

## Chapter 6

### Conclusions and Recommendations

The 26 May 2012 election was conducted in a credible and transparent manner and in accordance with the Constitution as well as the National Assembly Electoral Act (2011) of the Kingdom of Lesotho. This was the third election conducted under the Mixed Member Proportional System (MMP) in Lesotho. It represents an important step in the evolving electoral system of the Kingdom. As Lesotho consolidates its democracy no doubt further adjustments to its electoral model will be necessary.

The citizens of Lesotho have made their decision and it is now for the elected parliamentarians to make that work for the positive development of their country. Since no one Party controls a majority in Parliament the leaders of Parties in the new Parliament are now required to thoughtfully construct a coalition government that will have the confidence of the citizens of Lesotho and which will endure over the next term parliamentary term. It will inevitably require concessions to be made by all sides.

With this result Lesotho has entered another phase in its evolutionary democracy. This phase calls for a new kind of leadership based on negotiation, consensus building, transparency, and inclusion. The citizens of Lesotho have elected to Parliament a diverse group of people and a number of new faces and Parties. They collectively represent those who have the confidence of the people.

There is space in this Parliament for strong Government as well as a strong Opposition. It does enable the contest of ideas on what is good for the future of Lesotho and most of all it will require Parliamentarians to work hard to retain the confidence of the people. These are some of the challenges posed by the citizens of Lesotho for the new Parliament and all concerned must rise up to meet those challenges.

Despite some shortcomings the elections enabled citizens to freely express their political preferences. The right of the people to peacefully assemble at polling stations around the country and cast their votes for whomever they preferred was not compromised. In this regard the IEC is to be commended on its management of the entire electoral process, in particular the logistics of Election Day. Their extensive efforts on voter education, including its door-to-door strategy, yielded enormous benefits on Election Day. People understood, it seems, the importance of the occasion and how to exercise their franchise.

In our view further attention could be paid to increasing voter participation in future elections. This responsibility rests equally with the electoral system and politicians. The latter could provide citizens with good reasons to encourage them to exercise their franchise and the former must put in place an effective system that makes it easy for people to turn up at the polls on Election Day.

With respect to the electoral system this election represents another step in a hybrid MMP system in that voters were only given one vote for a constituent MP and it was assumed that this also represents their choice of a Party that should govern. The merits of that may be debated as the system matures and as Lesotho gains greater experience of the MMP environment.

The Group is aware that every good election starts with a reliable voter register. While there was little or no chance of anyone double voting in this election this is not the standard by which the voter register must be judged. The voter register serves several important purposes which form part of the system in which all citizens can have faith. The register is the primary tool for delimiting electoral boundaries, identifying where a person will vote and is a major tool for political parties.

If the voter register is not clean, accurate and as up to date as possible, electorate boundaries will be compromised. The situation could be further compromised by the option to register in a particular area even though a voter now lives in another area. While this is permissive it potentially distorts the size of electoral districts if significant numbers actually live elsewhere and avail themselves of services there including access to their MPs. Some thought needs to be given in the future to making where you live an additional criterion, other than age and citizenship, for being on a particular voter register.

It is critical therefore that the IEC start its work now on procuring a clean and reliable electoral register for the next elections. We believe the IEC has sufficient experience to further improve the voter register so it can be relied upon for the multiple purposes to which it is put.

The current procedures followed in polling stations on Election Day potentially compromise the secrecy of the ballot. This occurs because of the final step in the current process that requires the voter to present his ballot for the counterfoil to be removed before it is placed in the ballot box. We see little reason for this step. Together with greater efforts to ensure ballots cannot be inadvertently read by others (because of the thickness of the voting paper which allows the check mark to be visible from the other side) and the positioning of the screens will improve the requirement that ballots be cast in secret.

Voting Station Managers went to inordinate lengths to ensure the counting of the votes was accurate and transparent. While this appreciably slowed the counting there was no doubt that the process followed and the inclusion of Party Agents in the process gave confidence that accurate vote counting was a priority and therefore the results credible.

The Group was not aware of any incidence of voter fraud or intimidation on Election Day.

Security arrangements on Election Day were in the hands of the police. No instances of security breaches were brought to our attention. The process was peaceful and the atmosphere calm.

It is not uncommon for media in any election to be accused of bias. Most of the stakeholders we met noted an improvement in media coverage of the campaign compared to previous elections. There are some issues to be addressed for future elections regarding the amount of time state media gives to the ruling party in terms of coverage. At the same time private media might also need to look at how they gave much of their attention to Opposition Parties. It will also be important for media to develop a method of stating clearly which broadcasts are provided under the allocation of time to parties and which ones are purchased by political parties.

The print media were particularly robust in reporting election issues. We commend the role played by the Media Institute for Southern Africa, Lesotho Chapter, for organising training workshops for journalists on how to responsibly cover the elections, as well as carrying out media monitoring. The IEC should utilise the results of this monitoring exercise and other reflections to consider how the Electoral Code of Conduct might need to be strengthened for future elections.

The election campaign was generally peaceful. Some incidents of robust challenges of candidates at rallies occurred but we see this as part of modern campaigning and are not particularly concerned about the development. One constant matter raised with the Group was around the use of government vehicles for election purposes other than for transporting Ministers. We urge the IEC to revisit this question and strengthen the Electoral Code of Conduct as necessary so that the rules are very clear for the next elections.

A final important matter that we believe should be addressed is the impact of military presence around the Prime Minister. In our discussions with key stakeholders prior to the election they raised their concern about the presence of the military around the Prime Minister. They believed this created an atmosphere of unnecessary heightened military presence and potentially had the impact on voter perception of undue military influence.

The current practice is for the Prime Minister's security to be provided by the military. If security for the Prime Minister, the Leader of the Opposition and other VIPs was provided, when necessary, by an independent and civilian VVIP Unit, this would eliminate the unintended consequences of having military around the Prime Minister and others all the time. We believe some thought should be given to this matter by the next government.

The overall conclusion of the Commonwealth Observer Group is that while several matters identified in this report need attention for the next election none of these shortcomings materially affected the credibility and transparency of the election process and of the results. This gives us confidence in asking political parties to accept the results and work with the hand the electorate has dealt it.

The Group was part of an extensive and elaborate election observation process that is now common in elections in African states. We independently met with many stakeholder groups which included political parties, those responsible for the conduct of the elections, police,

military and media. We were always courteously received, enabled to conduct our observations, given whatever information we required and facilitated in many other ways. We believe this process signals the importance of democracy and our collective commitment to it, adds to the credibility of the results of the election, signals to other countries that what has transpired was credible and transparent and attests to the results as the will of the people. This is a further reason for our request that elected members now work with the results for the better governance of Lesotho.

## **Recommendations**

### **The electoral framework and administration**

- That the next Parliament urgently develops policies and procedures to stop the actions of members that affect the proportionality of Parliament because it is fundamental to Lesotho's MMP system.
- That the Parliament substantially strengthens the IEC by having the Chair directly responsible to Parliament.
- That the Parliament reviews governance arrangements in the Commission and enables Commissioners to have total responsibility over all activities of the IEC.
- That the IEC produces a clean and reliable register, prior to the next election and that the process be started immediately.
- That the IEC informs the public about transfers between electorates.
- That the IEC provides clarity regarding the delimitation of boundaries.
- That the next Parliament considers making advance voting available over a longer period to ensure voters who will be out of their constituencies on Election Day, can cast their votes easily.
- That the IEC more effectively utilises the sanctions available to it when breaches of the Electoral Code of Conduct are substantiated and where sanctions are considered not to be appropriate, it recommends amendments to the National Assembly Electoral Act, 2011.

### **Election campaign and media**

- That Parliament reviews the role of the military in providing protection for the Prime Minister and others, and considers establishing a Very Very Important Persons Protection Unit (VVIP).
- That the IEC should enforce the Electoral Code strictly.

- That state radio and TV follow guidelines set out in the electoral code, and give clear and equitable airtime to all the political parties.
- That state radio and TV clearly demarcate paid-for airtime from free airtime, so that the political parties and the public can be confident that no one party is being given an unfair advantage in coverage.
- That all media and non-media bodies that monitor media performance and regulation, discuss the codification of a clearly established code of practice, and its continued implementation by all media houses. The Media Institute of Southern Africa, Lesotho Chapter, and other actors, could initiate this process.
- That the media and civil society bodies that monitor media performance and regulation, partner the Commonwealth and other bodies to further raise the standards around reporting at election time. The Commonwealth could consider initiating this undertaking.

### **Voting, counting and results**

- That where possible, elections are held outside the winter.
- That the IEC reviews the layout of polling booths to guarantee that voters can cast their votes in secrecy.
- That the IEC guarantees that all standard materials are provided to each polling station.
- That the IEC provides a complete voter register with colour photographs for each polling station.
- That the IEC considers using biometric data when compiling the voter register.
- That the IEC reviews the voting processes to ensure a better balance between speed, accuracy and reliability.
- That the IEC reviews the need for a voter returning to the polling station staff member for tearing the final counterfoil to avoid the risk of the secrecy of the ballot being compromised.
- That the IEC develops processes to enable people with disabilities to cast their votes.