



10th OCTOBER 2022

LESOTHO COUNCIL OF NGOS (LCN)

INTERIM OBSERVATION MISSION

STATEMENT

1.0 INTRODUCTION

- 1.1 The 2022 National Assembly elections have been organised within the local and global context and in the months building up to election date, there was a lot of voter apathy whereby citizens were questioning the importance of democracy and its benefits. The questions were premised among others lack of service delivery, increasing local and international terror, poverty, unemployment, and effects of climate change are some of the factors that affect the level of citizens' confidence in the democracy system.
- 1.2 The 2022 National Assembly elections like any other, give voters opportunity to renew their commitment for consolidating democracy through elections. Elections provide electorates with an opportunity to directly participate in democracy. It is a litmus test for a political system. Each political party that participated in the electoral process in particular made pronouncements on resuscitating the national reforms agenda in Lesotho.

2.0 CONTEXT

- 2.1 Lesotho held its 8th general election since its transition to multi-party political system in 1993 following eight (8) years of military dictatorship. Up until 2001, Lesotho used the British-type First-Past-The-Post (FPTP) electoral system, that is single-member constituencies. Following the reforms spearheaded by the Interim Political Authority (IPA), the electoral system was changed to the Mixed Member Proportional (MMP) electoral model involving a mixture of the FPTP and Proportional Representation (PR) system. As part of this reform, the size of the National Assembly was increased from 80 to 120. Of this, 80 constituencies are occupied on the basis of the FPTP and 40 on the basis of the compensatory PR system.
- 2.2 This new electoral model has been in use since 2002 general elections. Since then, election outcomes in Lesotho have largely produced a parliament with a considerable number of political parties unlike in the past when parliament was marked by either one single party or a dominant party system. Therefore, the 2022 general election was conducted within the framework of this electoral model.
- 2.3 The legal framework for the general elections include mainly (a) The 1993 Constitution (as amended) and (b) the 2011 National Assembly Electoral Act. Chapter VI of the Constitution provides for procedure and process of the election of members of the National Assembly. The National Assembly Electoral Act, is the enabling legislation that gives effect to constitutional provision on general elections and the composition of the National Assembly. The Act provides a detailed guide for the conduct of elections covering the three-pronged electoral cycle namely (a) the pre-voting stage, (b) the voting stage and (c) the post-voting. It is on the basis of the Constitution and the National Assembly Electoral Act that the 2022 general election was held.
- 2.4 The Constitutional Amendment No 2 of 1997 established the Independent Electoral Commission (IEC) of Lesotho as an independent body charged with the management of elections and referenda. The Commission consists of a Chairperson and two members appointed by the King acting in accordance with the advice of the Council of State. The current (seventh) Commission was appointed and resumed work in December 2020. The Commission is

made up of Mr. Mphasa Mokhochane (Chairperson), Dr. Karabo Mokobocho- Mohlakoana (Commissioner), and Mr. Tšoeu Petlane (Commissioner).

- 2.5 Below the Commission is the Secretariat which is headed by the Director of Elections, Mr. Mpaiphele Maqutu, who according to the Electoral Act is responsible for the management of elections.
- 2.6 Besides managing the entire electoral process, the IEC is also tasked with managing the registration, public funding, functioning and de-registration of political parties working in close liaison with the Law Office in the Ministry of Law and Justice. This is a gigantic task for the IEC in light of the massive proliferation of political parties in Lesotho. For instance, when the country gained independence in 1966, there were only four (4) political parties. When the country experienced its transition to multi-party democracy in 1993, there were twelve (12) political parties.
- 2.7 During the 2022 general elections, the number of political parties increased exponentially to sixty-five (65) registered with the IEC. But the totality of parties, including those registered with both IEC and the Law Office, the number of political parties in Lesotho stands at about one hundred and thirty (130) in a small country with a population of 2.2 million. This proliferation of political parties has, in part, contributed to increasing loss of faith in elections manifesting declining voter turn out as shown in table 1 below.

Table 1: Declining Voter Turnout, 1993-2017

Year	Electoral System	% Voter Turnout
1993	First-Past-The-Post (FPTP)	72.28
1998	First-Past-The-Post (FPTP)	71.83
2002	Mixed Member Proportional (MMP)	66.69
2007	Mixed Member Proportional (MMP)	49.00
2012	Mixed Member Proportional (MMP)	50.04
2015	Mixed Member Proportional (MMP)	46.61
2017	Mixed Member Proportional (MMP)	46.37

- 2.8 The overall socio-economic and political context is also worth noting. The socio-economic situation ahead of the elections included low human development, high crime, poverty, unemployment and inequality. About 49.7% of Lesotho's population lives below the poverty datum line. Unemployment rate stands at 22.5% and youth unemployment is at 33.68%. Lesotho's socio-economic predicament is compounded by climate change (drought, extreme temperatures, heavy rains, floods, hailstorms) as well as health pandemics such as HIV and AIDS and COVID-19.
- 2.9 This depressed socio-economic situation has significantly contributed to the currently high crime and murder rate in the country. Lesotho today is marked by an upward spiral of violent criminality including sexual and gender-based violence. Data from the World Population Review shows that Lesotho is ranked number one in Africa and number three globally among the top ten countries with the highest homicide rates, behind El Salvador (no.1) and Jamaica (no.2). Only three African countries feature on this unenviable list of countries considered dangerous destinations in the world (Lesotho, no.3, South Africa, no. 8 and Nigeria, no. 10). Part of the culture of violence manifest ahead of the 2022 general election, was the Famo musical gang wars which translated into wars in the illegal mining in the Republic of South Africa.
- 2.10 The complication of dealing effectively with the violence perpetrated by the gangs was compounded by the fact that these groups have links and alliances with some of the security officers who are alleged of supplying them with ammunition and are also linked with the two major parties in the outgoing coalition government, namely the All Basotho Convention (ABC) and the Democratic Congress (DC) which makes them difficult to handle.
- 2.11 The IEC has reported that it has received lesser amount of funds than it requested for effective and efficient running of the elections. This is generally the context within which the 2022 general election took place on 7th October 2022.

3.0 LCN APPROACH

- 3.1 The Lesotho Council of Non-Governmental Organizations (LCN) deployed over 200 observers in the country. The LCN Observer Mission was guided by local, regional, and international principles governing democratic, free and fair elections. In the execution of this august responsibility, LCN deployed Observer Mission across the country of which some were stationed whilst other observers were roaming within the constituencies. The strategy further included National Support Team responsible for supporting the deployed teams for logistical functions, and coordination of the different teams on the ground.
- 3.2 The roaming teams were responsible for observing various external electoral factors imperative for elections. The Stationed Observers Teams were charged with the responsibility of observing the identified polling stations throughout the voting day and counting. This approach helped in synergizing different experiences and complementing different stages of the observation process.
- 3.3 Prior to the deployment of LCN Observer Mission, the observers were given refresher training as to facilitate their work. They were exposed to a checklist that was used as a standard instrument for all observers to determine whether the elections complied with the national legal framework including generally accepted standards for democratic elections. The checklist was aligned to the 2015 Revised SADC Principles for Democratic Elections, 2002 AU Principles Governing Democratic Elections in Africa, 2007 the African Charter on Democracy, Elections and Governance and 2005 Declaration of Principles for International Election Observation.
- 3.4 On the election day, the Mission observed the voting process, the preparedness and conduct of Independent Electoral Commission (IEC), vote counting and the general atmosphere around the elections.

4.0 MAIN OBSERVATIONS

4.1 The main mandate of the LCN Observation Mission was to assess the level of compliance with national legal framework, regional, continental and international instruments on credible, democratic and peaceful elections. The mission considered the pre-election environment, opening of voting stations, voting, adequacy of election materials, competency of electoral staff, security and secrecy of the vote, extent of vulnerable groups participation in the electoral process and counting. The Mission also observed general environment surrounding the electoral process.

5.0 PRE-ELECTION PHASE

5.1 The Constitutional and legislative framework for elections in Lesotho was found to be adequate. It also complied with regional, continental and international standards for democratic, credible and peaceful elections. At the time of elections, Lesotho was embarking on the national reforms process spearheaded by the National Reforms Authority (NRA).

5.2 The process had considerably advanced but unfortunately the tenure of the Parliament expired before completion of the reforms. A considerable part of the reforms had to do with elections. The fact that the reforms were not completed meant that elections will be conducted in the old-fashioned manner. The task of completion of the reforms now rests with the 11th Parliament after the elections.

5.3 The process towards the elections was marked by both the progression and challenges. On 13th April 2022, the IEC published a list of new constituencies for elections through Legal Notice Vol. 67, No. 24; on 13th July 2022, His Majesty King Letsie III dissolved the Parliament through Legal Notice Vol 67, No. 56 and in the same gazette the IEC announced the Election Calender. On 24th July 2022, political parties signed the electoral Code of Conduct and on 5th August 2022, the IEC appointed the three person Election Tribunal to attend to all complaints relating to the violations of the electoral conduct.

- 5.4 The major challenges included the following among others; a) the new Commissioners resumed duty in late 2020 which means that they have been in Office in less than two years in the midst of Covid-19 pandemic. b) The IEC faced enormous financial constraints because of its total budget of M 329 Million, government only allocated M 261.5 Million of which only M 152.7 Million was released leaving an enormous shortfall of M 176.3 Million.
- 5.5 The Mission observed highly organized campaigns by many political parties. The Mission also observed that the 2022 election campaigns were highly monetarised beyond the limit which according to IEC law political parties are obliged to declare their funding source should they receive above (250,000.00).

6.0 ELECTION PHASE

- 6.1 Generally, across all constituencies the voters' roll was a concern and an area of confusion for numerous reasons, chief among which names of voters were missing on the voters' roll and party agents had lists that were different from those held by the IEC staff.
- 6.2 In some cases voters names did not appear both on the IEC held voters roll or the one with party agents yet their names appeared in the IEC website when they checked. The case of NUL and Roma Primary voting station to name a few. A case in point was that, LCN observers noted that at Qoaling constituency No 37 at Loretto Primary School where at 8pm about fifty (50) voters were still waiting for IEC officials to print an updated voters' roll which would in turn allow them to cast their votes. As such this group of voters were permitted to vote beyond the stipulated time of closure of 5pm.
- 6.3 LCN Observer Mission noted that generally voting stations were feasible and decentralized. The Mission also noted that as IEC has been inclined to use schools as voting stations, some were not accessible for physically disabled people. This is because most school buildings in Lesotho still do not have rails to cater for wheelchairs. This was prevalent in places such Leribe, Mohale's Hoek, Maseru and Berea. In Thamae LEC and NUL in particular, some polling stations were on the upper floor and they could only be accessed by stairs. There were several other voting stations that lacked visibility and

directions to be followed by voters and these included the queuing of voters which was a mess in some voting stations such as Ha Mokhathi in Makhoroana 20. There were other voting stations that were moved to different locations on the polling day and that made it challenging for the people with disabilities and the elderly. However, we have also observed exceptions where there were signages to indicate location of voting centres and stations.

- 6.4 LCN Observer Mission observed that most of the polling stations were opened on time and properly closed as stipulated by law. In a number of polling stations visited by our observers, the ballot paper could not fit properly as it was too big for the size of the box inlet to deposit the ballot paper. In proportion to the number of voters, the voters' boxes were limited in number such that at some stations the Presiding officers were already contemplating other means like use of envelopes or any available material.
- 6.5 Generally, the conduct of IEC staff was independent and impartial. The Mission noted some isolated incidences where the polling stations officers portrayed lack of confidence during the counting or decision-making processes in the polling stations. Furthermore, some polling staff lacked proper training about the electoral process even basic knowledge of the role of observers. Perhaps this matter continues to be experienced due to the nature of Lesotho elections whereby the polling staff are recruited and given training for few days or hours in some instances.
- 6.6 Our observers noted that there was generally permissive environment for multi-party participation and there were various political parties and independent candidates contesting elections. However, it has been observed that in some polling stations some of the political parties did not have agents. Some party agents did not vote due to deployment made in the constituency and some did not know full names of parties they represent.
- 6.7 The Observer Mission looked at all prevailing events that could have had bearing on the electoral processes. The main observation depicted a conducive environment where a general calm reigned.

- 6.8 The ballot boxes were always locked during the voting process and the Mission noted that IEC continues to use small facilities as polling stations despite previous concerns that such places compromise secrecy and security of the vote. This time the voting booth was not promoting voting secrecy especially with the kind of ballot paper which was oversized. This exposed the voters preference on their choice of a candidate to those in the polling station, thus compromising secrecy of the ballot. Given the length and size of the ballot paper and many people in the voting room due to number of party agents that have exponentially increase thus making the voting rooms small.
- 6.9 The mission observed that the elderly and physically disabled were given preference while voting in some places while in other areas there was no such. The mission noted that people who are virtually impaired voted through assistance, which compromised the secrecy of their votes. However, it was observed that most polling stations were not accessible to the physically challenged and the elderly as they needed assistance to enter the polling stations.
- 6.10 The Mission examined the gender access to electoral process for both men and women. This consideration was based on the legal and political frameworks of Lesotho based on the national, regional, and international standards and practices that promote inclusive electoral participation and management. Lesotho's Constitution and Electoral Act, afford men and women equal opportunities. But due to gender stereotypes, historically women have been disadvantaged because of socio-economic status.
- 6.11 The representation of women candidates in these elections is only adequately covered by the party lists which at any given time, the women's representation in the National Assembly is guaranteed around 16%. Notwithstanding, there is still visibility of women's involvement in the electoral processes which is highly competitive and favors men. Except for the operational challenges mentioned herein the Mission did not experience anything of material effect which can be construed as an impediment to the process to the effect that the Will of the people was compromised.

7.0 POST ELECTION PHASE

7.1 Most of the voting stations had insufficient access to electricity, and this situation posed a challenge as generally counting happens late in the evening. While efforts were made to rectify the situation by supplying battery operated lights; those lights were not long lasting. For instance, Qoaling No. 37, Loretto Primary School, there was no sufficient light to enable smooth voting and counting processes. IEC could have taken advantage of Apollo light at Qoaling which is situated in front of the school; but did not have power units on election day.

8.0 RECOMMENDATIONS

- 8.1 The voters' roll should be overhauled with the purpose of it being a credible document, without such it is difficult to determine voter turnout percentage on a roll that have repeated names and a number of names for dead people;
- 8.2 Voting stations must be accessible to all people especially people with disabilities;
- 8.3 IEC should improve on the signage to ensure that all voters access voting stations without hindrances;
- 8.4 Voting stations, materials and equipment must be adequate at all times;
- 8.5 IEC polling stations staff should be well trained, seasoned and easy to identify;
- 8.6 Political parties should ensure that Party Agents are present and visible at all times;
- 8.7 The IEC should ensure that the voting booths protect the secrecy of the ballot;
- 8.8 IEC should ensure that it accommodates people who are visually impaired to vote in secrecy;
- 8.9 IEC should apply the law regarding the private party funding and ensure political parties comply with law;
- 8.10 The Lesotho Electoral Process should ensure that women's participation is encouraged and active;

8.11 Government should ensure that there is adequate funding for elections.