

Lesotho General Election

25 May 2002

The Report of the
Commonwealth Observer Group

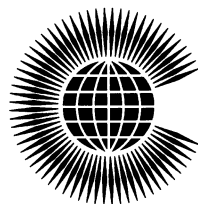


COMMONWEALTH SECRETARIAT

Lesotho General Election

25 May 2002

The Report of the
Commonwealth Observer Group



COMMONWEALTH SECRETARIAT

Commonwealth Secretariat
Marlborough House
Pall Mall
London SW1Y 5HX
United Kingdom
www.thecommonwealth.org/publications

© Commonwealth Secretariat, 2006

Other publications in the Commonwealth Observer Report series:

The General Elections in Malaysia, 1990
Parliamentary Elections in Bangladesh, 1991
Presidential and National Assembly Elections in Zambia, 1991
Elections to the Constitutional Commission in Seychelles, 1992
The General and Regional Elections in Guyana, 1992
The Presidential Election in Ghana, 1992
Referendum on the Draft Constitution in Seychelles, 1992
The Presidential, Parliamentary and Civic Elections in Kenya, 1992
Violence in South Africa, Report of the Commonwealth Observer Mission to South Africa, Phase I, October 1992–January 1993
Violence in South Africa, Report of the Commonwealth Observer Mission to South Africa, Phase II, February–May 1993
South Africa in Transition, Report of the Commonwealth Observer Mission to South Africa, Phase III, August–December 1993
The General Election in Lesotho, March 1993
The Presidential and National Assembly Elections in Seychelles, July 1993
The National Assembly Election in Pakistan, October 1993
The End of Apartheid: The Report of the Commonwealth Observer Group to the South Africa Elections, April 1994
ISBN 0 85092 410 3
The Parliamentary and Presidential Elections in Malawi, May 1994 ISBN 0 85092 409 X
The Presidential and National Assembly Elections in Namibia, December 1994 ISBN 0 85092 417 0
The General Election in St Kitts and Nevis, July 1995 ISBN 0 85092 466 9
The Union Presidential and Parliamentary Elections in Tanzania, October 1995 ISBN 0 85092 467 7
The Presidential and Parliamentary Elections in Sierra Leone, February 1996 ISBN 0 85092 462 6
The Parliamentary Elections in Bangladesh, June 1996 ISBN 0 85092 492 8
The Presidential and Parliamentary Elections in Ghana, December 1996 ISBN 0 85092 497 9
The General Election in Pakistan, February 1997 ISBN 0 85092 500 2
The Parliamentary Elections in Cameroon, May 1997 ISBN 0 85092 513 4
The General Election in Papua New Guinea, June 1997 ISBN 0 85092 514 2
The General and Regional Elections in Guyana, December 1997 ISBN 0 85092 537 1
The Presidential and National Assembly Elections in Seychelles, March 1998 ISBN 0 85092 554 1
The Lesotho National Assembly Elections, May 1998 ISBN 0 85092 560 6
The National Assembly and Presidential Elections in Nigeria, February 1999 ISBN 0 85092 612 2
The General Election in Antigua and Barbuda, March 1999 ISBN 0 85092 613 0
The National and Provincial Elections in South Africa, June 1999 ISBN 0 85092 626 2
The Parliamentary and Presidential Elections in Mozambique, December 1999 ISBN 0 85092 638 6
The Parliamentary Elections in Zimbabwe, June 2000 ISBN 0 85092 652 1
The Elections in Zanzibar, United Republic of Tanzania, October 2000 ISBN 0 85092 679 3
The Trinidad and Tobago General Election, December 2000 ISBN 0 85092 680 7
Guyana General and Regional Elections, March 2001 ISBN 0 85092 684 X
Fiji Islands General Election, August–September 2001 ISBN 0 85092 715 3
The Gambia Presidential Election, October 2001 ISBN 0 85092 716 1
Solomon Islands National Parliamentary Elections, December 2001 ISBN 0 85092 717 X
Zimbabwe Presidential Election, March 2002 ISBN 0 85092 718 8
Sierra Leone Presidential and Parliamentary Elections, May 2002 ISBN 0 85092 719 6

Pictures by Sir James Mitchell, Michael Terry, Di Stafford and Nishana Jayawickrama

Designed by Khoi Kieu
Printed in the United Kingdom by Abacus Direct

ISBN-10: 0-85092-720-X
ISBN-13: 978-0-85092-720-7

Contents

	<i>Page</i>
Map of Lesotho	v
Letter of Transmittal	vi
Introduction	1
The Observer Group and its Terms of Reference	1
Method of Work	2
Chapter 1: Political Background	4
Early History	4
Post-Independence Political History	4
1993 Elections	6
The 1994 Crisis	6
Recent Political History	6
Chapter 2: The Electoral Framework and Preparations for the Election	9
The Constitution	9
The Electoral Laws	9
The New Electoral System/Proportional Representation	9
The Independent Electoral Commission	10
Registration of Electors	11
Political Parties	13
Party Funding	14
Voter Education	14
Training	15
Funding of Party Agents	16
Nominations	16
Supply of Materials	17
Election Observers	17
Chapter 3: The Campaign, the News Media and Electoral Environment	18
The Campaign	18
The Media	19
The Electoral Environment	20
Chapter 4: The Poll and the Count	22
Logistical Arrangements	22
Advance Voting	22
Election Day	23
Close of Poll and Count	26
Communication and Announcement of Results	27
Chapter 5: Conclusions and Recommendations	29
Acknowledgements	31

Annexes

Annex I	Composition of the Commonwealth Observer Group	32
Annex II	Arrival Statement, 18 May 2002	34
Annex III	Schedule of Engagements	36
Annex IV	Deployment of Observers	37
Annex V	Observation Notes and Checklist for Polling Station Visits	38
Annex VI	Interim Statement, 26 May 2002	41
Annex VII	Departure Statement, 30 May 2002	43
Annex VIII	IEC Voter Education Poster	44

Letter of Transmittal



Commonwealth Observer Group Lesotho General Election, 25 May 2002

Tel: (266) 313 111
Fax: (266) 310 104

Lesotho Sun Hotel
Hilton Road
Maseru
Lesotho

29 May 2002

Dear Secretary-General

We are pleased to submit our report herewith on the Lesotho General Election held on 25 May 2002.

We noted the general feeling in Lesotho that the people have had enough of the turbulence that followed previous elections and were determined to move forward.

In our Interim Statement we described the conditions that prevailed before and during the election. We came to the conclusion that this election was conducted in a manner that provided the people of Lesotho with the opportunity to vote freely for the candidates and parties of their choice. We did not consider that the administrative and logistical problems experienced detracted from the overall organisation of the election so as to affect the true expression of the will of the people.

We appreciate the opportunity given to us to observe this election and hope that our conclusions and recommendations will help provide a way forward for the people of Lesotho.

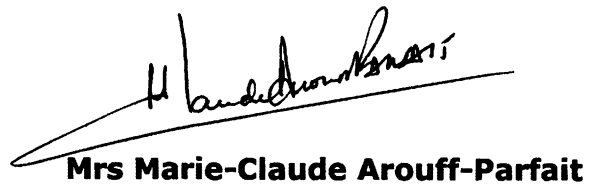


Sir James Mitchell KCMG
Chairperson

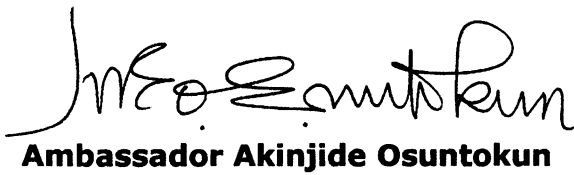
HE Rt Hon Don McKinnon
Commonwealth Secretary-General
Marlborough House
Pall Mall
London SW1 5HX
United Kingdom



Mr Joram K Rukambe



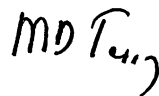
Mrs Marie-Claude Arouff-Parfait



Ambassador Akinjide Osuntokun



Dr David MacGibbon



Mr Michael Terry OBE



MEMBERS OF THE COMMONWEALTH OBSERVER GROUP . . . (from left to right) Dr David MacGibbon, Sir James Mitchell (Chairperson), Marie-Claude Arouff-Parfait, Akinjide Osuntokun, Joram K Rukambe, Michael Terry

Introduction

The Lesotho General Election of 25 May 2002 was the third national level election held in the country since the reintroduction of multiparty politics in 1993. Commonwealth Observers were present for the 1993 and 1998 elections.

The invitation to the Commonwealth to send observers for the 2002 election was issued by the Minister of Foreign Affairs of Lesotho on 6 February 2002. This election took place as a result of agreements reached in the wake of serious political turbulence experienced by Lesotho in the aftermath of the 1998 election. Long-term Commonwealth involvement in encouraging and assisting the democratic process in Lesotho and quiet diplomacy, has centred on the promotion of dialogue with the aim of reducing tension in relation to various political, electoral and governance issues affecting Lesotho. It was against this background that the Commonwealth Secretary-General welcomed the invitation and responded positively to the request for the presence of Commonwealth Observers at the 2002 General Election.

An Assessment Mission of two Commonwealth Secretariat officials visited Lesotho from 2 to 4 May 2002. They met representatives of major political parties, and other organisations and groups with an interest in the elections. The Assessment Mission established that there was broad support in Lesotho for the presence of a Commonwealth Observer Group. The Assessment Mission also made initial practical arrangements to facilitate the work of Commonwealth Observers.

On 9 May 2002 the Secretary-General announced the constitution of our Group and that of an Advance Group of one Commonwealth Observer and one Commonwealth Secretariat staff member who had commenced work the previous day. Our full Commonwealth Observer Group of six observers and five Secretariat support staff began its work on 17 May 2002 and were present for the final days of the campaign and the election held on 25 May 2002.

The Observer Group and its Terms of Reference

This was the 39th Observer Group to be constituted by the Commonwealth Secretary-General since October 1989, when Commonwealth Heads of Government agreed that election observation could help strengthen democratic institutions and processes in member countries. Heads of Government reinforced the Commonwealth's democratic values two years later, and set the context for the activities of Commonwealth observers, when they adopted the 1991 Harare Commonwealth Declaration to promote "democracy, human rights, the rule of law and just and honest government". This commitment has been reinforced at subsequent Commonwealth Heads of Government Meetings, most recently that held in Coolumberr, Australia, in March 2002.

The terms of reference for our Group were as follows:

The Group is established by the Commonwealth Secretary-General at the request of the Government of Lesotho and the Independent Electoral Commission. It is to observe relevant aspects of the organisation and conduct of the General Election in accordance with the laws of Lesotho. It is to consider

the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgement whether the conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people of Lesotho.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Lesotho, the Independent Electoral Commission, the parties taking part in the election and thereafter to all Commonwealth Governments.

Within the above terms of reference, the Group was required to form an independent judgement which in no way represented either the views of any government, the Office of the Secretary-General or any organisation to which its members belong.

The Rt Hon Sir James Mitchell, former Prime Minister of St Vincent and the Grenadines, chaired the Group. Other members of the Group were Mrs Marie-Claude Arouff-Parfait, Dr David MacGibbon, Professor Akinjide Osuntokun, Mr Joram Rukambe and Mr Michael Terry. Ms Dianne Stafford, Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat, led the Secretariat staff support team. (The composition of the Commonwealth Observer Group is at *Annex I*.)

Method of Work

(a) The Advance Group of Observers

One Commonwealth Observer, Mr Joram Rukambe, Director of Elections of Namibia, supported by a Commonwealth Secretariat staff member began work on 8 May 2002. The Advance Group travelled widely throughout Lesotho and attended some political rallies. Wherever they went, the Advance Group met the electors, saw preparations for the elections and observed campaign activities. Mr Rukambe had previously been a member of the Commonwealth Team present at voter registration in August-September 2001, and was also present for the public inspection of the voters' register in December 2001.

(b) Arrival of the Full Commonwealth Observer Group

The Group assembled in Maseru on Friday, 17 May 2002, and was briefed by the Chairperson, who had arrived two days earlier, and by the Advance Group. Thereafter, the Commonwealth Observer Group began a series of briefings, including a briefing by the Chairman of the Independent Electoral Commission, Mr Leshele Thoahlane.

The following day we issued an Arrival Statement (see *Annex II*) at a press conference and continued our briefings. We met with representatives of the main political parties contesting the elections, the Interim Political Authority, the Lesotho Council of NGOs, Commonwealth High Commissioners, the



FACE THE PRESS . . . the Commonwealth Observer Group met the press on 18 May. In his Arrival Statement Chairperson Sir James Mitchell said: “We will report honestly and impartially on what we observe; we are concerned with the integrity and the credibility of the electoral process, *not* about who wins or loses”

UNDP Observer Co-ordinator, other Observer Groups and the media. (A schedule of engagements is at *Annex III*.)

On Sunday, 19 May 2002, our Group was present at five final political party rallies held in Maseru.

On Wednesday, 22 May 2002, Sir James Mitchell, our Chairperson, paid a courtesy call on His Majesty King Letsie III.

On Tuesday, 21 May 2002, we divided into five groups of two and deployed throughout the country (see *Annex IV*). Prior to polling day, each team travelled widely in both urban and rural areas, familiarising themselves with their areas of deployment, observing the closing stages of the campaign and meeting members of the public, election officials, candidates, community leaders and others in an effort to assess first-hand the state of electoral preparedness and the political climate in the run-up to the elections. We submitted daily reports of our observations to our Chairperson.

We were present at 28 Constituency Centres for the advance voting which took place on Thursday, 23 May 2002 for those voters who would be on official duty on 25 May 2002. On polling day, 25 May 2002, we observed the opening of the polling stations (scheduled for 7 a.m.), and voting at 124 polling stations, randomly selected, using observation notes and checklists prepared by the Commonwealth Secretariat (see *Annex V*). We inspected polling arrangements, and consulted with Returning and Presiding Officers, election officials, party agents, voters and other observers, both domestic and international. After the closure of the polls, we were present for the count at eight polling stations.

Our team reassembled in Maseru on Sunday, 26 May 2002 and met for debriefing. On the basis of observations reported, our Chairperson issued an Interim Statement that evening, expressing our assessment of election day and initial views on the electoral process and environment (see *Annex VI*). This statement was issued after the close of polls and before the outcome was known.

A Departure Statement was issued on 30 May 2002 (see *Annex VII*). The group left Maseru later that day after finalising its report to the Secretary-General.

Political Background

Early History

Lesotho, a mountainous country surrounded by South Africa, has its origins as a nation in the 19th century when King Moshoeshe I rallied the Basotho groups scattered in southern Africa. At the request of the King, after the loss of a substantial part of his kingdom, the British declared a protectorate over the mountain Kingdom in 1868. Basutoland, as it was called at the time, was initially administered by Cape Colony, but in 1884, the British took over direct responsibility for the protectorate. It was thereafter administered as a High Commission Territory.

Modern party politics began in 1952 with the founding of the Basutoland Congress Party (BCP) under Dr Ntsu Mokhehle. The BCP advocated full independence from the United Kingdom. A legislative council was introduced in 1956, and a Constitution granting limited powers of self-government was adopted in 1959. Full independence was granted on 4 October 1966.

Post-Independence Political History

The first general election held on the basis of universal adult suffrage took place on 29 April 1965 and was won by the Basutoland National Party (BNP, renamed the Basuto National Party after independence), whose leader, Chief Leabua Jonathan, became Prime Minister. The King, Moshoeshe II, became a constitutional monarch, and as such, Head of State.

Democratic government, however, lasted less than four years. When it appeared that the main opposition party, the BCP under Dr Mokhehle, had won a majority of seats in the National Assembly in elections held in January 1970, Chief Jonathan declared a state of emergency, suspended the Constitution, and arrested Dr Mokhehle and other leaders of the BCP. The elections were annulled and several people were reportedly killed in disturbances that followed. The King went into exile in the Netherlands. The King was allowed to return to the country in December 1970.

In 1974 Dr Mokhehle and other BCP members were accused of plotting a coup against Chief Jonathan. He fled the country along with most of the leadership of the BCP. Lesotho effectively became a one-party state.

In July 1985, the Government announced that elections would take place in September, but these were cancelled in August when the opposition parties refused to contest them. It was announced that BNP candidates had been returned unopposed in all constituencies. The cancellation of the elections raised considerable domestic political opposition. Meanwhile Chief Jonathan reversed his policy to one of support for the ANC and went further by refusing to sign a non-aggression pact with South Africa. The South African Government reacted by imposing a blockade on the border with Lesotho in January 1986, thus impeding access to vital supplies of food and fuel.

Against this background, Chief Jonathan was overthrown by troops of the Lesotho paramilitary police under General Justin Lekhanya on 15 January 1986. The National Assembly was dissolved, and all executive and legislative powers were vested in the King, acting on the advice of a Military Council. In May 1988, General Lekhanya allowed Dr Mokhehle and several other members of the BCP to return to the country.

In early 1990, conflict developed between General Lekhanya and King Moshoeshoe II. General Lekhanya suspended the King's executive and legislative powers and announced that a return to civilian government would take place in 1992. In March 1990, the Military Council assumed the legislative and executive powers that were previously vested in the King. The King went into exile in the UK.

A few months later, a National Constituent Assembly made up of 108 appointed members was set up to draft a new constitution. The Assembly included members of the Military Council, Council of Ministers, all Principal Chiefs and politicians, including Dr Mokhehle. Between October 1990 and April 1991, it held consultations using the 1966 independence Constitution as a starting point. In September 1991, the Assembly appointed a Constitutional Commission to assess public opinion on the document before it was adopted. The Commission received a substantial number of written submissions and held numerous well-attended public meetings throughout the country. The views expressed were taken into account in the final draft that was eventually published on 5 February 1993.

Meanwhile, in October 1990, General Lekhanya invited King Moshoeshoe II to return to Lesotho from exile. The King, however, made his return conditional upon the termination of military rule and the formation, by representatives of political parties, of an interim government, pending the adoption of a new constitution and the holding of internationally supervised elections. General Lekhanya responded by promulgating an order deposing the King with immediate effect. His son, who became Letsie III, was appointed King in his place by the Military Council. Although he acted as King during his father's exile, Letsie III refused to be crowned – on the grounds that his father was alive, able and willing to discharge his responsibilities as a monarch.

General Lekhanya was removed as Chairman of the Military Council on 30 April 1991 in a palace coup led by another member of the Council, Colonel (later General) Elias Ramaema. Although General Ramaema repealed the law banning political parties, tensions continued to rise in the country following an unsuccessful attempt to overthrow his regime and restore General Lekhanya. Tension rose further in April 1992 when Moshoeshoe II announced his intention to return to the country from exile in defiance of the wishes of the Military Council.

The Commonwealth Secretary-General used his good offices to promote dialogue in London between Moshoeshoe II and General Ramaema, which led to the return of Moshoeshoe II to Lesotho in July 1992, and paved the way for multiparty elections in March 1993.

.....
The Commonwealth Secretary-General used his good offices to promote dialogue in London between Moshoeshoe II and General Ramaema, which led to the return of Moshoeshoe II to Lesotho in July 1992, and paved the way for multiparty elections in March 1993
.....

1993 Elections

The elections to the National Assembly took place on 27 March 1993. The BCP under Dr Mokhehle swept to power, winning all 65 seats and gaining 54 per cent of the vote as against the BNP's 16 per cent. Ten other parties shared the remaining 30 per cent of the vote. Dr Mokhehle was sworn in as Prime Minister in April 1993.

A Commonwealth mission led by the Rt Hon Lord Carlisle of Bucklow observed the March 1993 elections and concluded that despite some administrative problems on the day, the outcome of the elections reflected "a free expression of the will of the people of Lesotho".

The BNP refused to accept the results of the elections and the country remained unstable. In November 1993 and again in January 1994, there were mutinies in the Royal Lesotho Defence Force, ostensibly over pay but also reflecting political differences between supporters of the new government and the BNP. In mid-April 1994, the Deputy Prime Minister, Mr Selometsi Baholo, was shot and killed by disaffected troops who also abducted and briefly detained four government ministers. Two emissaries of the Commonwealth Secretary-General helped to promote negotiations between the Mokhehle Government and the army, leading to the end of the mutiny as well as a strike by police and prison officers.

The 1994 Crisis

Lesotho went into renewed crisis in August 1994, when following the appointment by Dr Mokhehle of a commission of inquiry into the circumstances surrounding the dethronement of Moshoeshe II, King Letsie III announced the dissolution of the National Assembly, the dismissal of the Mokhehle Government, and the suspension of the Constitution. The army and the police appeared to support the King, but a general strike called by the BCP and the Lesotho Council of NGOs effectively paralysed economic activity in the country in late August.

The Commonwealth Secretary-General worked closely with the Presidents of Botswana, South Africa and Zimbabwe to promote dialogue between Letsie III and Prime Minister Mokhehle and to restore the elected government.

On 14 September 1994, King Letsie III signed an agreement, guaranteed by Botswana, South Africa and Zimbabwe. The Mokhehle Government was restored and King Letsie III stepped down in favour of his father, Moshoeshe II. The King died in a car accident in January 1996 and Letsie III returned to the throne.

Recent Political History

(a) The Formation of the Lesotho Congress for Democracy

In June 1997 Dr Mokhehle decided to resign from the BCP and form a new party – the Lesotho Congress for Democracy (LCD) – taking 40 of the BCP's 64 members of parliament with him. Thus, the LCD was able to secure a parliamentary majority and retain its hold on government.

Several groups and individuals in the country, including the BCP, challenged the Prime Minister's actions as unconstitutional. This legal action was unsuccessful.

(b) The 1998 National Assembly Elections

The National Assembly elections took place on 23 May 1998. Twelve political parties and 30 independent candidates contested the 80 seats in the National Assembly. The election was dominated by the three main parties: the LCD, led by Professor Pakalitha Mosisili, following the retirement earlier in the year of Dr Mokhehle, aged 78; the BCP, led by Mr Molapo Qhobela, a former Minister of Justice; and the BNP, led by Mr Evaristus Sekhonyana, a former Minister of Finance.

The LCD under Professor Mosisili swept to power, winning 79 out of 80 contested seats in the Lower House, and obtaining 61 per cent of total votes cast. A Commonwealth Observer Group, led by the late Rt Hon Sir Lynden Pindling, former Prime Minister of The Bahamas, concluded that “this was a credible election. We came away from observing it in no doubt both that the conditions existed for a free expression of will by the electors and that the results of the elections reflected their wishes”.

The resounding LCD victory was, however, rejected by the BNP and other parties. It provoked legal challenges in about 20 constituencies, as well as public uprisings.

(c) Aftermath of the 1998 Elections

In response to allegations of electoral fraud, a Commission was established following the election under Justice Pius Langa, Deputy President of the South African Constitutional Court, with other members from Zimbabwe and Botswana. Its remit was to investigate the conduct of the elections. Even while the Commission was sitting, the political situation continued to deteriorate and there was an attempted mutiny by junior army officers who openly declared their support for the BNP. In the midst of escalating protests, on 17 September, the Langa Commission’s report was released. It noted administrative and practical problems with the election, but found no evidence of widespread fraud. The finding that there was no ground for a re-run of the election prompted an upsurge in protests and another coup attempt, which was put down by the military intervention of South Africa and Botswana to restore law and order, under the auspices of the Southern African Development Community (SADC) on 22 September. Seventy people were killed and hundreds of businesses and buildings, particularly in the centre of Maseru were looted and damaged or destroyed.

Once calm was restored, the Commonwealth, in co-operation with SADC, offered assistance to Lesotho in its efforts to revise the electoral process in ways that promoted harmony.

The first-past-the-post electoral system used in Lesotho had not allowed the percentage of popular votes cast to be reflected in the number of seats won by parties in Parliament: 39 per cent of the voters had cast ballots for opposition parties who were rewarded with just one seat in the National Assembly. There was a perception that for the future, Lesotho needed a system that would allow political parties with some considerable support to be represented in the National Assembly.

.....
The first-past-the-post electoral system used in Lesotho had not allowed the percentage of popular votes cast to be reflected in the number of seats won by parties in Parliament
.....

.....
The IPA was charged with the responsibility of recommending to Parliament measures to facilitate the holding of a new General Election as soon as possible
.....

(d) Formation of the Interim Political Authority

In 1999, working in co-operation with SADC and others, the Commonwealth helped the principal parties in Lesotho to conclude an agreement which created an Interim Political Authority (IPA) made up of two representatives of the 12 political parties who contested the last General Election. It was charged with the responsibility of recommending to Parliament measures to facilitate the holding of a new General Election as soon as possible. Its terms of reference required it to propose a new voter registration system and a new formula for representation in parliament. Its mandate expires after the announcement of the results of this election.

The Secretary-General visited Lesotho in July 2000 and appointed a senior Secretariat official as his Special Envoy, with the brief of promoting dialogue between the IPA, the Government and the Independent Electoral Commission to reach agreement on the two major issues – the voter registration system and the formula for representation in Parliament.

Obtaining approval of the two Houses and the IPA on a new electoral system and the formula for representation in Parliament took months of consultation and mediation by the Commonwealth Special Envoy and others. The two issues were finally resolved with the passage of the Electoral Registration Act of 2000 which conferred on the Independent Electoral Commission the right to determine the system of electoral registration. The Senate in March 2000 approved the fourth Amendment to the Constitution of Lesotho Bill 2000 by which a formula for representation in Parliament was adopted. The next National Assembly will accordingly be made up of 120 members: 80 of them will be elected under the first-past-the-post system, while the remaining 40 will be decided by proportional representation. The National Assembly Election (No. 1) (Amendment) Act 2001 was gazetted on 31 December 2001, and amends the electoral laws to take into account the new electoral system and matters such as the Code of Conduct for political parties and candidates.

The Secretary-General's Special Envoy remained active in promoting dialogue and defusing tension between the Government, political parties, the IPA and the IEC on various political, electoral and governance issues. The Commonwealth also continued its technical assistance programme to Lesotho through the provision of experts to the IEC, and also in other sectors.

(e) The Formation of the Lesotho People's Congress

The ruling LCD party was rocked by growing internal wrangling between Prime Minister Mosisili and his Deputy, Mr Kelebone Maope, who, in September 2001, led a breakaway faction and formed the Lesotho People's Congress (LPC). The newly formed LPC took with it 26 members of Parliament, although the LCD still retained a majority of seats in the National Assembly, with 46 seats.

Further conflict arose as a result of the decision of the LPC to adopt as their party symbol the face of the late Prime Minister Dr Ntsu Mokhehle, who was a founder member of the LCD. The LCD sought, unsuccessfully, to obtain an injunction through the courts to prevent the LPC from using Dr Mokhehle as a symbol.

CHAPTER 2

The Electoral Framework and Preparations for the Election

The Constitution

The Constitution of Lesotho came into force on 2 April 1993 and was amended in 1996 and 1997. The 1997 amendments established an Independent Electoral Commission and empowered Parliament to make laws relating to the registration of electors, the conduct of elections, the powers, duties and functions of the Electoral Commission and the registration and regulation of political parties. The Second Amendment to the Constitution Act, 1997 also increased the size of the National Assembly to 80 (elected on a first-past-the-post system) and made provision for the functions of the former Constituency Delimitation Commission to be performed by the Electoral Commission.

Following the 1998 National Assembly elections the Constitution was further amended to provide that Parliament should consist of the 80 members elected to represent constituencies under section 57 and an additional 40 members elected to represent parties on the basis of proportional representation. The new provision was enacted to give effect to the recommendations of the IPA made pursuant to its mandate.

The Electoral Laws

The National Assembly Election Act 1992 remains the principal legislation dealing with the conduct of elections in Lesotho. It was substantially amended by the National Assembly Election (No. 1) (Amendment) Act 2001. This piece of legislation is significant in that it amends the Electoral Code of Conduct and establishes a Tribunal to hear complaints of breaches of the Code, requires parties and candidates to take special measures to facilitate participation in the electoral process by women, the disabled and youth and implements the constitutional amendments which introduced proportional representation.

The IPA expressed concern that its recommendations on a new Electoral Code of Conduct were not entirely accepted by Parliament. The recommended Code had dealt specifically with the use by a ruling party of the resources of the state during campaigning and for election purposes. The Group was advised that this provision was not enacted by Parliament. Most of the political parties that briefed the Group shared the concern of the IPA. The Group strongly supports the view of the IPA that government resources not be used unfairly in an electoral campaign by the incumbent party or parties.

.....
*The Observer Group
“strongly supports the view
of the IPA that government
resources not be used
unfairly in an electoral
campaign by the incumbent
party or parties”*
.....

The New Electoral System/Proportional Representation

The adoption of a mixed system of first-past-the-post and proportional representation seats for the election of the National Assembly followed the recommendations of the IPA.

.....
“We believe, on the basis of the comments made to us, that the MMP system will assist the establishment of meaningful democracy in Lesotho and has the capacity to inhibit the inherent tendency of political parties in Lesotho to split and thus to foster instability.” . . . The political parties to whom the Observer Group spoke all expressed satisfaction with this system of representation and with the work of the IPA
.....

These recommendations and the development of the new mixed member proportional system (MMP) arose out of the failure of the previous first-past-the-post electoral system which did not reflect the actual electoral support for the various parties, particularly the smaller parties, and hence failed to enhance democratic governance in Lesotho. We believe, on the basis of the comments made to us, that the MMP system will assist the establishment of meaningful democracy in Lesotho and has the capacity to inhibit the inherent tendency of political parties in Lesotho to split and thus to foster instability.

The political parties to whom the Group spoke all expressed satisfaction with this system of representation and with the work of the IPA.

The allocation of seats in accordance with the principle of proportional representation is provided for in section 92A and Schedule 5 to the National Assembly Election Act. Simply described, the total number of votes cast for political parties are divided by 120 (being the number of seats in the National Assembly) or by such lesser number as represents the number of constituencies in which elections were conducted plus 40 (being the number of proportional representation seats available for distribution among the parties). In this election the distribution formula had to be slightly modified as prescribed by Schedule 5 of the Act. This was because two candidates died between the close of nominations and polling day and because of the high number of constituency seats won by one of the parties.

The Independent Electoral Commission (IEC)

A new Independent Electoral Commission was sworn into office in April 2001 to replace the 1998 IEC following the rejection of the results of the 1998 General Election by a number of political parties and the ensuing political uprisings. The IEC, which derives its powers and functions from the Constitution and the National Assembly Election Act 1992, operates independently of Government and is only answerable to the Parliament. It is made up of a Chairperson and two other members. The King, on the advice of the Council of State, appoints all three for a renewable term of six years. The Constitution and the National Assembly Election Act require that the Commission and its members perform their functions impartially and independently, in good faith, and without fear or favour, or prejudice. The Constitution guarantees security of tenure for Commissioners who may only be removed from office by the King on the recommendation of a judicial tribunal for inability to exercise their office or for misconduct.

The IEC is responsible for the organisation, conduct and supervision of elections including the determination of a voter registration system, preparation of the voters' register, registration of political parties, demarcation of electoral boundaries, monitoring of legislation relating to elections and referenda and voter education.

The current Chairperson is Mr Leshele Thoahlane, a former diplomat and senior civil servant; while the two Commissioners are Mr Mokhele Likate, a former senior civil servant, and Mr Mafole Sematlane, a management consultant. The current team at the helm of the IEC would appear to enjoy widespread acceptance and is regarded in many circles as being 'most competent and professional for the task at hand'.

Mr Khothatso Ralitsie, who has served as Director of Elections since 1997, heads the Commission's Secretariat. As Director, he has the statutory responsibility for the preparation of the register of electors. He is assisted by a deputy director of elections (responsible for electoral operations) and other heads of departments responsible for among others things, information technology, voter education, administration and finance.

All staff members of the IEC except the Director are employees of the Commission. The Director, who is the Commission's chief executive officer, is a civil servant seconded from Government to the IEC. This arrangement has drawn criticism from some political party leaders, who argued that the relationship between the Director of Elections and Government compromised the independence of the Commission. We wish to emphasise, however, that we were provided with no evidence in support of such criticism. We were impressed with the transparency brought to its operations by the IEC and with the substantial efforts made by this body to involve all stakeholders in the development and administration of the electoral process.

The Group gained the overall impression during its briefings with parties and others that the IEC had endeared itself to stakeholders because of its open management style and approach. It was generally perceived to be transparent and efficient with parties, donors and other stakeholders being consulted on a regular basis through the establishment of committees dealing with logistics, the law, voter education, co-ordination, data collection and management, security and the media.

Registration of Electors

The qualifications for an elector to be registered for a particular constituency are that the person must be a citizen of Lesotho, have attained the age of 18 years, and qualify as a resident. A person may register in a constituency where he/she originates from, ordinarily resides, or is in employment. Those who are not entitled to register are persons who are under allegiance to any foreign power or state, have been declared to be of unsound mind under the laws of Lesotho, and prisoners under sentence of death imposed by a court in Lesotho, or convicted of an offence under certain sections of the Electoral Act. Prisoners convicted of other offences are entitled to vote.

The IEC established a new general voter registration system during 2001. This followed protracted negotiations with the IPA on the best mode for voter registration to rectify the shortcomings in the 1998 elections. Prior to this, the IEC and the IPA had been at loggerheads over whether or not to use the automatic fingerprint identification system during the 2001 voter registration. This impasse was resolved when Parliament passed a law that vested all powers to determine the framework for voter registration in the IEC. The IPA strongly felt that its powers regarding voter registration were somehow curtailed by this legislation.

The IEC and IPA however agreed, as a compromise, on the use of indelible ink during registration and the appointment of party agents to monitor the registration process. It was further agreed that voter fingerprints would still be taken during registration and would be digitised to facilitate comparison in the event of objection to or challenge by a voter. The voter list would contain the

.....
The Observer Group gained the overall impression during its briefings with parties and others that the IEC had endeared itself to stakeholders because of its open management style and approach
.....

name and a photograph of each voter. Although not supporting the idea the IEC also agreed, upon the insistence of the IPA, to issue laminated voter registration cards containing a photograph of voters. This meant that voters would only need to produce their voter cards in order to be allowed to vote. The Commission's original idea was to produce a voter register that contained voter photographs and for voters to vote without producing registration cards.

Registration of voters was conducted from 13 August to 9 September 2001. A voter education effort was undertaken to encourage voter registration.

The voter cards were issued after the two rounds of voters' register display in December 2001 and January 2002, respectively. The voter cards were distributed to the various registration centres in April 2002 and voters who had not collected their voter cards before election day were allowed to do so on polling day. Voters who were away from places of registration were also allowed by the IEC to have relatives collect their cards.

Altogether, 832,000 voters were registered during the national registration campaign. This represents about 83 per cent of those eligible according to IEC estimates.

As a consequence of the aftermath of the 1998 elections, the IEC went to great pains to ensure that the new registration system guaranteed minimal duplicate registration and improved security.

The process adopted by the IEC and which was observed by a member of the Group over a period of months, involves a number of security features and safeguards, all of which are designed to ensure that the final voters' list provided a legitimate and broadly acceptable basis for the conduct of this General Election.

Incorporated in the steps to avoid malpractice in the registration process, was the staining of an applicant's index finger with indelible ink, the use of monitors from political parties and official witnesses, such as a chief or his appointee, at all registration centres.

The IEC invested heavily in the development of a computerised database for the collection and retrieval of information on all registrants. The data collected by the IEC during registration was captured into the computer database and included the electors' personal details (name, address, sex, date of birth, identity number), and photographs, fingerprints and signatures. These biographical details were scanned and digitally recorded (stored) in order to facilitate comparison with other applicants in the event of an objection being made regarding duplication or other fraudulent activity.

The handling of the forms at the IEC Head Office in Maseru was done in a secure environment and only a limited number of authorised personnel were permitted access to the processing area.

The optical mark recognition scanning process used by the IEC allowed the speedy recording of data contained on the forms. However, the success of the system depended heavily on the accuracy and visibility of the marks shaded in on the forms by the registration officials. While the majority of forms were scanned without difficulty, some were rejected as a consequence of officials using the wrong village codes or because of missing marks in some fields.

Although most of the political parties we met expressed satisfaction with the voter registration process, they were concerned about the poor quality of the pictures on both the voter cards and the final voter registers.

As a result of the Commonwealth's observation of the voter registration process and of this Group's observations and its examination of IEC preparations for the development of the voter register, the Group has come to the conclusion that the IEC system for voter registration was credible and effective and the computerised database and the digitisation of the photographs, fingerprints and signatures of registrants provided for the effective comparison of data in the event of objections or challenges based on alleged duplication.

The Group was further of the opinion that the voters' lists which contained the names and photographs of electors, along with the issuing of a photographic identification card prior to polling went a long way to minimise multiple registration or any other fraudulent activity during the registration period. The security applied to the processing and handling of the registration forms by the IEC at its headquarters in Maseru was of a high order and reflected the seriousness of the IEC in ensuring the integrity of the process. The training of the registration officials appeared to have been effective, given the performance of the officials observed at registration centres. The locations of the registration centres were such as to provide equitable access for most voters.

Information about the location of registration centres was widely publicised and the evidence suggested that the population at large was aware of the registration process being under way. The supply of essential materials, such as cameras and the batteries for the camera flashes and UV-lamps, to the registration centres left much to be desired and should in future enjoy high level attention.

Some parties felt that registration needed to take place in South Africa because of the large number of Lesotho citizens working there. The IEC argued that this would compromise the integrity of registration due to the absence of 'checks and balances' such as party agents. However, to address this issue, the IEC visited various mining sites in that country to encourage Lesotho citizens to return home to register.

The Group further felt that given the fact the IEC inevitably had to reopen registration in February 2002 for those Basotho who turned 18 years between then and election day, it would have been judicious to have extended this facility to all voters who had not registered last year. We were concerned that registration had closed approximately eight months before elections and suggest that consideration be given to shortening this timeframe for future elections.

.....
The Observer Group "has come to the conclusion that the IEC system for voter registration was credible and effective" . . . but there was concern that "registration had closed approximately eight months before elections and the Group suggests that consideration be given to shortening this timeframe for future elections"
.....

Political Parties

Parties are registered in accordance with regulations contained in Chapter 4 (Registration of Political Parties) of the National Assembly Election Act 1992. Parties and candidates are obliged to conduct themselves in accordance with the provisions of a Code of Conduct contained in Schedule 4 to the Act. There are 19 registered political parties. They are the ruling Lesotho Congress for Democracy (LCD), Basotho National Party (BNP), Lesotho People's Congress (LPC), Maramatlou Freedom Party (MFP), Sefate Democratic Union (SDU), Basutoland Congress Party (BCP), National Progressive Party (NPP), Popular Front for Democracy (PFD), Kopanang Basotho Party (KBP), Lesotho Labour Party/United Democratic Party Alliance (LLP/UDP Alliance), Christian

Democratic Party (CDP), Lesotho Educational Party (LEP), National Independent Party (NIP), United Party (UP), New Lesotho Freedom Party (NLFP), Social Democratic Party (SDP), National Democratic Party (NDP), Lesotho Workers Party (LWP) and the Basutoland African Congress (BAC).

Party Funding

The Government of Lesotho made available to the IEC a sum of M380,000 for party funding. Following consultation with the political parties, the IEC made available an amount of M10,000 to each registered party and a further sum to each party in an amount proportional to the number of validly nominated candidates from the party. Each of the parties to whom we spoke had received the initial payments made under this system.

Parties that did not contest the proportional representation seats were not eligible to receive additional funding under the IEC guidelines. This led to complaints by the SDP but the Group noted that this party had disengaged from IEC activities and had therefore not been a party to the consultations that resulted in general acceptance of the formula adopted for the disbursement of the available funds.

Voter Education

.....
Voter education was given particular prominence by the IEC because of the introduction of the new MMP system and was conducted in conjunction with the Lesotho Council of NGOs from February 2002
.....

Voter education was given particular prominence by the IEC because of the introduction of the new MMP system and was conducted in conjunction with the Lesotho Council of NGOs from February 2002. Two hundred voter educators were based around the country, and ran workshops and roadshows to inform the public about the new voting system. The roadshows, which travelled around the country during May, featured musical performances and poems interspersed with messages explaining MMP, how and where to vote and who was entitled to vote. Other voter education activities included dissemination of posters and the production of radio and television messages, including a video on the importance of this election – which included messages from political parties, the media and other key players.

It is of note that the IEC made a particular effort to reach out to ‘special needs’ voters. Two person teams were appointed in each district to identify people living with disabilities and conduct tailor-made voter education. However, this project arguably began too late to have a significant effect since many special needs people had not actually registered as voters.

While in rural areas traditional leaders worked together with IEC officials to promote the new electoral system, it appeared that in towns it was harder to reach the populace. We were told that in urban areas the attendance at voter education workshops had been restricted to people who belonged to local NGOs and the churches. Voter educators met by the Advance Team also mentioned that apathy was a problem amongst the electorate, and that they often had to go around individual houses knocking on doors and exhorting people to attend the workshops.

Several parties and groups met by the Commonwealth Observer Group complained that voter education had been inadequate, and that they had been obliged to explain the new system to their supporters at rallies. Some parties

felt that the IEC had placed too much emphasis on the calculations that went into the proportional representation system when they felt that what was needed was simply to explain how to vote. Other people felt that voters might not understand the benefit of having two votes. The impact of the voter education programme remains to be assessed at the time of writing as one key indicator – the percentage of spoilt ballots – had not been ascertained.

Training

Polling station officials were recruited in February on three-month contracts via their constituency office. Applicants were vetted by candidates as well as by the constituency election officials. We were informed that the conventional option of utilising civil servants and teachers for these posts was not exercised because political parties had cast doubt on their impartiality. Official witnesses were mainly local chiefs or nominees of chiefs, and in the absence of a person possessing the relevant registration card the official witness verification of identity would be deemed acceptable.

The IEC conducted training of polling officials in two stages – beginning with three-day workshops for presiding officers that took place in early May. The Advance Team was able to observe the culmination of training for presiding officers in several districts around the country and noted that the question and answer assessment at the end of the training covered, *inter alia*, the voting process, how to determine a spoilt ballot, and how to explain the voting process to voters. However, the training did not appear to cover any explanation of the forms that the presiding officer would need to complete as part of the reconciliation of ballots. Training for polling station officials followed the training of presiding officers. We noted that training of polling station officials was conducted in Sesotho but that the procedures manuals were written solely in English.

The IEC was also responsible for the training of party agents and official witnesses, who received their training from 20 to 22 May. The role of party agents is to represent the interests of candidates and parties, to see that electoral laws are observed, and to verify and validate registration, the poll, the



TRAINING . . . election officials being trained by the Independent Electoral Commission (IEC) before the election. The IEC was also responsible for the training of party agents and official witnesses (mainly local chiefs or their nominees)

count and the integrity of the documentation at the polling station. The IEC further provided funds to the police for the briefing of police officials on their electoral duties.

Funding of Party Agents

It is of note that party agents at both voter registration and on polling day were paid directly by the IEC. In many countries political parties are responsible for funding their party agents, but the IEC told us that in the interest of encouraging political party involvement and consultation at all stages of the process, and since it had paid for party agents to observe voter registration, it had decided to fund the party agents directly. By doing so political parties would be able to have agents present at virtually all polling stations. The lack of effective internal party accounting procedures meant that it was not viable to channel the money through the parties themselves.

While funding so many party agents throughout the country was a drain on the resources of the IEC, the Group strongly supported the use of agents as an essential part of the promotion of transparency in the electoral process.

Although the process seemed to have worked well, the Group felt that there was a need for the IEC to revisit the arrangement whereby party agents, who must monitor the IEC work, were paid by the IEC. In our opinion, this might in the long run compromise the independence of party agents as watchdogs over the electoral process.

Nominations

Sections 49 and 49B of the National Election Assembly Act 1992 set out the requirements as to nominations of candidates for constituency and proportional representation seats. An application was made by the LCD to the High Court for an order that the period allowed for nominations be extended. This application was granted and nominations duly closed on 25 April 2002. Some 770 candidates from 19 parties were nominated for the 40 party seats; approximately 120 of these were women. There were 1,085 constituency nominees. The LCD and BNP fielded candidates in all constituencies contested. The LPC and BAC contested most constituencies and the smaller parties fielded between 71 and 21 candidates each. There were several court cases relating to internal party disputes over selection of candidates and because of the potential for this delaying the printing of ballot papers the IEC decided to print alternative sets of ballot papers.

Relations between the Government and the IPA have not always been cordial due to different interpretations of the role of the IPA in the 1999 Agreement. Relations were further strained by the Government's insistence that any member of the IPA who wished to seek nomination as a candidate in the forthcoming election should first resign from the IPA, as they were holding public office and could not therefore be candidates in an election at the same time. The issue was resolved, partly through Commonwealth mediation, by the parties nominating new members of the IPA who were not going to stand for elections. Not all IPA members who had to resign were replaced. Three of the

original 24 members remained and seven were replaced. The IPA on the eve of the election had only 10 members.

Supply of Materials

Section 56 of the National Assembly Election Act 1992 provides that the Director of Elections shall ensure that every returning officer is provided with sufficient quantities of specified equipment to enable polling at each polling station within the constituency “to be conducted in an effective and efficient manner”. The Advance Observer was able to observe the arrangements being made for transportation of materials to polling stations. Non-sensitive materials such as furniture, polling booths and lamps had been sent from Maseru to district centres about a week in advance of the election, while security-sensitive material such as ballot papers, official seals and indelible ink was sent to district warehouses a couple of days before the election and guarded by IEC staff and police until they were sent to polling stations. Party agents were entitled to watch over these sensitive items up to and during their transfer to polling stations, and we observed several party agents outside district warehouses watching over the materials night and day. Arrangements were made to transport material to remote locations by military helicopter and then, if necessary, by donkey.

Election Observers

Chapter 8A of the National Assembly Election Act deals with election observation. It establishes the role of observers and requires the IEC to co-operate with observers. The IEC may invite observers from named international organisations, including the Commonwealth Secretariat, NGOs constituted and operating in Lesotho, foreign governments and it may invite individual observers.

There were 252 foreign observers present comprising nationals from 44 countries.

The United Nations Electoral Assistance Secretariat established an office to co-ordinate international observers, provide an information kit including applicable laws, maps, polling sites, procedures, local information, etc., and assisted in matters such as accreditation of international observers, briefings, and, where requested, facilitated deployment of international observers to polling stations. At the conclusion of voting this office facilitated a meeting of heads of observer groups where observations were shared.

In line with established practice, while a Commonwealth Observer Group liaises and, where practicable and appropriate, co-ordinates with other observers, it maintains its independence and hence we undertook responsibility for all our own arrangements. The Chairperson had cordial contact with the leaders of other observer groups on an almost daily basis.

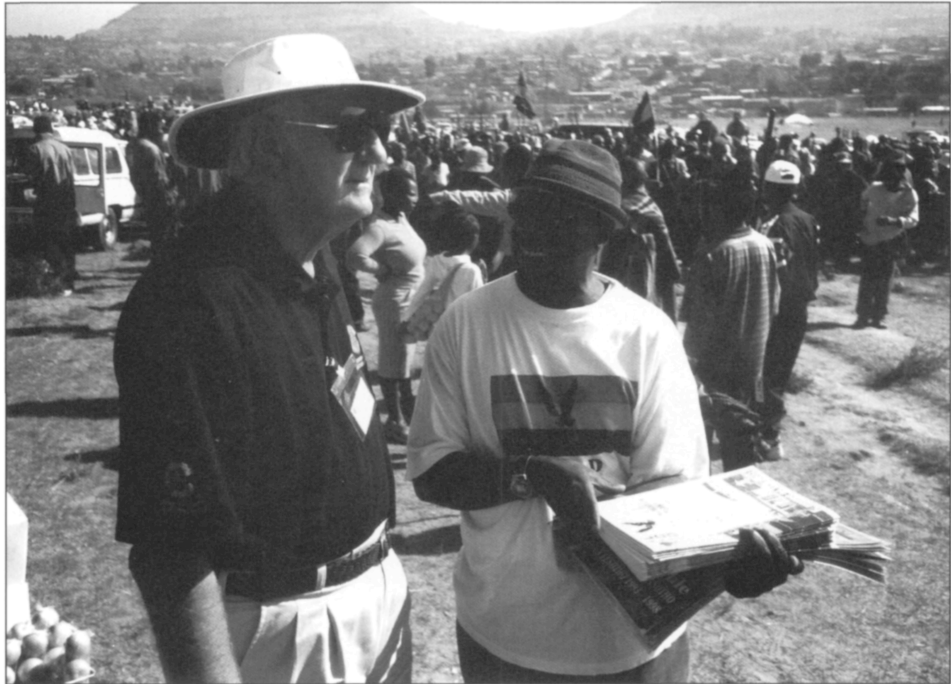
The IEC facilitated the training of 250 local monitors from the Lesotho Council of NGOs which was also assisted by partial funding from the United Kingdom. The Christian Council of Lesotho also fielded a significant number of observers.

.....
*There were 252 foreign
observers . . . the IEC
facilitated the training of
250 local monitors*
.....

CHAPTER 3

The Campaign, the News Media and Electoral Environment

OBSERVING THE CAMPAIGN . . .
Commonwealth Observer David MacGibbon on the fringes of a rally near Maseru. The Observer Group concluded that the political parties were able to organise effectively and campaign openly



The Campaign

The election campaign commenced at the close of nominations and continued until 48 hours before the opening of the poll. Because the Group was only present for the final stages of the campaign its observations must be limited to that period.

Permission to hold rallies appears to have been given freely by the police and the Group heard of no instance of tension with the organisation of rallies.

Each of the major parties held rallies in Maseru on the Sunday preceding the election. We estimate that over 50,000 people attended the five rallies we observed, with the rallies of the LCD and BNP attracting the major share of this total attendance. The rallies of the other parties that we observed, namely the Lesotho People's Congress (LPC), Basutoland African Congress (BAC) and the youthful and female dominated Lesotho Workers Party (LWP), were smaller than those of the two major parties and differed in format in that they were more structured. The rallies were good-natured and there was no violence whatsoever. People were bussed in from the countryside and created an appearance of massive support. There was a noticeable celebratory mood, with free food and drink provided. There were many vendors around the rallies, but at the end of the day they had sold little.

The usual paraphernalia of elections was not significantly in evidence during the campaign. Party T-shirts were worn, and were on sale, at the rallies. Although some free leaflets were distributed, manifestos and photographs of party leaders were sold. BNP election posters, which portrayed General Lekhanya, were displayed from the light posts along the roads in the capital



RALLYING SUPPORT . . . final political rallies and processions before the election. The Observer Group stated that “the rallies were good-natured and there was no violence whatsoever”

city and in some country towns. No other party used posters so extensively as part of its campaign.



The Media

(a) The Electronic Media

The Government owns and controls Radio Lesotho and its television counterpart. Radio Lesotho provides nationwide coverage. The private radio stations are Catholic Radio and Moafrika FM, People’s Choice Radio and Joy Radio, none of which can provide national coverage.

The Government has the effective right, under section 47K of the National Assembly Election Act 1992, to determine the content of news. The IEC has the duty to monitor news broadcasts to ensure news coverage of the campaigning by all political parties. Some political parties advised the Group that their activities during the election period were not the subject of news broadcasts on the publicly owned stations.



We were advised that the private radio stations provided the opportunity for all parties to make use of their limited facilities and that only the opposition parties accepted their offer while the LCD apparently did not see the usefulness of this offer.

Both government and private media provided the opportunity for the IEC to broadcast voter education programmes.

Radio Lesotho provided opportunity for opposition parties to campaign but this was limited to one hour each throughout the period of the election campaign which, in our judgement, was rather inadequate and unfair especially when the same media carried the ruling party’s activities free of charge on the

ostensible and perhaps legitimate grounds that these were government activities.

We do not consider that there was a level playing field insofar as opposition access to the local media was concerned. The limited coverage by the national television station, which is confined to Lesotho's capital of Maseru, may not have made much difference but certainly the governing party used Radio Lesotho effectively. We were told that all the parties were free to purchase airtime. With the exception of the apparently well-funded Basuto National Party (BNP), most of the other parties did not have the financial resources necessary to conduct an electronic media campaign.

(b) The Print Media

The print media consists of various newspapers in the Sesotho language and four English-language weekly newspapers – *The Post*, *The Survivor*, *The Public Eye* and *The Mirror* were by and large, independent. Judging from the editorial opinions published during the campaign, they were fair in their comment, calling on the political parties not to reduce the contest to personalities but to concentrate on issues. They all covered the rallies of the major parties. One of these newspapers, *The Post* (which may have had affiliations with a political party) appeared strongly to oppose the ruling LCD party and described it as not having much to offer in terms of solving Lesotho's myriad of problems. There were no advertisements by the parties in the print media.

(c) Conduct of the Media

An election reporting guide was issued by the IEC to members of the media. It set out ethical standards for journalists in the 2002 elections, dealt with the conduct of the media on election day, and states that the media "have an important role to play in exposing electoral malpractice". It provided a checklist for journalists covering the election.

(d) Conclusion

The Group, given its inability to assess the coverage provided in the Sesotho language, does not believe that it is in a position to accurately gauge the extent to which the media directly influenced the result in this election.

The Electoral Environment

The campaign environment was peaceful and the ambience quite positive. The co-operation between the parties in the IPA and the work of the IEC evidently contributed to this environment. We were advised that the Churches had done much to preach against violence. The Group did not observe overt enthusiasm on the part of the electorate until the last few days before the election. A point that emerged consistently from our conversations was that there was a strong wish amongst people for the aftermath of the elections to be peaceful, not least for an atmosphere of stability and economic development. The presence of international observers from the Commonwealth and other organisations and countries helped assure the people that they would not be deprived of their rights.

On the whole we believe it is fair to say that the governing party benefited from the privilege of incumbency and the near monopoly of state electronic media working for them. What effect this had on the voters is a moot question.

In the final days of the campaign the BNP took public issue with the IEC over the availability of the final voter list and the printing, delivery and distribution of ballot papers. Observer Groups received copies of voluminous correspondence between the BNP and the IEC on the issue of ballot papers in which details of alleged irregularities and the IEC's responses were provided. We were advised that consultations between the IEC and BNP were undertaken which allowed polling to take place.

CHAPTER 4

The Poll and the Count

The Group was divided into five teams of two that were deployed to various regions on Tuesday, 21 May. These five teams covered nine out of the ten districts of Lesotho; 28 constituencies out of a total of 80; and 124 polling stations out of a total of 2,471.

The teams observed both stages of the voting for these elections, namely the Advance Voting and Election Day.

Logistical Arrangements

The IEC was charged with identifying suitable venues throughout the country. Given the nature of the country, the existing infrastructure and the terrain the Group recognises that the IEC faced a formidable logistical task. Despite the best efforts of the IEC, we found that at many of the polling stations we visited one or more of the following shortcomings with respect to their physical conditions. Some polling stations were sited in tents or a single small room with the consequence that the space available was constrained. In addition to the voters, space was required at each polling station for seven IEC staff, the

POLLING PLACES . . . tented polling stations near Maseru. Polling stations were also located in schools, churches and community centres. Usually voters did not have to walk more than 5km



party agents who could number up to 16 or more and an official witness to say nothing of the furniture required including two secure polling booths. Shortcomings were also apparent in relation to lighting and heating, which particularly impacted on the count. It was not unusual for a team to find only one polling station on polling day with electricity even in the capital, Maseru. The standard issue was only one propane gas lamp, supplemented by candles. Furthermore many polling stations lacked heating.

Advance Voting

Advance Voting took place on Thursday, 23 May 2002. Those entitled to vote in this category included IEC officials, candidates and their agents, the police



VOTING IN ADVANCE . . .
voters queuing on the advance voting day, 23 May 2002. The purpose was to enable election officials, candidates, agents, police and others to vote prior to their deployment for election day itself

officers designated to assist during elections, domestic observers, journalists, medical personnel and security personnel.

Advance voting was conducted in one centre in each constituency and we observed the poll in 28 constituencies in eight districts. Those registered ranged from a handful to a few hundred in each constituency. The polls were scheduled to open at 7 a.m. and to close at 5 p.m. However, some constituencies experienced delays in opening due to the non-availability of material and/or the absence of party agents.

The weather, a particularly cold day in some areas, impacted adversely on the conduct of the Advance Voting poll where delays occurred due to late opening with queues, sometimes very long, forming. We were told that the cold and a storm the preceding day had affected turnout. Additionally, the lack of familiarity with the new electoral process meant that the process was slow. For example, we witnessed some confusion in one constituency where the absence of a party from the ballot paper caused delays.

Following the Advance Voting, the ballot boxes were sealed and guarded at the constituency centre in the presence of the party agents and police until their transportation to a Designated Polling Station for intermixing with the votes cast on the main polling day, at that station. A specific concern raised was the possibility of multiple voting by Advance Voters. Indelible ink was used to mark a voter's index finger in order to prevent this. However, the Group considered that a uniform process of ensuring that all polling stations are provided with a list of the names of voters who cast their votes during Advance Voting, should be instituted for future elections.

Election Day

Voting took place on Saturday, 25 May. Throughout the country there was hardly a cloud in the sky and large numbers assembled at polling stations from the early hours. When our teams arrived before 7 a.m. at polling stations in order to observe the opening of polls, we found long queues of Basotho waiting

POLLING DAY . . . Commonwealth Observer Group Chairperson Sir James Mitchell and party agents observe voting in Berea. The Observers found that “party agents attended the poll in significant numbers” and said that “their dedication to duty before, during and after the poll was admirable”



to vote, many of whom had been there for several hours. Most were wrapped in their traditional blankets for protection against the cold.

Queues formed patiently and were orderly and good humoured wherever we were present. We witnessed voters arriving on horseback and on foot across the mountainous terrain. Some had lamps to illuminate their way. Others carried food anticipating the long wait ahead. Some of our Group saw fires lit for heating and cooking.

We were impressed by the high level of participation of Basotho women in both the conduct of the poll and in exercising their democratic rights.

The polling stations themselves ranged from schools, churches and community centres to tents. The physical location of most polling stations was such that voters usually did not have to walk more than 5km. In many we visited, there were no direct communication links between the station and the Constituency Centre or Area Electoral Office. In the remoter regions of the country, we were told that access by the IEC was only possible by helicopter or on horseback.

In the great majority of constituencies where we observed, the voting was completed between the official hours of 7 a.m. till 5 p.m. Given that voters were using a new electoral system, overall, the process went well. The voters’

registers appeared to be in order, most voters presented the required voters cards, the secrecy of the ballot was upheld, the polling officials carried out their functions correctly and neither party agents nor voters voiced concerns to our teams. The process, itself, was slow especially at the beginning of polling. This was because a large number of voters were not familiar with the new system, each voter had to collect and cast the constituency vote prior to the party vote, and the polling officials themselves lacked experience. It appeared to take approximately five minutes for a voter to complete the entire process. One observer witnessed a voter taking over twenty minutes which appeared to be due to a low level of literacy.

YOUNG CITIZENS . . . first-time voters in Maseru. The Observers noted that “voters turned out in large numbers”





WOMEN VOTERS . . . The Commonwealth Observer Group Chairperson with women voters at a polling station on election day. The Observers were impressed by the “high level of participation of Basotho women in both the conduct of the poll and in exercising their democratic rights”

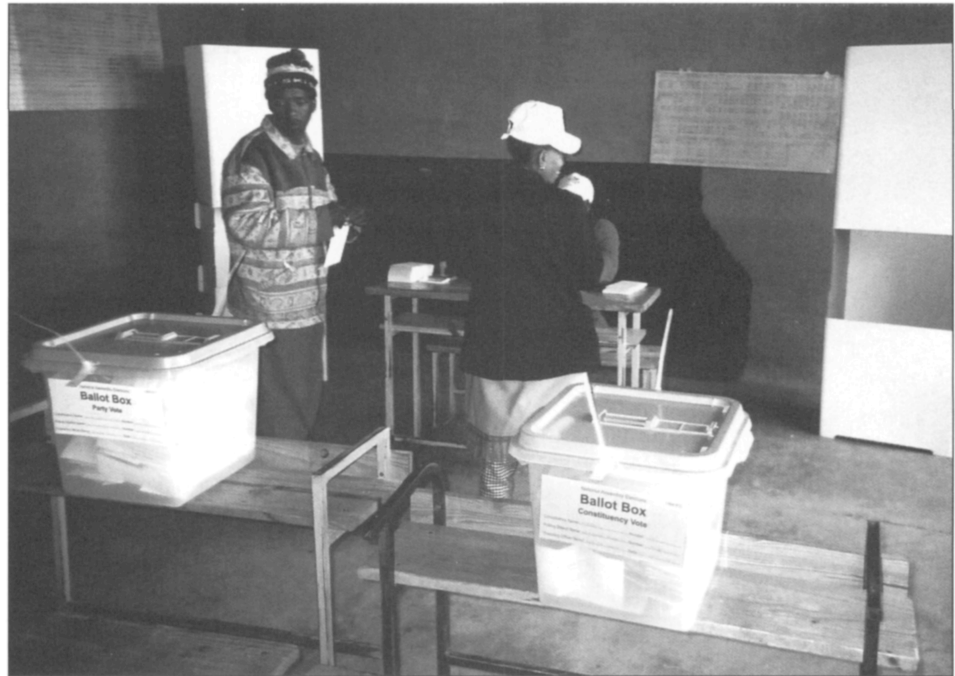
The police and/or police assistants were present at all polling stations that we observed, and were discreet in fulfilling their statutory responsibilities in relation to the election. We found no evidence of the deployment of the military at polling stations and the police were not armed.

At the opening of the poll at most stations we visited we found them to be well equipped and functioning smoothly. However, we observed certain administrative shortcomings in some polling stations. These mainly involved the non-availability and late delivery of the supplies of election material to the polling stations including official documentation, envelopes, cardboard polling booths, seals and stamps, gas lanterns and fuel. Normally, the Presiding Officer was only aware of these deficiencies on the morning of the poll, and due to poor communication links, in some cases it proved difficult to address these shortages. In other cases, this shortage of essential material led to the late opening of polling stations, while in yet other cases this led to improvisation.

The most serious problem we encountered was in Mabote constituency in Maseru district. Members of our Group visited one constituency in Maseru District at 8 a.m. on polling day to discover queues stretching across roads adjacent to the polling station for distances up to one-half a mile. This polling venue had multiple polling stations and had not opened. Neither voters nor party agents knew the reason for the late opening and Presiding Officers knew only that the ballot papers had not arrived. Upon further investigation we were advised by IEC headquarters that the BNP had raised further concerns over the integrity of the boxes containing the ballot papers and that a meeting to discuss the issue was being held at the Constituency Centre. We attended part of that meeting which, by 9 a.m., had not resolved the issue.

We maintained contact with the IEC office while continuing the visits to other polling stations. A little after 11.30 a.m. we received advice from the IEC that the issue had been resolved and that ballot papers were being distributed to the 40 polling venues within the constituency. At approximately 1 p.m., we visited another polling station in the constituency which had still not received its ballot papers. By that time, voters had left the stations and local radio stations were keeping the people informed as to the times at which polling would commence at the various polling stations.

25 MAY 2002 . . . sealed ballot boxes at a polling station. The Observers found that voting “was conducted in a manner that provided the people of Lesotho with the opportunity to vote freely for the candidate and party of their choice”



With the commencement of voting in the constituency delayed until after 3 p.m. the IEC, pursuant to its statutory powers, extended the voting period. Polling stations in the constituency remained open until 7 p.m. and reopened on Sunday from 7 a.m. until 12 noon. We observed this resumed voting on the second day and were informed that the ballot boxes had been guarded by police and party agents during the night. Resumed voting on the Sunday was quiet and peaceful.

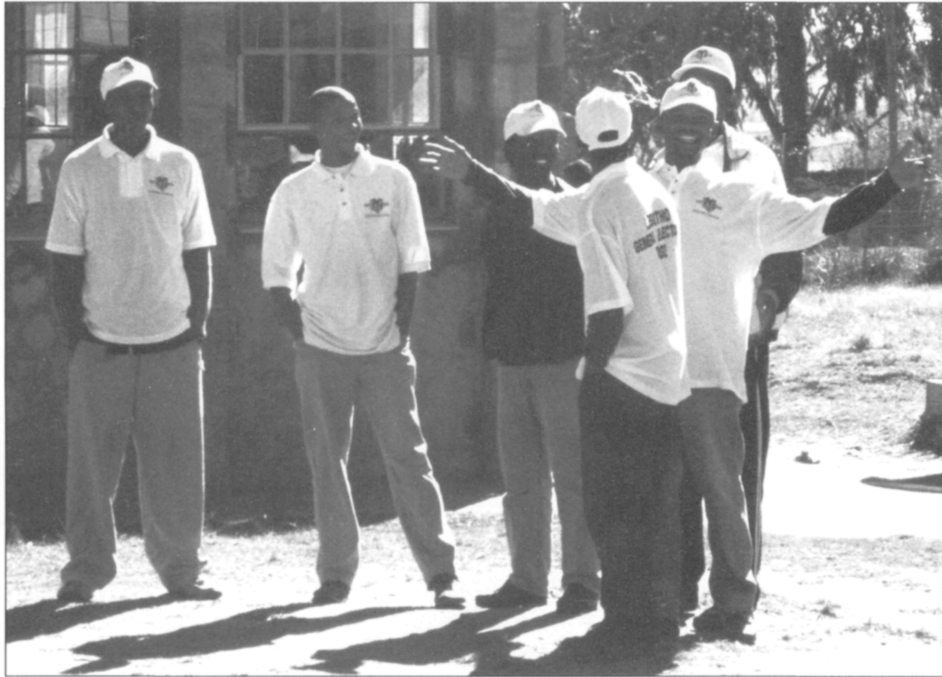
Up to the time of the closure of polls, despite these administrative shortcomings, we believed that the election was conducted in a manner that provided the people of Lesotho with the opportunity to vote freely for the candidate and party of their choice. We do not consider that the administrative and logistic problems experienced detracted from the overall organisation of the election so as to affect the true expression of the will of the people.

Close of Poll and Count

At the polling stations at which we were present, polling closed as scheduled at 5 p.m. This was also the case, as far as we are aware, in the great majority of constituencies, except those where voting was extended until 12 noon on 26 May.

As set out in the polling station procedures manual, the Presiding Officer at each polling station had then to oversee the reconciliation of the votes; the count itself; and the arrangements for the dispatch of the results as well as the ballot papers and related material to the Constituency Returning Officer under police escort.

Difficulties were experienced by some polling staff in meeting the requirements set down in the procedures manual. These arose due to the complexity of the procedures to be followed, problems of interpretation of the manual, which had been published in English and had not been translated



ALL DONE . . . polling officials relax after the close of the poll. The Observers “witnessed clear evidence of the dedicated attempts of the polling staff to meticulously implement every point of the regulations of the procedures manual”

into Sesotho, and the absence of some of the relevant forms and envelopes. The overall situation was accentuated by the poor working conditions caused by the lack of heating and adequate lighting, in most cases.

Despite these difficulties, we witnessed clear evidence of the dedicated attempts of the polling staff to meticulously implement every point of the regulations of the procedures manual. While such an approach was laudable, in our judgement it protracted the counting process. For example, the requirement that the Counting Officer had to display each ballot paper to ‘all interested persons in the polling station’ often meant that the counting process was lengthy. As a result, polling officials, party agents and observers were stretched to the limits of endurance. In the event, no party agent raised any concern either to the polling officers or to our teams about the conduct of the count, the results announced by the presiding officer or the process as a whole.

In certain cases these conditions led to the count being postponed until the following morning. However, as far as we were aware, the integrity of the ballot was not compromised by this delay. Polling officials, police and party agents slept on site.

In a few constituencies, as provided by the electoral law, voting was extended to Sunday, 26 May because of delays in the opening of the poll. In these cases, we were informed that the security of the ballot was also maintained in a similar manner. In one constituency where we were present on the extended day of voting, we were able to confirm this for ourselves.

Communication and Announcement of Results

The process of communicating the election results from the polling station to the Constituency Returning Officer and hence to the IEC nationally was significantly affected by the complexity of reporting requirements and factors relating to transport and telecommunications. The Presiding Officer or a Polling Officer was required to accompany the delivery of results to the

Returning Officer under police escort, which resulted in long delays where transport was not immediately available. As observers, we witnessed this problem when visiting a number of constituency centres in mountainous areas of the country on Sunday, 26 May, where Returning Officers were still awaiting the delivery of results from polling stations, which in some cases required the use of helicopters. Only when the results from all polling stations within a constituency were received by the Returning Officer was he/she able to announce the results.

Following the declaration of the results for a given constituency, the Returning Officer had to deliver these to the Area Electoral Officer, who in turn, had to forward these to the IEC centre in Maseru. This was the final stage of the three-prong approach to the announcement of election results. Here the IEC announced nationally both the constituency and party ballots for each constituency as they were received and once all results were received, the party vote for the country as a whole was tabulated and the PR seats allocated on the basis of the party vote according to the requisite formula set out in Schedule Five of the National Assembly Election (Number 1) (Amendment) Act 2001. This centre was established with the assistance of the electoral commissions of South Africa and Namibia and had available electronic facilities for processing and displaying results.

Political party leaders, members of the media, and observers were present at this centre to witness the announcement and display of results as the latter came in from each constituency. All activities of the Results Centre were covered live on Radio Lesotho while TV Lesotho covered these at regular intervals.

The continuation of voting until the morning of Sunday, 26 May meant that the first results from constituencies were announced nationally at the Convention Centre whilst voting was still being undertaken, which was a matter of concern to the Group.

Overall, our Group found that the Independent Electoral Commission carried out its responsibilities in conformity with good electoral practice and with integrity, transparency and inclusivity as well as being in full compliance with the electoral laws. We wish to place on record, in particular, the role played by the IEC staff at polling stations, many of whom were young women, whose commitment was evident for all to see.

Many of the concerns noted by the Group arose from the disparity between national resources and the requirements of the electoral process, rather than the electoral system as a whole. We believe that with some modifications to procedures, and with experience, future elections should not present the same difficulty.

CHAPTER 5

Conclusions and Recommendations

Conclusions

The main conclusions we have reached are that:

- the conditions existed for a free expression of the will of the voters of Lesotho. Where we observed the process, the atmosphere was peaceful, the voters were able to cast their votes freely and the secrecy of the ballot was assured;
- despite some administrative and logistic problems, the poll was conducted in a manner that provided the people of Lesotho with the opportunity to vote freely for the candidates of their choice. We do not consider that the administrative and logistic problems experienced detracted from the overall organisation of the election so as to affect the true expression of the will of the people;
- the results of the election reflect the wishes of the people;
- the Basotho people, as a whole, appear to be willing to make every effort to ensure that there is no repetition of the violence which followed the 1998 general election; and
- there was, in the lead up to the election, wide support for the mixed member proportional (MMP) system of representation.

Prior to election day:

- the voter registration process was credible and the voters' list provided a legitimate and broadly acceptable basis for the conduct of this election;
- the Independent Electoral Commission made every effort to involve the community and stakeholders in the preparations for the election: it took considerable care to deliver a programme of voter education to familiarise the people with the new MMP system;
- the political parties were able to organise effectively and campaign openly; and
- the lack of non-state electronic media outside the major towns impeded access by opposition parties to the electorate.

Election Day:

- voters turned out in large numbers and we were impressed by the high level of participation of Basotho women in both the conduct of the poll and in exercising their democratic rights;
- the venues for polling and the state of the infrastructure imposed on election officials constraints in the counting of votes and transmission of results and, in some cases, even in the opening of the poll;
- security measures at polling stations were good, the police performed their duties in relation to the public discreetly and provided an excellent service in the guarding of material prior to, during and after the poll; and
- party agents attended the poll in significant numbers and we accept their assurances that the integrity of the poll was not compromised or debased. Their dedication to duty before, during and after the poll was admirable.

Recommendations

The Group wished to make recommendations for consideration by the IEC in its preparations for and conduct of future elections.

We recommend that government resources should not be used unfairly in an electoral campaign by the incumbent party or parties.

In relation to voter registration and the voter list we suggest that –

- during voter registration, the supply of essential materials, such as cameras and the batteries for the camera flashes and UV-lamps, to the registration centres should in future enjoy high level attention;
- consideration be given to shortening the time between scheduled future elections and the close of voter registration.

In preparing for Polling Day we suggest that –

- the separate colours for the constituency and party ballot papers should be maintained;
- all election material should be provided in Sesotho and English including electoral forms, envelopes and, in particular, the Polling Station Procedures Manual;
- all requisite supplies for polling stations be delivered securely and on time;
- the Polling Station Procedures Manual should recommend more explicitly the methodology for the counting of votes;
- the IEC should ensure effective training for polling officials to facilitate speedy reconciliation of votes, the count and the completion of paperwork;
- the IEC take further steps to improve the conditions under which polling officials work. In this context it may be appropriate that donor assistance be solicited.

On Polling Day we recommend that –

- the list of advance voters who voted should be distributed to polling stations in order to minimise the risk of attempts at multiple voting;
- consideration should be given to providing both the constituency and party ballot paper to voters simultaneously in order to speed up the process of voting;
- in relation to the Count –
 - simplified terminology relating to spoiled ballot papers, rejected papers and informal ballot papers should be adopted;
 - the statutory requirements for the display of the ballot paper to ‘all interested parties in the polling station’ should be reviewed with the objective of speeding up this stage; and
 - constituencies should be free to communicate their results to the IEC Headquarters directly, instead of being required to report them to the Area Electoral Office for communication onwards.

When voting is extended to a second or subsequent day we believe that the IEC Headquarters should refrain from announcing the results of polls in other constituencies as such action could affect the decision of voters who are still to vote.

Acknowledgements

We would like to express our gratitude to all those who facilitated our work during our time in Lesotho. We are especially grateful to Mr Leshele Thoahlane, the Chairman of the Independent Electoral Commission, and his colleagues at both the IEC headquarters and in the district and constituency offices who were consistently helpful in answering our many questions despite the great demands upon their time.

We also appreciate the time and effort taken by all those who briefed us on the backdrop to the election, including the representatives of political parties, the IPA, the Lesotho Council of NGOs, the media, academics, and Commonwealth High Commissioners.

Thanks are also due to the United Nations Electoral Assistance Secretariat and the representatives of the international and domestic observer groups whom we met both in Maseru and during our deployment.

We would not have been able to carry out our task without the invaluable assistance and support given by our drivers, whose local knowledge of the language, terrain and people and whose reliability under often very trying conditions made our work possible. We also wish to acknowledge the commitment and support of the Commonwealth Secretariat staff team, who made it possible for us to achieve our mandate.

A special thanks is due to one of our Group, Joram Rukambe, whose experience of the electoral process in Lesotho – gained through his observation of voter registration and work as Advance Observer – ensured that we were admirably equipped to carry out our task.

We extend our appreciation to the Rt Hon Don McKinnon, the Commonwealth Secretary-General, who gave us the opportunity to participate in the consolidation of democracy in Lesotho. Finally, we would like to thank the people of Lesotho for the warm welcome we received wherever we went.

Composition of the Commonwealth Observer Group

Sir James Mitchell KCMG (St Vincent and the Grenadines – Chairperson)

Sir James Mitchell was the Prime Minister of St Vincent and the Grenadines from 1984 to 2000. He also became the longest serving leader in office in the Caribbean and retired as Chairman of the Caribbean Community with special responsibility as lead negotiator on bananas with the European Union and the United States. He represented the Grenadines in Parliament for over 35 years and served in several ministries culminating in his country's leadership. He founded the New Democratic Party in 1975 and led successfully in four general elections. He has experience as an Election Observer in Nicaragua and Hungary and also involved in mediation exercises as representative of the Caribbean Community in Haiti, St Kitts and Nevis, and Guyana. He has authored several technical publications and three political books, namely, *Caribbean Crusade*, *Guiding Change in the Islands*, and *A Season of Light*. Sir James was educated at the Imperial College of Tropical Agriculture and the University of British Columbia. He is an agronomist, hotelier, company chairman and father of four daughters.

Mrs Marie-Claude Arouff-Parfait (Mauritius)

Mrs Marie-Claude Arouff-Parfait was a Member of Parliament from November 1995 to September 2000. She represented Mauritius in the ACP-EU and was also Minister for Youth and Sports. She has also represented her country in many international forums dealing with women and equal opportunities and has also participated in various meetings of Commonwealth parliamentarians.

Dr David MacGibbon (Australia)

Dr David MacGibbon was elected to the Senate of the Australian Parliament and served as a Senator for 21 years until his retirement on 30 June 1999. He was Chairman of the Joint Foreign Affairs, Defence and Trade Committee, the largest and most prestigious committee of the Australian Parliament. As well as serving as Chairman or member of many other committees he was Parliamentary adviser to the Australian Permanent Mission to the United Nations for the 1983 General Assembly. His particular interest, apart from Defence and Foreign Affairs, was Parliament as an institution and the democratic process. Before entering Parliament he was a Dental Specialist and held appointments at the Universities of London, Michigan and Queensland. Since leaving the Senate he has been actively involved with his family as a grazer in the beef cattle industry. He is married with four adult children.

Ambassador Akinjide Osuntokun (Nigeria)

Ambassador Akinjide Osuntokun is currently Professor of History and International Relations at the University of Lagos, Nigeria. He has previously taught at the Universities of the West Indies, Dalhousie, Western Ontario in Canada, and Ibadan and Maiduguri in Nigeria. He was Adviser to the Foreign

Office in Nigeria and served in Canada and the United States as Education Attaché before serving as Ambassador of Nigeria in Germany, 1991-95. He is currently Adviser on Foreign Relations to Nigeria's President. He is an author of several articles and books on history, politics, environment and the international relations of Nigeria. He is a member of the Editorial Board of *Comet*, a major Nigerian newspaper, and a regular columnist. He is also Chairman of the Environmental Protection Society of Nigeria.

Mr Joram K Rukambe (Namibia)

Mr Joram K Rukambe has been Director of Elections and Chief Electoral Officer of Namibia since 1997. He was an adviser to South Africa's Independent Electoral Commission in 1994 and 1999, and has observed elections there and in Botswana and Zimbabwe. He was a consultant for the Zambia Electoral Commission during the 2002 Presidential and Parliamentary Elections.

Mr Michael Terry OBE (United Kingdom)

Michael Terry served as Executive Secretary of the British Anti-Apartheid Movement from 1975 until its dissolution following South Africa's first non-racial elections in 1994. During this period he participated in numerous United Nations, Commonwealth and other international conferences. Previously he was Deputy Director of Research of the International Defence and Aid Fund for Southern Africa. He was also involved in other non-governmental organisations concerned with Southern Africa. He was on the Secretariat of the Liaison Group of AAMs in the EU; Secretary of the Bishop Ambrose Reeves Trust (a charity providing educational material on Southern Africa) and Vice-Chair of the Executive of the Southern Africa Coalition. He is currently Head of Physics at a secondary school in north London and takes up the post of Curriculum Leader Science at a new school this September. He chairs the London Region of the Association for Science Education. Mr Terry graduated in 1969 with a BSc in Physics from the University of Birmingham and gained a PGC in Education from King's College, London in 1996. He was National Secretary of the National Union of Students of the UK from 1971 to 1973. In 1994 he was awarded the UN Medal for his contribution to the international campaign against apartheid and in 2001 was awarded an OBE for his services to human rights.

Secretariat Support Staff

Miss Di Stafford	<i>Team Leader</i>
Ms Kishwer Falkner	<i>Assistant to Observers</i>
Mr Martin Kasirye	<i>Assistant to Observers</i>
Ms Nishana Jayawickrama	<i>Assistant to Observers</i>
Miss Ama Kwaw-Swanzy	<i>Secretary/Administrative Officer</i>

Arrival Statement, 18 May 2002



Commonwealth Observer Group

Lesotho General Election, 25 May 2002

News Release

**ARRIVAL STATEMENT BY SIR JAMES MITCHELL
CHAIRPERSON OF THE COMMONWEALTH OBSERVER GROUP**

We are here in Lesotho at the invitation of the Government of Lesotho and the Independent Electoral Commission. Upon receiving the invitation, the Commonwealth Secretary-General sent an Assessment Mission to Maseru earlier this month. The Mission consulted with political parties and NGOs and established that there was 'broad support for the presence of Commonwealth Observers to the General Election'. The Secretary-General subsequently confirmed his intention to send an Observer Group.

We have been invited in our individual capacities: we do not represent the views of the governments of our countries or of the Commonwealth Secretariat. The mandate set for us by the Commonwealth Secretary-General, reflects the intention of Commonwealth governments that Commonwealth observer groups should consider the various factors impinging on the credibility of the electoral process as a whole and to determine in our own judgment, based on what we see, whether the conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people of Lesotho. We will report honestly and impartially on what we observe; we are concerned with the integrity and the credibility of the electoral process, *not* about who wins or loses.

We were briefed yesterday by the Chairman of the Independent Electoral Commission on preparations for the election. Over the next few days we will meet with political parties and civil society, aiming to gain as full a picture as possible of the campaign, the issues and the electoral environment as a whole. We will also observe the final rallies that will take place over the weekend. After this initial set of briefings here in Maseru, we will deploy to various districts of the country in two-person teams, where we will meet with local electoral officials, party representatives and electors. Together with other observers- both domestic and international- we will be observing advance voting on the 23 May 2002. On polling day itself we will visit as many polling stations as possible, being present for the opening of the poll, the voting, the closing and the count. We will not be everywhere but we do intend to obtain a representative sample of the election. An Advance Observer, Mr Joram Rukambe, and a Secretariat staff member arrived in

Lesotho Sun Hotel, Maseru, Lesotho
Tel: (266) 313 111 (switchboard) Fax: (266) 310 104 Direct line (fax): (266) 320 018

Lesotho on 8 May and have been travelling widely throughout all areas of Lesotho since then. They have observed the preparations for these elections in all 10 districts of Lesotho and have already fully briefed me on their impressions. The Commonwealth was also present during crucial stages of the voter registration process: Mr Rukambe was part of the Commonwealth team that observed registration and display of the voter lists. I believe therefore, that we embark on our observation equipped with a full picture of the early stages of preparation for this election.

After observing the poll and the count we will regroup in Maseru where we will write our report. We will then send it from Maseru to the Commonwealth Secretary-General, who will forward it to the Government of Lesotho, the Independent Electoral Commission and to the parties who have taken part in the election. Shortly after that it will be made available to Commonwealth governments and will then be freely available for all to read.

On behalf of the Group I would like to express our honour at being present during this important election. We look forward to our mission and hope that we will be able to make a positive contribution to the strengthening of democracy in Lesotho.

ANNEX III

Schedule of Engagements

Friday, 17 May

- 1045 Arrival in Maseru
1300 Welcome and Briefing by Chairman
1400 Briefing by Lesotho Congress for Democracy (LCD):
Hon Mlalele Motaung (Secretary-General)
1500 Independent Electoral Commission: Mr Leshele Thoahlane
(Chairman) and Mr Khothatso Ralitsie (Director of Elections)

Saturday, 18 May

- 0900 Arrival Press Conference, Lesotho Sun Hotel
1115 Briefing by Media Institute of Lesotho:
Mr Khutliso Sekoati (Director)
1230 Briefing by Interim Political Authority:
Mr Malefetsane Nkhale (Executive Secretary)
1400 Briefing by Advance Team
1515 Briefing by Basotho National Party (BNP):
Mr Bereng Sekhonyana (Deputy Leader)
1630 Briefing by Basutoland Congress Party (BCP):
Mr Tseliso Makhakhe
1830 Cocktail Reception

Sunday, 19 May

- 0900 Briefing by Lesotho People's Congress (LPC):
Mr Kelebhone Maope (Leader)
1015 Briefing by Lesotho Workers Party (LWP):
Mr Macaeffe Billy (Leader)
1100-1500 Observation of political rallies around Maseru
1730 Briefing by Commonwealth High Commissioners:
HE Mr Japhet Mbongwa Ndlovu (High Commissioner,
South African High Commission) and Mr Matthew Forbes
(Deputy High Commissioner, United Kingdom High Commission)

Monday, 20 May

- 0900 Briefing by the media: Ms Violet Maraisane, Lesotho News
Agency; Mr Thabo Thakalekoala, Editor, *Mopheme/The Survivor*;
Mr Bethuel Thai, *Public Eye*; Mr Mohlomi Letsenya, Catholic
Radio; Mr Candy Ramainoane, Moafrika radio and newspaper;
and Mr Nthkeng Selingane, Media Institute of Lesotho
1045 Briefing by Lesotho Council of NGOs:
Mr Steven Motsamai (Director)
1200 Briefing by UN Electoral Assistance Division and international
observer groups
1500 Deployment Briefing

Deployment of Observers



Commonwealth Observer Group

Lesotho General Election, 25 May 2002

News Release

COMMONWEALTH OBSERVERS DEPLOYED FOR ELECTIONS

Since its arrival in Lesotho, the Commonwealth Observer Group (COG) to the General Elections has met representatives of the Independent Electoral Commission, the Interim Parliamentary Authority, many political parties, non-government organizations and the media.

The COG observed five political rallies in and around Maseru last Sunday.

This morning the Observers split into teams consisting of two people each for deployment in various districts. The Observers will meet with electoral officials, candidates, party officials and the people in the districts to which they are deployed. They will observe both Advance Voting on 23 May and the poll on 25 May and will visit as many polling stations as possible to obtain a representative sample of the electoral process and to assess, as accurately as possible, the voting process.

The teams of observers are deployed in the following districts –

Maseru, Mafeteng and Berea	Sir James Mitchell , Chairman, of the Commonwealth Observer Group Miss Dianne Stafford
Butha-Buthe and Leribe	Prof Akinjide Osuntokun Ms Kishwer Falkner
Thaba-Tseka	Mr Joram Rukambe Mrs Marie-Claude Arouff-Parfait
Qacha's Nek	Mr Mike Terry Martin Kasirye
Quthing and Mohale's Hoek	Dr David MacGibbon Ms Nishana Jayawickrama

Maseru
Tuesday 21 May 2002

Lesotho Sun Hotel, Maseru, Lesotho
Tel: (266) 313 111 (switchboard) Fax: (266) 310 104 Direct line (fax): (266) 320 018

Observation Notes and Checklist for Polling Station Visits

6.	Complaints by Party Agents	No/Yes	Details:
7.	Complaints by Voters	No/Yes	Details:
8.	Domestic Observers present	No/Yes	Details:
9.	Atmosphere at station?	Orderly? Tense? Chaotic?	
10.	Secrecy of the Ballot	Assured? Poor? Uncertain?	
11.	Voting		
	(a) Personation attempts alleged:	No/Yes	
	(b) Multiple voting attempts alleged:	No/Yes	
	(c) Women deterred from voting Details:	No/Yes	
12.	Closing of Poll	On time? Numbers still in queue? Procedures followed?	No/Yes
13.	The Count	Are procedures being observed?	No/Yes
14.	Post Count	Procedures followed? Boxes secure?	No/Yes
15.	Apparent fairness overall?	Good? Acceptable? Questionable?	
16.	Other Comments		

COMMONWEALTH OBSERVER GROUP – LESOTHO GENERAL ELECTION
25 MAY 2002

CHECKLIST FOR POLLING STATION VISITS

Team Member(s):

Constituency:

District:

Polling Station:

Time of Arrival:

Time of Departure:

Voters in Queue: Rate of Processing:

- Opening of Poll**

On time? No/Yes	Procedures followed? No/Yes
Details:	
- Register Process**

State of the register? Are voters on it?
Is there a Supplementary Register?
Are there many objections?
Are people able to pick up voter ID cards?
- Layout and Facilities**

Good? Adequate? Poor?
- Polling Staff**

Efficient? Satisfactory? Poor?
- Security Presence**

Discreet? Intrusive? Oppressive?

**COMMONWEALTH OBSERVER GROUP – LESOTHO GENERAL ELECTION
25 MAY 2002**

OBSERVATION NOTES FOR POLL AND COUNT

PART A

The Observers may focus particular attention on the following aspects of the conduct of the election:

THE CAMPAIGN

1. Balance of TV/radio election coverage and extent and nature of access by party and other candidates.
2. Print media: nature of coverage and extent of access by the political parties
3. The tone and content of material put out by the candidates, access to printing facilities
4. The conduct of political meetings/rallies (permits for public meetings?)
5. The conduct of house-to-house canvassing of voters.
6. Nature, scale and effectiveness of Independent Electoral Commission and other voter education on radio and television, in the print media and by other methods.
7. Activities/measures to encourage the participation of women
8. Access to funds and sources of funds

Note: because the campaign will have effectively ended by the time you are deployed much of the evidence of the above is likely to be anecdotal and/or second hand information

THE POLL

1. The location of polling stations
2. Distances travelled by voters to polling booths, particularly in rural areas.
3. The procedure followed at the opening of the poll.
4. The length of time voters wait to cast their votes.
5. The adequacy or otherwise of facilities at polling stations and their state of readiness.
6. Availability of adequate supplies, e.g. ballot papers, official stamps and stamp pads etc
7. The performance of electoral officials at the polling stations visited
8. The procedures in place to ensure proper security of ballot papers, ballot boxes and official seals
9. Arrangements to facilitate voting by women
10. The steps taken to ensure that the secrecy of the ballot is assured.
11. The general atmosphere at the polling stations visited.
12. Access of party agents and domestic observers to polling stations
13. Whether illiterate voters are assured of a vote in secret
14. Whether the security of ballot boxes in transit is assured.

THE COUNT

1. Inspection of seals
2. The process of reconciling the number of people who voted with the number of ballots in the boxes
3. The determination of invalid ballots
4. The facilities for party agents and their representatives to witness and verify the count and overall transparency

5. Access by domestic and international observers
6. The conduct of election officers.

PART B

Questions that may be put and which you may ask yourself:

1. Was the Voters' Register compiled in a satisfactory way? Were people missed out? Were the names of dead people or "phantom voters" included?
2. Who are the election officials? How were they chosen? Are voters confident that they will be impartial?
3. Is the person in the street satisfied with arrangements? Will he/she vote? If not, is he/she afraid to do so? Were there any attempts to discourage/encourage the participation of women and were they effective?
4. Have all parties been able to campaign freely? Has the campaign been free of intimidation etc? Have all parties had full access to the mass media?
5. Is there freedom to advertise and distribute posters, leaflets etc?

ON POLLING DAY

1. Before polling starts, are the ballot boxes empty? Are they properly sealed? Are all procedures being adhered to?
2. Are all the parties/candidates represented at polling stations? Are they satisfied with the process?
3. Are the voters apparently voting freely? Are they enthusiastic? Do they talk freely? Do they exhibit signs of fear or intimidation?
4. Do voters understand the procedures properly? If not, are the procedures being explained fully and impartially? Are attempts being made to suggest how voters should vote?

5. Does the turnout indicate that women have been deterred from attending to vote?
6. Is only one person at a time being allowed into the voting compartment?
7. How long are voters waiting to vote? If a long time, are some being put off?
8. Will all parties be represented at the polling centres throughout voting and the count? Are agents adequately trained and vigilant?
9. Will domestic and foreign observers have free access to all stages of the process?
10. Is the security presence effective/oppressive?

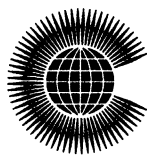
THE COUNT

1. Are the boxes kept safe until opened? Are all parties present at the opening?
2. Does the number of used ballot papers tally with the record of those who voted?
3. Are the papers counted properly? Are counting agents present? Are they satisfied with the procedures of the count?
4. Are the proper procedures followed for declaring votes as invalid?
5. Is the result of the count posted on the wall of the polling station?

TRANSPORTATION OF BALLOT BOXES

1. What arrangements are made for transportation of ballot boxes to constituency and district centres?
2. Can party agents and observers follow the boxes and observe arrangements for storage overnight?

Interim Statement, 26 May 2002



Commonwealth Observer Group

Lesotho General Election, 25 May 2002

News Release

INTERIM STATEMENT BY THE CHAIRMAN, SIR JAMES MITCHELL

The Commonwealth Observer Group has been represented in Lesotho since 1 May 2002 by advance observers with the main team arriving on 17 May. The team consists of six eminent persons, senior electoral officials and former parliamentarians drawn from across the Commonwealth. The Observers are supported by a team of five staff from the Commonwealth Secretariat in London.

During preparations for these elections senior Commonwealth electoral officials visited Lesotho to observe the voter registration process in all its stages.

Prior to deployment to the districts, the Independent Electoral Commission, the Interim Parliamentary Authority, representatives of political parties, the media, non-governmental organisations and other groups briefed the team. Members of the team were present in all ten districts of Lesotho before the elections. On polling day they observed voting in nine districts and covered a large number of polling stations.

On polling day, members of the Group were on the scene at polling stations across Lesotho to witness the opening of the poll and to satisfy themselves that all required preparations were complete. Although a relatively small percentage of polling stations opened late the team saw no evidence of organised irregularities.

The interim conclusion reached by the Commonwealth Observer Group is that up to the time of the close of polls the election was, despite some administrative and logistical problems, conducted in a manner that provided the people of Lesotho with the opportunity to vote freely for the candidates of their choice. We do not consider that the administrative and logistical problems experienced detracted from the overall organisation of the election so as to affect the true expression of the will of the people.

.../2

Lesotho Sun Hotel, Maseru, Lesotho
Tel: (266) 313 111 (switchboard) Fax: (266) 310 104 Direct line (fax): (266) 320 018

- 2 -

Members of the Group were present in one constituency where party agents expressed concern that boxes containing ballot papers had been opened before delivery to polling stations. This issue was resolved following discussions between IEC officials and party agents and the ballot papers eventually delivered to polling stations. The delayed commencement of voting in this constituency necessitated the extension of voting to midday on Sunday 26 May. We witnessed this continuation of voting and welcome the action of the IEC in ensuring that electors were afforded the opportunity to cast their votes

Our Observers were present for the counting of votes in several polling stations. This process was very slow, impeded by lack of light, equipment and other minor administrative issues with the result that the count in the vast majority of constituencies is not available at this time. We are, however, satisfied that, when we were present, the polling station officials were acting fairly and we welcome the assurances of party agents that they were satisfied with the conduct of the poll.

We note with some concern that the results from a limited number of constituencies were announced in the national media this morning prior to the close of voting in all constituencies.

We wish to express our admiration for the voters of Lesotho who displayed quiet good humour, and great patience as they peacefully exercised their franchise.

The Group will make a final report to the Commonwealth Secretary-General in the days ahead.

Maseru, 26 May 2002

Lesotho Sun Hotel, Maseru, Lesotho
Tel: (266) 313 111 (switchboard) Fax: (266) 310 104 Direct line (fax): (266) 320 018

Departure Statement, 30 May 2002



Commonwealth Observer Group

Lesotho General Election, 25 May 2002

News Release

Departure Statement by Sir James Mitchell KCMG Chairman of the Commonwealth Observer Group

The Commonwealth Observer Group left Lesotho today, after a two-week visit to observe the General Election held on 25 May 2002. The Chairman of the Group, the Rt Hon Sir James Mitchell, said on departure that the Group had fulfilled its mandate to consider the various factors impinging on the credibility of the electoral process as a whole, and had formed the judgement that the election was conducted in a manner that provided the people of Lesotho the opportunity to vote freely for candidates and parties of their choice. He added that in the view of the Group, the administrative and logistical problems experienced did not detract from the overall organization of the election so as to affect the true expression of will of the people.

Sir James said he had noted reports that some candidates and political parties did not accept the outcome of the ballot, and may take legal action to challenge the election results. He urged those with complaints to utilise avenues of hearing grievances provided by the courts and the laws of the Kingdom of Lesotho.

Sir James expressed the Commonwealth Observer Group's deep appreciation for the welcome and co-operation extended to it by the people of Lesotho during their stay in the country. He noted that members of the Group had been most impressed by the commitment to the democratic process demonstrated by the people of Lesotho.

Our report will be submitted to the Commonwealth Secretary-General Rt Hon Don McKinnon. It contains a number of suggestions on the electoral process which we hope will be of use to the Government, the Independent Electoral Commission and other political players in Lesotho. The report will be available to the Government of Lesotho, all Commonwealth Governments, the Independent Electoral Commission, all political parties with whom the Commonwealth Observer Group had contact, and thereafter, to the general public as soon as possible.

Maseru
30 May 2002

Lesotho Sun Hotel, Maseru, Lesotho
Tel: (266) 313 111 (switchboard) Fax: (266) 310 104 Direct line (fax): (266) 320 018

IEC Voter Education Poster

**LET LESOTHO
PROSPER**



**YOUR VOTE IS
YOUR POWER**

Commonwealth Secretariat
Marlborough House, Pall Mall, London SW1Y 5HX

