education. The study finds that electoral education in Lesotho was provided for only three weeks by sixteen

non-governmental organisations. The voter mobilisation campaigns were poorly funded and poorly designed. It was impossible for voter education campaigns to cover the length and breadth of the country in three weeks. Another defect of voter education was that it is too narrow and is limited to electoral education. This kind of approach fails to locate elections within a broader democratic scheme. It is improbable that a population that is not involved in all other democratic processes can suddenly be mobilised to participate in elections.

There is a causal relationship between informed citizenry and turning out to vote on election day (Kuzio 2011). Hence, it is recommended that the country must have longer-term democracy education programmes run by civil society formations but regulated by the IEC. The Constitution places a duty on the IEC to ensure sound democratic education. Section 66A(f) of the Constitution and section 135(d) of the National Assembly Electoral Act, 2011 mandates the IEC to promote civic and voter education. Generally, election management bodies may be assigned a formal mandate to participate in legal reforms (Bakken 2014, p. 13). The eight principles for the relationship of election management bodies with stakeholders when engaging in electoral reform are: inclusiveness, transparency, responsiveness, independence, impartiality, communication, information sharing, and equality (Bakken 2014, p. 20).

Similarly, Lesotho's election management body is given a formal mandate to engage in legal reform. Section 135 of the National Assembly Electoral Act stipulates that the IEC shall have the powers to 'continuously review legislation and other matters relating to elections and referenda and to make appropriate recommendations'. This includes establishing a much more robust and workable legal regime for civic education in general and voter education in particular. In this context, cognisant of the IEC's structural shortcomings resulting from incapacity and insufficient financial resources, the IEC should recommend the provision of appropriate support from the government. This should include the timely release of funds to allow for the rollout of civic and voter programmes to be continued and intensified during periods of heightened electoral activity.

Another factor was political fragmentation. Political parties must also consider their role in shaping democracy in Lesotho. In the run-up to the 2022 elections, the country saw an exponential number of political parties registering to contest the elections. Sixty-five political parties were registered. The public and scholars do not approve of this proliferation of political parties in Lesotho. The prevailing view is that it weakens the political party system in the country and creates the perception that forming a political party is a means of achieving financial advantages. It therefore discourages voters from participating in elections. While the country may not necessarily prohibit the formation of parties, as that would be undemocratic, it may benefit democracy if the requirements

for the registration of politics were made more stringent. Only worthy political parties should survive the rigorous registration and cancellation requirements. This would reassure voters about the country's party system. The aborted national reforms had already recommended strict requirements for registering and cancelling political parties. It may be worthwhile to pursue that recommendation.

The frequency and number of elections are mainly the result of jostling for power among elites and their interests, posing 'the greatest threat to the democratic project' (Fombad 2016, p. 290). Thus, avoiding frequent snap elections may reduce voter fatigue and encourage participation during normal periodic elections.

The article further establishes that special institutionalist variables negatively affected voter turnout in 2022. These are bloated voter registration, flip-flopping on diaspora voting, and the late re-demarcation of two constituencies. Institutional variables affecting voter turnout are matters that may easily be addressed by proper laws and preparation for elections. Sudden and last-minute problems with elections, such as constituency changes, negatively impact voter turnout.

#### ----- REFERENCES -----

- Aerni-Flessner, J 2016, 'Living on the margins, the migrant experience of Basotho in South Africa', *Daily Maverick* 16 May. Available at <<https://tinyurl.com/2p9ejp36>>. [21 April 2023].
- Aerni-Flessner, J 2022, 'Lesotho elections: turnout was down to 38% – new leaders will have to deal with political discontent', *The Conversation* 20 October. Available at <<https://tinyurl.com/2p936adp>>. [20 November 2022].
- African Union Panel of the Wise 2010, *Election-related disputes and political violence: strengthening the role of the African Union in preventing, managing, and resolving conflict*, International Peace Institute, New York.
- Bakken, M 2014, 'Electoral law reform in Africa: insights into the role of EMBs and approaches to engagement', *International Institute for Democracy and Electoral Assistance* 15 December. Available at <<https://tinyurl.com/yc3k5tm3>>. [6 February 2023].
- Barbosa, MC 2014, 'iCivics and the increase of students' civic knowledge in the United States', MA Thesis, University of Potsdam.
- Blais, A & Dobrzynska, A 1998, 'Turnout in electoral democracies', *European Journal of Political Research*, vol. 33, no. 2, pp. 239-261.
- Blais, A, Massicotte, L & Dobrzynska, A, 2003. *Why is turnout higher in some countries than in others?* Environment Canada, Montreal.
- Bonica, A & McFaul, M 2018, 'Want Americans to vote? Give them the day off', *The Washington Post* 20 October. Available at <<https://tinyurl.com/22k3f2wm>>. [16 December 2022].

- Booyesen, S 2015, 'The 2015 parliamentary elections in Lesotho', *Electoral Studies*, vol. 100, no. 40, pp. 430-433.
- Burns, N, Lehman Schlozman, K & Verba, S 2001, *The private roots of public action: gender, equality, and political participation*, Harvard University Press, Cambridge, MA.
- Cancela, J & Geys, B 2016, 'Explaining voter turnout: A meta-analysis of national and subnational elections', *Electoral Studies*, vol. 42, pp. 264-275.
- Dalton, RJ 2008, *Citizen politics: public opinion and political parties in advanced western democracies* (5th ed), Chatham House Publishers, London.
- De Kock, C & Schutte, C 1994, 'Free and fair', *INDICATOR SA*, vol. 11, no. 2, pp. 27-30.
- Endersby, J & Kriekhaus, J 2008, 'Turnout around the globe: the influence of electoral institutions on national voter participation, 1972-2000', *Electoral Studies*, vol. 27, no. 4, pp. 601-610.
- European Union 2022, *EU election observation mission to Lesotho 2022: final report*.
- Evrensel, A 2010, *Voter registration in Africa: a comparative analysis*, EISA, Johannesburg.
- Ezrow, L 2007, 'The variance matters: how party systems represent the preferences of voters', *Journal of Politics*, vol. 69, no. 1, pp. 182-192.
- Fombad, CM 2016, 'Election management bodies in Eastern and Southern Africa: some reflections on their legal framework', *African and Asian Studies*, vol. 15, pp. 289-335.
- Geys, B 2006, 'Explaining voter turnout: a review of aggregate-level research', *Electoral Studies*, vol. 25, pp. 637-663.
- Goeke, M 2016, 'Political stability and peace through party engineering: the case of Lesotho', *Politikon*, vol. 43, no. 3, pp. 293-309.
- Hague, R, Harrop, M & Breslin, S 1998, *Political science: an introduction* (2nd ed), Worth Publishers, New York.
- Highton, B 2004, 'Voter registration and turnout in the United States', *Perspectives on Politics*, vol. 2, no. 3, pp. 507-515.
- Ibeanu, O & Orji, N 2014, *Approaches to CVE: Nigeria's experience in comparative perspective*, Independent National Electoral Commission, Lagos.
- Independent Electoral Commission of Lesotho 2017, 'General election results', IEC November. Available at <<https://tinyurl.com/2yn84fx3>>. [20 November 2022].
- IEC 2021, *Voter turnout in Lesotho elections*, IEC, Maseru.
- IEC South Africa 2008, 'Reflections on the state of electoral democracy in South Africa', *Report of the Proceedings of the Multi-Stakeholder Conference of the Electoral Commission of South Africa*.
- International Institute for Democracy and Electoral Assistance 2022, 'Voter turnout by election type: Lesotho', *IDEA* October. Available at <<https://tinyurl.com/2p6ns6v7>>. [6 February 2023].
- Katusiimeh, M 2003, 'Civic education and the promotion of participatory democracy



- in Uganda', *The Electoral Commission of South Africa*. Available at <<https://tinyurl.com/ua67kuf9>>. [20 January 2023].
- Kostadinova, T & Power, TJ (2007), 'Does democratisation depress participation', *Political Research Quarterly*, vol. 60, no.3, 363–76.
- Kuzio, T 2011, 'Political culture and democracy: Ukraine as an immobile state', *East European Politics and Societies and Cultures*, vol. 25, no. 1, pp. 88-113.
- Lesotho Council of Non-Governmental Organizations 2022, '10 October 2022 Lesotho Council of NGOs (LCN)', LCN 10 October. Available at <<https://tinyurl.com/2uyejzrf>>. [20 January 2023].
- Lesotho Times 2011, 'LCN embarks on voter education', *Lesotho Times* 4 August. Available at <<https://tinyurl.com/yrwv246k>>. [20 November 2022].
- Ngoepe, K 2022, 'Lesotho's voters' roll mired in controversy', *Sunday Independent* 2 October. Available at <<https://tinyurl.com/2c9b33mw>>. [21 April 2023].
- Leterme, Y 2016, 'Voter turnout trends around the world', *International Institute for Democracy and Electoral Assistance*, 31 December. Available at <<https://tinyurl.com/ztkrz3ve>>. [20 November 2022].
- Letsie, TW 2013, 'The 2012 general elections in Lesotho: A step towards the consolidation of democracy', *Journal of African Elections*, vol. 12, no. 1, pp. 65-83.
- Likoti, FJ & Likoti, MC 2008, 'Election in Lesotho: Voting patterns and voter apathy of Basotho from 1998-2007', *International Journal of Development and Management Review*, vol. 3, no. 1, pp. 216-228.
- Lohani, A & Pandey, P 2021, 'Towards informed discourse and voter education: A critique of e-campaigns', *Observer Research Foundation*, Brief Issue, Issue No. 466.
- Lister, M 2007, 'Institutions, inequality and social norms: explaining variations in participation', *British Journal of Politics and International Relations*, vol. 9, no. 1, pp. 20-35.
- Malephane, L 2019, 'Election fatigue? Half of Basotho want a different way to choose leaders', *Afrobarometer*, Dispatch No. 309.
- Matlosa, K 1997, 'The 1993 elections in Lesotho and the nature of the BCP victory', *African Journal of Political Science*, vol. 1, no. 2, pp. 140-151.
- Matlosa, K 2004, 'Democracy, HIV/AIDS and citizen participation: Focus on the 2004 South African election', *Journal of African Elections*, vol. 3, no. 2, pp. 77-96.
- Matlosa, K & Shale, V 2006, 'The impact of floor crossing on electoral politics and representative democracy in Lesotho', *Journal of African Elections*, vol. 7, no. 1, pp. 138-152.
- Monyake, M 2021, 'Unstable coalitions and backsliding habitual voters in Lesotho', in H 'Nyane & MA Kapa (eds), *Coalition Politics in Lesotho: A Multi-disciplinary Study of Coalitions and their Implications for Governance*, Africa Sun Media, Stellenbosch.

- Mothibe, TH 1990, 'Lesotho: The rise and fall of military-monarchy power-sharing: 1986-1990', *Africa Insight*, vol. 20, no. 4, pp. 242-246.
- Mudau, P 2022, 'Promoting civic and voter education through the use of technological systems during the Covid-19 pandemic in Africa', *African Human Rights Law Journal*, vol. 22, no. 1, pp. 108-138.
- Nokshuwan, EJ, Abubakar, IY, Gaadi, JI & Bamgbade, FA 2020, 'The role of voter education in combating hate speech and electoral violence in Nigeria', *Research on Humanities and Social Sciences*, vol. 10, no. 24, pp. 35-40.
- Norris, P 1999, *Critical citizens: support for democratic government*, Oxford University Press, New York.
- 'Nyane, H 2022, 'Lesotho elections: newcomers score impressive win, but politics will still be unstable', *The Conversation* 14 October. Available at <<https://tinyurl.com/34sakjub>>. [20 November 2022].
- Ogbu, SU 2020, 'Role of voter education in curbing electoral violence in the 2019 general elections in Enugu State, Nigeria', *Global Journal of Political Science and Administration*, vol. 8, no. 5, pp. 24-38.
- Onuigbo, RA, Eme, OI & Asadu, I 2018, 'Political education in Nigeria: the mobilisation theory thesis perspective', *Arts and Humanities Open Access Journal*, vol. 2, no. 5, pp. 246-256.
- Repucci, S & Slipowitz, A 2022, 'Freedom in the World 2022: The global expansion of authoritarian rule', *Freedom House*, February. Available at <<https://tinyurl.com/3hnd8kry>>. [21 April 2023].
- Rickard, C 2022, 'Court ruling poses Lesotho elections dilemma', *African LII*, 18 August. Available at <<https://tinyurl.com/4nr89587>>. [21 April 2023].
- Rietbergen-McCracken, J 2012, 'Civic education', *CIVICUS*. Available at <<https://tinyurl.com/2p9c6wvd>>. [21 April 2023].
- Solijonov, A 2016, 'Voter turnout trends around the world', *International Institute for Democracy and Electoral Assistance*, 31 December. Available at <<https://tinyurl.com/ztkrz3ve>>. [20 November 2022].
- Solt, F 2010, 'Does economic inequality depress electoral participation? Testing the Schattschneider hypothesis', *Political Behavior*, vol. 32, no. 2, pp. 285-301.
- Southall, R 1994, 'The 1993 Lesotho election', *Review of African Political Economy*, vol. 21, no. 59, pp. 110-118.
- Southall, R 2004, 'Participatory democracy: more fair, more equal ... more safe', *Critical Dialogue-Public Participation in Review*, vol. 1, no. 1, pp. 5-11.
- Stockemer, D 2017, 'What affects voter turnout? A review article/meta-analysis of aggregate research', *Government and Opposition*, vol. 52, no. 4, pp. 698-722.
- Stockemer, D, 2017, 'Electoral participation: how to measure voter turnout?', *Social Indicators Research*, vol. 133, no. 3, pp. 943-962.
- The Economist* 2022, 'Why political parties are a growth industry in Lesotho', 6 October. Available at <<https://tinyurl.com/yc2pmu7w>>. [21 April 2023].

- The Post* 2022, 'DC fights IEC', 4 January. Available at <<https://www.thepost.co.ls/news/dc-fights-iec/>>. [21 September 2022].
- Uhunmwuango, SO & Aibieyi, S 2012, 'Sensitisation of secondary school students towards sustainable electoral process in Nigeria: Nigeria Independent Electoral Commission as a focus', *African Research Review*, vol. 6, no. 3, pp. 239-251.
- United Nations Development Programme 2015, 'Inclusive electoral processes: a guide for electoral management bodies on promoting gender equality and women's participation'.
- Weisfelder, RF 2015, 'Free elections and political instability in Lesotho', *Journal of African Elections*, vol. 14, no. 2, pp. 50-80.

## BOOK REVIEW

*Politics, Government and Governance in Lesotho since 1993*, by Francis K Makoa, Lambert Academic Publishing, London, 2020, ISBN 978-620-2-52869-6, pp. 156.

Despite honestly conducted elections and wide choices for voters, Lesotho's democratisation has yet to produce effective government. As Francis Makoa notes in his opening chapter, most Basotho citizens remain among the poorest people in the world, many malnourished and without livelihoods. Successive administrations since 1993 have undone the meagre developmental achievements of the Basotho National Party regime, in government from 1966 to 1986. Privatisation of national financial institutions as well as the corrupt degeneration of agricultural extension services have led to the virtual collapse of farming. Dependence on income from migrant labour remains acute and migrants themselves contend with South Africa's increasingly restrictive border controls. Meanwhile Lesotho exports water to the Witwatersrand at prices fixed in 1986 and not renegotiated since. Democratic political routines have been interrupted by bouts of militarised conflict, eight such eruptions since the re-establishment of electoral politics in 1996. How do we explain these failures?

For Makoa, Lesotho's politics are endemically conflictual, expressing socially pervasive divisions that can be traced back to fundamental disagreements over the constitutional arrangements that the British installed at the time of independence, arrangements that sought to reduce the monarchy to ceremonial functions and that were at odds with the system of indirect rule through which the colony had been governed.

For the first three decades of its independence, Lesotho's main political parties represented the interests of the king, chiefs and commoners respectively. The intensity of their differences was attributable to a political economy shaped by a century-long history of land shortage, local unemployment, migrant labour and oppressive household taxation. This was not the kind of political setting in which political leaders could agree to disagree and in which officials, policemen and magistrates were likely to remain neutral. From 1986 to 1993 soldiers would rule Lesotho.

Lesotho's democratisation between 1990 and 1993 was a top-down process, a re-establishment of electoral politics in a process in which politicians were excluded from the main decisions. The elections themselves were professionally managed by foreigners. All 60 seats were won by the Basotho Congress Party (BCP), the main opposition group since independence and sponsor of a violent

insurgency through the 1980's. The results were denounced as fraudulent by the losers, probably wrongly, though given the high-handed way in which the poll was managed the election's legitimacy was likely to be questioned. In government, the BCP antagonised top bureaucrats and military leaders by changing their jobs from permanent positions to short-term contracts, effectively politicising civil service positions. Corrupt ministerial office holders helped initiate a process of factionalism which split the ruling party.

In the 1998 elections a breakaway formation from the BCP, the Lesotho Congress of Democracy, won all the seats. This prompted renewed accusations of electoral abuse as well as a violent and destructive rebellion in Maseru precipitating an invasion by the South African military. In the imposed order that followed, extensive negotiations led to agreement over the replacement of winner-takes-all elections with a mixed-member system of proportional representation (MMP) as well as a more participatory electoral commission.

Accordingly, Lesotho's elections have become less bitterly contentious. But for Makoa, the constitutional settlement reached between 1998 and 2002 'left unresolved' the key governance and power-sharing problems – especially corruption, then and today 'the prime engine and incubator of conflict in the Kingdom' (p. 60).

Makoa is heavily critical of Lesotho's particular model of MMP, blaming it for the frequency of hung parliaments as well as the fragmentation of political parties. An illuminating chapter on political parties explains the regulatory mechanisms and electoral dynamics of the system which incentivises the breakaway of splinter parties and the formation of single member entities. Not surprisingly Basotho political parties do not function as interest aggregation agencies and indeed, party politics remains highly polarised. Without mass membership or the organisation and procedures to undertake public engagement they leave a political 'void' that fortunately is filled by a well-developed civil society (p. 85). To what extent elected local government animates constructive citizenship is a topic disappointingly unexplored in quite a long chapter on the evolution of Lesotho's municipalities.

Rather surprisingly, the increasing number of parties represented in Parliament and the instability of governing coalitions have not resulted in any lessening of executive dominance. Parliamentarians are disinclined to subject ministers to any oversight, and portfolio committees are docile. Two categories of MP's, those with and without constituencies, further undermines legislators' assertiveness. Given parliamentary unconcern about official venality, Lesotho's independent courts and its quite well-established auditing and ombudsmen system can make little headway in checking corruption. A mutinous and disruptive 3 000-strong military also helps to limit the reach of effective legal constraint and regulation. The treatment of the post-1993 military is one of the

strongest sections of the book; soldiers still view themselves as autonomous partners of the state rather than its subordinate agencies.

Professor Makoa has supplied a succinct, lucid and elegant introduction to Lesotho's political life. Of especial interest to readers of this journal is his assessment of the unintended consequences of electoral reform and his arguments about the costs of moving to proportional representation.

*Tom Lodge,  
University of Limerick*