

**POSITION OF CIVIL SOCIETY FORMATIONS
ABOUT THE
SITUATION IN LESOTHO**

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Situation in Lesotho

Contents

1.0 Preamble	3
2.0 Proposed Short Term Interventions.....	4
3.0 Proposed Medium Term Interventions	5
4.0 Proposed Long Term Interventions.....	8
4.1 Institutional arrangements and legal framework.....	8
4.2 Security and citizens’ freedom and safety.....	9
5.0 Role of development partners and international community.....	10

1.0 PREAMBLE

Noting the tension and subsequent deterioration of the political and security situation in the Kingdom of Lesotho, civil society formations (Cluster) represented by Lesotho Council of NGOs (LCN), Maseru Regional Transport Operators (MRTO), Academic Forum for Development of Lesotho (AFDEL), Mejametalana Taxi association, Lesotho Chamber of Commerce and Industry (LCCI), Lesotho Trade Union Congress (LTUC), Lesotho Congress of Democratic Unions (LECODU) and Alliance of Progressive Trade Unions (APTU) and the Law Society of Lesotho agreed to work together to contribute towards political and security stability of Lesotho.

As we have pronounced ourselves in the past and continue to seek justice, peace, stability, accountability and rule of law in the country, we are again pursuing to amplify our voices having been seized with the current political situation in the country as evidenced by the deterioration marked by the announcement of the leaders of opposition that they have fled the country fearing for their lives and threats to the respect to the human rights. This cluster has done several activities inclusive of, but not limited to meeting Opposition Leaders outside the country, holding meetings with the government, communicating with the public through press releases, interviews on television and radio programmes both in Lesotho and beyond the borders and liaising with the international community.

SADC on the other hand has acknowledged the political-security deterioration which led to fleeing of opposition leaders fearing for their lives and compounded by tragic death of the former commander of Lesotho Defence Force (Sec 4, SADC Double Troika Extraordinary Summit, Pretoria. 3rd July 2015 Pg. 1). From this premise, SADC decided on a number of issues shaping its intervention in Lesotho. Throughout the period the cluster has consulted with membership within each through several meetings, interacted with communities and public, listened to the expression of Basotho on various ways including the Dialogue Session with the Theme: *Setting People's Peace Agenda* convened and facilitated by Development for Peace Education (DPE) on the 23rd July 2015 at Lesotho Sun /AVANI.

At this juncture, the cluster wishes to express the following as the vision on how Lesotho's situation should be addressed in the short, medium and long term;

2.0 PROPOSED SHORT TERM INTERVENTIONS

We are convinced that the current political and security situation continues to ferment more divisions in our society as evidenced by the pronouncements of government, opposition parties and the media platforms, therefore we believe that the government of Lesotho should urgently address the following;

- 2.1 Restore trust of the nation that it upholds, democracy, rule of law and respect for human rights by decisively prevailing over the LDF command regarding the following: the reported torture of soldiers in custody of the Army and denial of detainees access to medical prescriptions for their acute and /or chronic illnesses, the Army's disrespect of the courts of law including threats and infliction of violence on civilians;
- 2.2 Respond to the United States of America convincingly on its requests for accountability on the events of the 30th August 2014 and the current military saga;
- 2.3 Decisively act on matters relating to paragraph 2.2 above in order to avert potential negative evaluation of the country in the AGOA and MCA considerations and the September buyers' meeting, all of which heavily rely on continued respect of principles and ethos of good governance (Refer to among others the letter from Beth Tritten, Vice President Department of Policy and Evaluation Millennium Challenge Corporation to the Hon Dr 'Mamphono Khaketla Minister of Finance, Finance House PO Box 395, Maseru 100. Lesotho. Dated 15th 2015);

It is the firm believe of the Cluster that in the likelihood that Lesotho is not positively evaluated, the country may lose AGOA Designation and consequently more than 46,000 jobs in the textile industry, a sad reality that will adversely

affect, business, transport and livelihoods in general. In the event that the government of Lesotho is not demonstrating to the public that it is responding adequately to the short term request, Civil Society Organisations will pursue various peaceful means including mass industrial action to persuade the government of Lesotho in the right direction. In addition, a special call shall be made to the United State of America (USA) to apply targeted sanctions instead of imposing negative evaluation on the country that shall have potential detrimental implications on the citizenry.

3.0 PROPOSED MEDIUM TERM INTERVENTIONS

We have sufficient political, ethical and moral duty to support and enhance the SADC credibility and integrity where possible and we call upon the SADC to uphold and investigate the following in the current situation prevailing in Lesotho;

3.1 The Commission of Inquiry on the circumstances surrounding the death of the former Commander of Lesotho Defence Force(Sec 10, SADC Double Troika Extraordinary Summit, Pretoria. 3rd July 2015 Pg. 2) should be guided by the following principles:

- ✓ Transparency
- ✓ Accuracy
- ✓ Representation (Equity)

3.2 The composition of the Commission should not be limited to the public sector because it deals with matters where public officials are involved. It should therefore include:

- ✓ The wide spectra beyond government such as regional Labour, Church and Civil society bodies which are clearly recognised as partners in the SADC Treaty (Article 23 (1) and (2) SADC Treaty, Windhoek 1992);
- ✓ Participation should include Basotho citizens to make it relevant to the situation it is handling and enhance ownership to the nation that has to carry on with the outcome of the process to ensure peace.

3.3 The Commission is set to investigate matters of high contention which by their very nature and sensitivity need careful handling. Therefore;

- ✓ The Commission should be fully accountable to the Double Troika (SADC Treaty Article 3(1) and (2)). The contemplated effort of Government of Lesotho to domesticate functions of the Commission to give them legality can only derail the public trust in the process. In terms of the Public Inquiries Act No.1 of 1994 Section 3 read together with Section 8(3) of the same, the Prime Minister is empowered to remove from the report or withhold certain portion of the report of the commission if in his or her judgement such would be in line of protecting privacy or rights of individual(s) and national security. In the circumstances that the Rt Hon. Prime Minister either directly or through agencies of his Administration is part of the investigated, it would be defeating the ends of justice to subject this Commission to such institutional and legal arrangement;
- ✓ The role of HE Cde Cyril Ramaphosa as SADC Facilitator in Lesotho and as extended by the SADC Double Troika should be supplemented with other two Eminent Persons from the SADC region, given the gravity of the prevailing situation;
- ✓ The Commission should be mandated to investigate the legality of the commissioning, decommissioning and demotion of Lt. General Maaparankoe Mahao and the role of the reappointment of Lt. General Tlali Kamoli in the current insecurity and political disorder;
- ✓ Exclude in the Terms of Reference of the Commission, the question on the appropriateness or not of the appointment of President of the Court of Appeal because the Constitutional Court and the Court of Appeal for that matter have pronounced themselves and the Commission of Inquiry has no judicial authority to review the Appeal Court of Lesotho;

3.4 Processes and circumstances surrounding the Commission of Inquiry are significant to the acceptability and the credibility not only of the Commission but the instituting body as well. Therefore;

- ✓ SADC should ensure that the Government of Lesotho urgently facilitate coming into the country of the leaders of opposition (Sec 13, SADC Double Troika Extraordinary Summit, Pretoria. 3rd July 2015 Pg. 2) so that they fully and freely contribute in the proceedings of the Commission and other peace building functions. Civil society organisations which have done ground breaking initiatives but were only left out when talks begun is willing to provide technical expertise and its strategic appropriateness in this regard and should be engaged;
- ✓ Members of Lesotho Defence Force who were in the mission where former Commander of Lesotho Defence Force was killed should be suspended to allow the Commission (Sec 10, SADC Double Troika Extraordinary Summit, Pretoria. 3rd July 2015 Pg. 2) to do its work without hindrance (Refer to the reported impediments to the team of pathologists);
- ✓ Basotho who are outside the country fearing for their lives should be helped to come back home, be able to give their witness to the Commission if they so wish or the Commission should explore ways of listening to their testimonies in South Africa;
- ✓ Members of Lesotho Defence Force in custody should be released for the duration of the Commission. Under justifiable explanation of why they may not be released, they should enjoy maximum possible of freedoms and rights;
- ✓ The SADC contemplated Oversight Commission should:
 - i. Include Basotho
 - ii. Ensure that recommendations of the Commission are implemented and
 - iii. Support implementation of people driven reforms' agenda

4.0 PROPOSED LONG TERM INTERVENTIONS

Lesotho has been faced with political and security challenges since its independence in which different local and international actors attempted to support her to restore peace, stability and security. However, we note with serious concern that there is a need for a long term interventions based on the following arrangements;

4.1 Institutional arrangements and legal framework

Lesotho needs institutional transformation that seeks to institutionalise democracy, democratise institutions of governance and create those which promote and uphold peace at all levels of society. In order for Lesotho to have peace the following should be done:

- 4.1.1 Lesotho should fully enforce the current constitutional and legal framework as it has sufficient instruments to ensure stability, security and peace;
- 4.1.2 Basotho, should urgently define the appropriate model of Civil-Military relations and in particular the civilian control over the army in a manner that it becomes difficult for politicians to have sinister influence on the army;
- 4.1.3 Government should not do reforms unilaterally as it is reported that it has started in the army, as doing so will further ferment the insecurity and lack of trust between government and the opposition. Instead, the reform process should be a participatory process that puts citizens' voice over the wishes of partisan politics (Section 8, SADC Double Troika Extraordinary Summit, and Pretoria. 3rd July 2015 Pg 2);
- 4.1.4 There should be a pre-constitutional review debate lest politicians erode constitutional pillars that should be kept for the proper functioning people-centred democracy (Section 8, SADC Double Troika Extraordinary Summit, Pretoria. 3rd July 2015 Pg 2);

4.2 Security and citizens' freedom and safety

Business and individual citizens report that on the basis of uncertainty for causes which are either real or perceived, they are not able to undertake any medium or long term commitments. In order to mitigate the negative business and investment environment, the following should be done:

- 4.2.1 The Government of Lesotho needs to improve the security situation so that business can normalize operations;
- 4.2.2 The Government of Lesotho should protect the fragile textile industry by ensuring safety and freedom of workers as the current situation of security is already threatening buyers who are wary to buy from countries that are not upholding AGOA conditionalities. This sad reality has already led to the delay of the much needed salary bargaining processes;
- 4.2.3 The moratorium on public demonstrations imposed by the police is unconstitutional and should be removed forthwith;
- 4.2.4 The decision of the Government of Lesotho to prohibit Lesotho Broadcasting Services from broadcasting anything on security is not only unconstitutional but it is a betrayal of the popular vote to deny taxpayers and voters right to know, engage and make informed decisions on the governance matters that affect them while leaders of the government continue to use foreign media for the same. In particular an embargo on civil society from using the broadcasting agencies to inform and cause dialogue among the listeners and viewers on the current situation, the standing right that civil society has never been denied in the past 22 years of constitutional dispensation. The recent example is the exclusion of DPE caption as the curtain raiser for this event. Government should reverse this decision forthwith;

- 4.2.5 The media fraternity should contribute to peace by desisting from inflammatory and reckless statements including giving publicity to unfounded claims and fabrications against people from one side of political divide to the advantage of the other. Efforts should be made by all to curb the hatred and political polarisation of society that is being sponsored, consciously or inadvertently, by the media;
- 4.2.6 The Parliament of Lesotho should carry out its full mandate of providing oversight to the Executive and be the bridge between citizens and government, including engaging in direct discussion and dialogue with citizens on the current political conflict;
- 4.2.7 Political parties should democratise their structures and procedures so that parties could be governed by the people towards peace instead of them being used as vehicles through which leaders advance their own interests, and thus disturb peace of the same membership at the national level.

5.0 ROLE OF DEVELOPMENT PARTNERS AND INTERNATIONAL COMMUNITY

The development partners and the international community have up to this point played a very important role in condemning in no uncertain terms the violation of human rights, deteriorating political and security situation in the Kingdom and calling upon the government to restore normalcy and uphold rule of law and protection of human rights. In this regard an appeal is made to the development partners and international community to;

- 5.1 Support people's efforts to persuade the Lesotho Government to uphold democracy and remain truthful to the Coalition Government Agreement programme it has committed to;

- 5.2 Use its influence to persuade the Lesotho Government to return the situation to normalcy and take decisive measures to restore national peace and political stability (A2, Coalition Agreement for Stability and Reform, 2015. Pg. 1);
- 5.3 Support people's initiatives to realise democracy, respect of human rights, transparency, good governance and accountability (A3, A4, A9, Coalition Agreement for Stability and Reform, 2015. Pg. 1);
- 5.4 Be considerate of people's stance against violation of human rights and deterioration of democracy before taking measure that may adversely affect ordinary citizens.