



LESOTHO'S 2007 GENERAL ELECTIONS

TOWARDS A CONSTRUCTIVE MANAGEMENT OF POST-ELECTION DISPUTES



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– CONFERENCE PROCEEDINGS REPORT –

A THREE-DAY WORKSHOP HELD AT
THE MASERU SUN HOTEL, MASERU, LESOTHO
25-27 SEPTEMBER 2007



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THIS REPORT DOCUMENTS THE PROCEEDINGS OF A THREE-DAY WORKSHOP
HELD AT THE MASERU SUN HOTEL, MASERU, LESOTHO
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*This report is independent of specific national or political interests.
Views expressed in this publication do not necessarily reflect the views of EISA
or those of the Lesotho Council of Non-Governmental Organisations (LSN)*

EISA
AND

LESOTHO COUNCIL OF NON-GOVERNMENTAL ORGANISATIONS (LCN)



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EISA is a non-partisan organisation which seeks to promote democratic principles, free and fair elections, a strong civil society and good governance at all levels of Southern African society.

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We would also like to acknowledge the sterling effort made by the resource persons and facilitators of the various conference sessions. Without their contribution, the conference deliberations could not have achieved the intended results. We thank our partners, especially the Lesotho Council of Non-Governmental Organisations, for coordinating major logistical and technical aspects of the conference in Lesotho. Thanks also go to the government of Lesotho which had a high-level representation at the conference. Last but not least, we thank the Lesotho Independent Electoral Commission and all the political parties who attended the conference in full despite their other pressing obligations.

ABOUT THE AUTHORS

This report was prepared by the following EISA staff members: Dr Khabele Matlosa (research director), Victor Shale (programme officer), James Gadin (programme officer) and Sydney Letsholo (research assistant). Administrative and logistical support for the production of the report was provided by Kedibone Tyeda (projects coordinator), Nkgakong Mokonyane (programme assistant) and Dr Jackie Kalley (publications officer and senior librarian).

LIST OF ABBREVIATIONS

ABC	All Basotho Convention
APRM	African Peer Review Mechanism
AU	African Union
BCP	Basutoland Congress Party
BNP	Basotho National Party
CSO	Civil society organisation
DRC	Democratic Republic of the Congo
ECF	Electoral Commissions Forum of the SADC countries
FPTP	First-past-the-post
IEC	Independent Electoral Commission
ISAS	Institute of Southern African Studies
LCD	Lesotho Congress for Democracy
LCN	Lesotho Council of Non-Governmental Organisations
MMP	Mixed member proportional
NDI	National Democratic Institute
NUL	National University of Lesotho
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC Region
PR	Proportional representation
SADC	Southern African Development Community
SADC-PF	SADC Parliamentary Forum
SDC	Swiss Agency for Development and Cooperation
Sida	Swedish International Development Agency
US	United States

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INTRODUCTION

This conference – ‘Lesotho’s 2007 General Election: Towards a Constructive Management of Post-Election Disputes’ – was jointly organised by EISA and the Lesotho Council of Non-Governmental Organisations (LCN). It was made possible through generous financial support from the Canadian High Commission in Pretoria, South Africa, the Royal Netherlands Embassy in Pretoria, South Africa, the Swiss Agency for Development and Cooperation (SDC) in Pretoria, South Africa, and the Swedish International Development Agency (Sida) regional office in Harare, Zimbabwe.

The conference was attended by about 120 participants, with a majority from Lesotho. Participants were welcomed by EISA executive director Denis Kadima and LCN president Mabusetsa Lenka.

The conference was graced by the presence of His Excellency Cassam Uteem, former president of Mauritius, who made an inspiring and thought-provoking keynote address and officially opened the conference. The government of the Kingdom of Lesotho was represented by a number of ministers. The Independent Electoral Commission (IEC) of Lesotho was represented by its chairperson, Leshele Thoahlane, accompanied by senior officials including the deputy director of elections and the senior legal officer. The ruling Lesotho Congress for Democracy (LCD) was represented at the conference by three high-level delegates. All other political parties, whether or not represented in the National Assembly, were also represented at high leadership level by three delegates each.

All relevant sectors of organised civil society were represented. Members of the diplomatic corps resident in Lesotho attended the conference. These included representatives of the embassies of the United States (US), Ireland and the European Union. Academics, especially from the National University of Lesotho (NUL) and the Institute of Southern African Studies (ISAS), played key roles in the conference, providing expert input and facilitating many of the sessions.

Many of our international and regional partners participated in the conference. They included the London-based Commonwealth Secretariat represented by Professor Ade Adefuye, special adviser to the Secretary General and head of the Africa Section of the Political Affairs Division, who delivered a statement, and the US-based National Democratic Institute (NDI) represented by Deji Olaore, resident senior programme officer, Southern and East Africa. The Southern African Development Community (SADC) had been invited and the director of Politics, Defence and Security Cooperation, Lieutenant-Colonel (retired) Tanki Mothae had confirmed his attendance. However, as the Madagascar elections had taken place during the same week, he was unable to attend but submitted his paper, which was distributed to conference participants.

The primary goals of the conference were to promote regional dialogue on election-related disputes following the 2007 general election in Lesotho, and to share experiences across Southern African countries in terms of challenges and best practice in the management of post-election disputes. The main objectives of the conference were to:

- contribute to the on-going dialogue on the causes of and sustainable solutions to post-election disputes in Lesotho following its 2007 poll;
- provide a regional forum for a lesson-learning exercise on strategies and methodologies for managing election-related disputes constructively among a group of selected SADC member states;
- explore the significance of the synergistic linkages (cooperation) between external and internal actors in the management of post-election conflicts;
- review the mixed member proportional (MMP) system as it has been applied in Lesotho and to use the lessons of the 2007 elections to inform ongoing electoral reforms in Lesotho specifically, and in the SADC region in general; and
- review the practice of party alliances and coalitions with a view to reducing intra-party and inter-party conflicts during elections in Lesotho and to provide lessons for other SADC countries.

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WELCOME AND OFFICIAL OPENING

In his address of welcome to the conference participants, president of the Lesotho Council of NGOs (LCN), Mabusetsa Lenka, said that the LCN was involved in this conference as part of its contribution to the development of institutions necessary for democratisation in Lesotho. He noted that given the problems that had bedevilled Lesotho's governance since the adoption and implementation of the MMP model, it had become imperative to debate robustly the issues that had arisen and to recommend suitable ways forward in order to avoid backsliding to authoritarian rule and political instability. On behalf of the LCN, Lenka then expressed the wish that all the participants would find the conference deliberations fruitful.

Denis Kadima, EISA's executive director, noted that EISA had organised the conference to demonstrate its commitment to Lesotho's democratisation process. He thanked EISA's partner, the LCN, for agreeing to co-host the conference and thanked President Cassam Uteem for his commitment and support to regional efforts aimed at consolidating democracy in the SADC region. The former president's agreement to come to Maseru to open the conference despite his busy schedule was greatly appreciated.

Kadima indicated that the conference would also serve the region by sharing and gathering experiences, especially as many countries had been inspired by Lesotho's implementation of the MMP model in 2002. However, given the problems leading up to and following the 2007 elections, questions were now being asked and these questions needed to be addressed to move the country forward. Kadima thanked the donors for their generous support in facilitating the hosting of the conference and then outlined the conference programme.

The words of welcome by the two organisations were followed by the keynote address, delivered by His Excellency Cassam Uteem, former president of Mauritius. (For the full text of the address, see Appendix 1.) The former president highlighted the importance of peace and stability to a country, stating that these were fundamental to the creation of investor confidence, which was indispensable for development and progress. He therefore urged leaders to find solutions that would avert political conflict and congratulated the organisers of the conference for their contribution to much-needed dialogue in Lesotho.

Uteem argued that the holding of multiparty elections almost every five years was a positive sign for participatory democracy. However, multiparty elections should not only be held regularly, they should also be of high quality so as to add value to democracy. Election quality is judged by the extent to which elections are conducted within the legal and institutional frameworks enshrined in a country's constitution and electoral laws. It is also judged by the extent to which elections meet international and regional standards, norms and principles. He said that if the quality of an election was assured, the outcome would be bound to be satisfactory for the major parties concerned. This was where today's conference became extremely important for all democracy stakeholders in Southern Africa in general and in the Kingdom of Lesotho in particular.

Uteem observed that it was now an open secret that many elections since the beginning of democratisation in the 1990s had been marred by disputes of various kinds and, in some instances, by violent conflict which had generated worrying political instability in our region. Of course, elections were a contest where the stakes were high and in that situation conflict was often likely to occur:

Perhaps, then, ladies and gentlemen, the challenge is not so much to wish away conflict or bemoan its occurrence, but rather to devise institutionalised mechanisms for its constructive management and resolution. In a word, election-related conflict and disputes should be considered as a reality of politics. They are part and parcel of democratisation. Nevertheless, the challenge for all democracy stakeholders is to anticipate these conflicts and put in place effective institutional mechanisms for constructively managing them. This will ensure that election-related disputes are pre-empted and prevented early enough before they trigger political instability that may derail democracy and cause the socio-economic development of a country to be hampered.

Following the keynote address, the stage was set by Dr Khabele Matlosa, EISA senior adviser (research), who welcomed and thanked all participants for honouring EISA's invitation to participate in the conference. He then introduced the conference themes. These form the structure of this report and are as follows:

- Election-related conflict, democracy and development.
- The Lesotho 2007 general election: Processes and outcomes.
- Intra-party and inter-party relations and democratisation.
- Election monitoring and observation.
- The role of non-state actors in elections and democracy.
- Regional experiences: Democratisation, elections and conflict management.
- The role of external actors in the management of post-election disputes.

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ELECTION-RELATED CONFLICT, DEMOCRACY AND DEVELOPMENT

INTRODUCTION

Since the onset of democratisation in 1993, the Kingdom of Lesotho has held regular multiparty elections, with general elections held in 1993, 1998, 2002 and 2007 and a local government election in 2005. The first two general elections were held on the basis of the constituency-based first-past-the-post (FPTP) electoral system, while the last two were held on the basis of a new MMP system that combines FPTP and party-list proportional representation (PR). MMP was adopted in 2001 as a conflict management mechanism following a major violent conflict in the immediate aftermath of the 1998 general election.

Almost all the elections in Lesotho since independence in 1966 had been marked by post-election conflicts, destabilising the country's political system, undermining the country's democracy and stifling socio-economic development. The transition to a multiparty political dispensation in 1993 had not resolved the problem of election-related violent conflict. The problem was not electoral conflict as such but the fact that the conflicts turned violent. Exacerbating the problem, the conflicts were often not quickly resolved. Local conflict-resolution efforts often failed and this led to dependence on external conflict-resolution efforts.

Election-related conflicts may not be effectively managed if a culture of political tolerance does not exist or is not cultivated and entrenched. One way in which tolerance is ensured during elections is through the development of and adherence to an electoral code of conduct binding political stakeholders to agreed norms and principles throughout the electoral process.

Local efforts to resolve post-election disputes relating to the 2007 general election, particularly around alliance formation and the allocation of parliamentary seats, did not bear fruit and were followed by the intervention of SADC. A mediation process facilitated by the SADC Eminent Person, Sir Ketumile Masire (former president of Botswana), has been under way since June 2007. The terms of reference of the Eminent Person mission were to:

- hold consultative meetings with all relevant stakeholders;
- develop a structured plan for dialogue to be initiated between the ruling party, opposition parties and other stakeholders;
- facilitate the dialogue process; and
- report on the dialogue process to the chairperson of SADC's Organ for Politics, Defence and Security Cooperation, which would present the report to the Government of Lesotho and other stakeholders.

This dialogue process was another building block in the amicable resolution of the current political impasse and forged a way forward in terms of pre-empting and averting similar post-election conflict in future.

THE 2007 GENERAL ELECTION IN LESOTHO: MANAGING THE POST-ELECTION CONFLICT

Dr Matlosa provided a background to the political developments in the country from the time of independence through the period of military rule and to the 2002 electoral reforms, which had led to optimism for the political future of the country. Matlosa noted that in many countries the holding of successive elections was a sign of democratic consolidation and political hope, but he wondered whether the same was true for Lesotho, given the political instability that had accompanied successive elections in that country. Matlosa outlined a number of factors which had contributed to this political instability, particularly over the 1993-2002 period. These were:

- weak political institutions that led to decay and disorder;
- a political economy that revolved around the state and left no other alternatives for resource control, resulting in a fierce contest to control the state; and
- instability that had a spiral effect on the functionality and internal management capability of state structures and institutions, thereby causing the country to depend largely on external actors for the management of electoral conflicts.

Matlosa continued his presentation by looking at the 1993, 1998, 2002 and 2007 parliamentary elections and their outcomes. He noted that both the 1993 and 1998 elections had produced outcomes that could be described as exclusionary, laying the foundations for political instability and eventual conflict. In 2001, a split in the ruling party with its attendant problems of internal party stability, fragmentation and infighting also affected the political stability of the country. He noted that even though there was relative stability in 2002 and 2007, the country was not entirely out of the woods. He stated that the relative stability was largely achieved as a result of:

- a broad representation of political actors in parliament;
- a diversified number of political parties in parliament; and
- the introduction of the MMP model.

Despite this, however, Matlosa noted that the country had not taken advantage of these developments, especially in ensuring that parliament exercises its oversight function and that the opposition plays its statutory role. He suggested that the bitterness arising from party splits, the snap election, the formation of coalitions and informal alliances, and the distortion and manipulation of the MMP model all contributed to the post-2007 election conflict.

Matlosa concluded by stating that these issues – and especially the internal stability of political parties, which were at the heart of Lesotho's democracy – needed to be fully addressed if they were not to continue to have a spill-over effect on other institutions. He called for the institutionalisation of the national dialogue in order for Lesotho to manage its own election conflicts instead of depending on external actors.

PROMOTING A CULTURE OF POLITICAL TOLERANCE: HOW DID PARTIES CONDUCT THEMSELVES DURING THE 2007 GENERAL ELECTIONS?

Sehoai Santho, a governance consultant with Moruo Consulting, began his presentation by asking whether there was a platform for national dialogue aimed at addressing the issue of

electoral conflict in Lesotho. He noted that the issue was not the absence of a platform for national dialogue, as many such platforms had been organised in Lesotho's recent political history. Examples included:

- 1993: by the civil society organisations (CSOs)
- 1995: the establishment of the Independent Electoral Commission (IEC)
- 1999: the introduction of the MMP model
- 2000: the reconstitution of the IEC
- 2002: political commitments and peace accord

If, Santho asked, there had been so many forums for national dialogue, what had the country learned and how could these lessons and past experiences be applied for the political development of the country? In his view, such forums were useful only if they helped to shape the actions of the key role players in the political life of the country.

On issues of governance and economic growth, Santho called upon the government to be pro-poor, to be equitable in the distribution of the country's wealth and resources and, as a result, to enhance the security and well-being of the people. Africa, he said, needed capable and accountable states characterised by:

- strong parliaments;
- efficient public sector management;
- efficient and enhanced civil service performance;
- the ability to attract skilled former emigrants to return to their countries of origin;
- and
- a decentralised system.

Lesotho has acceded to the African Peer Review Mechanism (APRM) and would undergo the review process in 2008. For the country to be in good standing, he noted that democracy had to be sustained by political tolerance and a continually maturing political system.

Santho indicated that the following lessons had been learned from the 2002 elections:

- The interim political authority in place at that time had provided a much needed and useful platform for inter-party dialogue.
- A mechanism had been put in place for fair access to state media.
- There was continuous dialogue between political parties and candidates.
- CSOs and other organisations were collaborating in a programme of civic education, including the management of election violence.
- There was openness and transparency.

Santho noted that while these factors had provided a good foundation for a relatively peaceful election in 2002, the 2007 scenario was different for the following reasons:

- Snap elections had been called due to intra-party problems, party splits and fragmentation.

- A split in the ruling party left the parliament disorganised.
- The resilience and sustainability of the MMP model had been questioned and tested.

Santho questioned the rationale of political party leaders who at a December 2006 conference accepted that snap elections posed a number of challenges yet did not make commitments necessary to achieve acceptable short-, medium- and long-term outcomes.

He emphasised the need for political leaders to build systems and structures that would guarantee the long-term development and political stability of the country and its people.

THE SOCIO-ECONOMIC COSTS OF THE POST-ELECTION CONFLICTS

Dr Masilo Makhetha of the National University of Lesotho (NUL) indicated that post-election conflict was common in Africa and could manifest itself in various forms, including military coups, general strikes, assassinations and socio-economic instability.

Makhetha said that any kind of post-election conflict could affect a country's economy in the following ways:

- There could be a reduction in foreign direct investment.
- There could be increased unemployment.
- There could be an unfavourable trade balance.
- Inflation could grow.
- Physical capital and infrastructure could be destroyed.
- The flight of capital and skills could be encouraged.
- Short-term investment could replace long-term investment.

Makhetha said that irregular changes in government disrupted and reduced private investment because policy uncertainty affected investor confidence and negatively impacted contract enforcement and property rights. He argued that political instability created inflation conditions because:

- weaker state institutions led to a weaker tax system, reducing the state's ability to generate sufficient revenue and forcing it to print more money;
- there could be significant errors in long-term economic planning by both the private and the public sectors; and
- economic growth could be retarded.

Makhetha concluded that as well as economic costs, post-election conflicts can have various negative social effects on a country's development, including:

- a reduction in the state's ability to provide social services both to the general population as well as to the young, the old and the poor;
- a decline in income for wage-earners; and
- increased levels of poverty, disease and crime.

KEY RECOMMENDATIONS

- The IEC and relevant institutions must enforce the Electoral Code of Conduct, which forms part of the Electoral Act, particularly with a view to inculcating a culture of political tolerance.
- National dialogue must be institutionalised through civil society so that a broad cross-section of the population regularly deliberates on key challenges facing the country in relation to democracy, development and conflict. Such dialogue must be followed up with concrete policy proposals and actions monitored by CSOs under the national umbrella of the LCN.
- The current mediation process facilitated by the SADC Eminent Person, Sir Ketumile Masire, should be provided with the necessary support and political commitment of all stakeholders so that it achieves its principal objective of resolving the current post-election political impasse.
- Lesotho should develop and invest in its internal conflict management mechanisms so that future conflicts are anticipated and redressed before they escalate into political violence. Such national-level conflict management mechanisms will be helpful in complementing external efforts for the constructive management of election-related conflicts. Furthermore, the Lesotho conflict management mechanism should be enhanced and strengthened to an extent that it is capable of playing a regional role in sharing lessons of experience and avoiding conflicts in other SADC countries.
- A consultative roundtable of leaders of political parties is needed to allow the leaders to dialogue on post-election disputes and find common ground on the way forward, including how best to expedite the mediation process facilitated by the SADC Eminent Person Mission.
- The socio-economic impact of post-election conflicts should be assessed thoroughly, accurate data should be made public and post-conflict socio-economic rehabilitation and recovery plans and strategies should be developed.

4

THE LESOTHO 2007 GENERAL ELECTION: PROCESSES AND OUTCOMES

INTRODUCTION

The Kingdom of Lesotho held a snap election on 17 February 2007, immediately after a split in the ruling Lesotho Congress for Democracy (LCD) and the emergence of the All Basotho Convention (ABC). This election posed challenges for all key electoral stakeholders, particularly the political parties, the election management body and CSOs. Although there was some noticeable political tension, neither the pre-election phase nor the polling day were marked by election-related conflict. The campaign process went smoothly and voting was peaceful. The post-election phase, however, became a major challenge for the country's democracy, stability and development. The post-election conflict has revolved around five main issues:

- The formation of informal alliances and coalitions among political parties.
- The development, against the spirit of the MMP electoral system, of decoy party lists for the purposes of contesting the 40 party-list PR seats.
- The allocation of parliamentary seats.
- The recognition of the official status of the Leader of the Opposition.
- Political intolerance and ineffective communication between the ruling and opposition parties.

As in the case of all elections since 1998, the 2007 election was managed by the Independent Electoral Commission (IEC). For its part, the IEC managed the process professionally and with integrity, despite various challenges including the time constraint imposed by the nature of the election.

MANAGEMENT OF THE 2007 GENERAL ELECTION: CHALLENGES AND SUCCESSES

Chairperson of the Lesotho IEC, Leshele Thoahlane, indicated that since the introduction of MMP the country had witnessed a reduction in post-election violence. The 2002-07 period, he said, had been marked by disputes rather than the violence that had followed previous elections. Thoahlane said that MMP was the best thing that had happened in the country's electoral history, and that as custodians of MMP the political parties needed to protect and sustain the MMP model. He felt that as the knowledge and expertise available within the IEC was insufficient, if there was a need to revisit the MMP model it would be important to engage external experts.

Thoahlane submitted that the MMP model was still quite inclusive as it has guaranteed plurality in parliament and greatly reduced the possibility of alliances. After the adoption of the MMP model following the 1998 crisis, Thoahlane questioned the rationale for the country to subvert it by the use of decoy lists. He said that everyone was blaming everyone else for not doing what they should have been doing to prevent this damaging distortion of a model designed to address the electoral problems of the past.

AN ANALYSIS OF THE ELECTORAL PROCESS AND ITS OUTCOME

Sofonea Shale of Development for Peace Education indicated that the fact that every election in Lesotho had been contested in court raised a number of questions. Why had so few court petitions been won by the petitioners? Were petitions smokescreens to keep supporters engaged? Were they simply to discredit the winners? Was the allocation of seats also an issue for an election petition?

Shale noted two main issues that arose from the 2007 electoral process and its outcome:

- *The possibility of free choice.* Was the electorate given the chance to decide freely who to vote for? In other words, did the MMP model and the way it was managed allow the electorate their right of choice?
- *The legitimacy of the outcome.* If, as it appeared, the electorate was not given the right to make their choice freely, could one argue that those so elected held office illegitimately?

Rather than the MMP model itself, Shale said, the problem was the way in which the model had been distorted. To bring about an improvement for the next electoral process he recommended:

- transforming the IEC to allow it to manage a snap election successfully;
- developing an institutional capacity that would allow the political parties to manage conflict internally in order to prevent splits in their parties; and
- safeguarding the MMP model by using a single ballot paper and making it compulsory for contesting parties to field candidates on their party lists.

AN ASSESSMENT OF THE IMPLEMENTATION OF THE MMP ELECTORAL SYSTEM SINCE THE 2007 GENERAL ELECTION

The view of the Deputy Director of Elections at the Lesotho IEC, Mpsa Mokhochane, was that the period for implementing the MMP model between 2002 and 2007 was relatively short. Because of this, the model had not been well understood and its complexities were only now emerging. In the first place, however, it was necessary to consider why the MMP model had been adopted. In other words, what had led to the decision to change from the FPTP model? Mokhochane said that the FPTP model was discarded because it inevitably led to a single party continually being elected and because a large percentage of the electorate was therefore left without a voice in parliament. It was in order to address this unfair representation in parliament that the MMP model was adopted.

He said that problems had followed the emergence of formal and informal alliances, especially the use of decoy lists by political parties as a means to subvert the MMP model. As the electoral umpire, the IEC could blow the whistle only when there was a law in terms of which it could do so. The legislature had, however, not anticipated the clever ruse whereby the political parties split into two, with one part taking care of the party list and the other the FPTP list.

Mokhochane said that the recurrence of post-election violence showed that the political leadership and institutions were not proactive but reactive in their efforts to manage the

situation. He claimed that the media and political analysts had done too little work on the effects of electoral violence on the development and stability of the country. Indeed, both the media and political analysts had sometimes compounded the problem by inflaming the conflict.

In Mokhochane's view, this was the wrong time to be holding a post-election review and a conflict-management forum – however welcome these were – as, given the outcome of the election, tempers had not yet cooled and election petitions had not yet been dealt with.

KEY RECOMMENDATIONS

- The institutional capacity of the IEC should be reviewed so that this body is provided with resources that are adequate for it to cope with a snap election.
- The practice of decoy party lists should be disallowed. One way of doing this is to abolish the two ballot system and to use only one ballot for translating votes into parliamentary seats.
- The MMP electoral system should be reviewed, with mechanisms put in place to prevent it being manipulated in future elections.
- The appointment of three external experts to review the application of MMP during the 2007 election should be expedited.
- The IEC should develop formal relations with NGOs in order to agree on the pre-election, polling day and post-election processes.
- The electoral law review begun by the IEC before the 2007 election should be renewed and finalised as soon as possible.
- The IEC should institutionalise post-election audits and reviews following every general election and should undertake appropriate electoral reforms on the basis of such audits and reviews.

5

INTRA-PARTY AND INTER-PARTY RELATIONS AND DEMOCRATISATION

INTRODUCTION

Political parties play a critical role in the institutionalisation of democratic governance as representative democracy is unthinkable without political parties. Parties are among the key political institutions that provide an anchor for a working representative democracy. If they are to add value to representative democracy, however, political parties require internal cohesion, democratic and visionary leadership, intra-party democracy and constructive management of internal conflicts as well as mutually beneficial inter-party relations.

Lesotho is a multiparty constitutional democracy in which the political parties play an important role, especially during elections. Some of the country's 19 registered political parties are active and participate in the democratic process, while others are in hibernation except during elections. To become effective drivers of democratic practice and culture in Lesotho, political parties still face numerous internal problems.

One of the major challenges for political parties relates to factionalism and splits which often happen around elections. Another challenge relates to how parties form and manage election pacts and coalitions before and after elections, both within and outside parliament. Inter-party relations are often marked by mutual suspicion and a lack of political tolerance. Intra-party relations are characterised by factionalism and fragmentation, resulting in party splits, especially at the time of elections. Party splits adversely affect both ruling and opposition parties. But given the role of the ruling party as the country's government, its pre-election splits reverberate throughout the political landscape and create tremors that tend to shake the country's democratisation process. These splits and intra-party factionalism often manifest themselves in parliamentary floor-crossing, which in turn can reconfigure the political complexion and power alignment in parliament.

ELECTORAL ALLIANCES AND PARTY COALITIONS IN SOUTHERN AND EAST AFRICA

Denis Kadima's presentation included a definition of coalitions and alliances. He stressed the need for political parties to understand how to use political party coalitions as peace-building strategies – such as for nation building, reconciliation, ethnic accommodation and ideological rapprochement. He said that party alliances and coalitions were here to stay. We therefore needed to use them for the benefit of nation building rather than for selfish political gains.

POLITICAL PARTY ALLIANCES AND THE OUTCOME OF THE 2007 GENERAL ELECTION IN LESOTHO

Professor Francis Makoa of the NUL said that party coalitions were strategies employed for political gain. Coalitions could, however, be abused even though the principles underlining them were not themselves inimical to democracy. He argued that party coalitions could be described as good or bad depending on the way they were applied and their effect on the political development and stability of the country.

Makoa noted that Lesotho's coalition experience predated independence – such as when trade unions confronted colonialism. Today's coalitions include:

- the Alliance of Congress Parties (ACP);
- the Alliance of the All-Basotho Convention (ABC) and the Lesotho Workers Party (LWP); and
- the Alliance of the Lesotho Congress for Democracy (LCD) and the National Independence Party (NIP).

All these were run according to written agreements.

Makoa argued that the misuse of coalitions was not unusual and the motives for an alliance were not always good. Some people believed that the motives for the current coalitions and alliances in Lesotho were not good.

Makoa contended that the motive for the 2007 election was fraudulent, in that it was very manipulative and intended simply to take advantage of the dual ballot system. The purpose was to reallocate the same votes to the same big parties. As a result, the voters had been robbed of their choice and researchers had been denied information on party strengths and popularity. Some of the parties in the alliances were not even viable. In addition, information on critical issues and the determinants of the 2007 elections were really not known. Did people vote on issues at all? Were the issues at all relevant? This has exposed the problem of the dual ballot system. It was even a riddle to juxtapose the FPTP and party lists in terms of the definition of a party in a democracy.

With particular reference to Lesotho's circumstances, Mokoia recommended that as the disputes revolved around the conundrum of the dual ballot paper constructed by Basotho, the Basotho should reconstruct it.

INTRA-PARTY DISPUTES AND FLOOR-CROSSING IN LESOTHO

Victor Shale of EISA indicated that under the Lesotho MMP model, the FPTP component allowed floor-crossing while this was restricted under the PR component. In other words, members elected on the party list were not allowed to cross the floor. Shale attributed floor-crossing to lack of internal democracy in parties. He contended that when the opposition was deliberately weakened, ruling parties should expect opposition from within their own ranks, leading to cracks and dissenting voices, and, ultimately, factions or in extreme cases splits and fragmentation. When floor-crossing happened without the consent of the party rank and file, it could be described as a betrayal of the people's mandate.

Shale noted the impact of floor-crossing on Lesotho to include:

- changing the complexion of parliament and altering the results of elections;
- creating a proliferation of small and weak parties;
- undermining representative democracy;
- creating a crisis of legitimacy; and
- the attainment of a low APRM score due to political instability.

In order to address the problem, he recommended:

- public funding of parties to allow them to play a stronger role in strengthening democracy; and
- the introduction of intra-party conflict management mechanisms to avoid splits and fragmentation.

KEY RECOMMENDATIONS

- Political parties need to institutionalise mechanisms for deepening their internal democracy.
- Political parties need to develop formal cooperative inter-party arrangements in order to create a culture of political tolerance.
- The formation of political alliances for the purposes of contesting elections under the MMP model should be regulated.
- There is a dire need for the creation of a forum for political parties at which the parties will be able to address the challenges facing them.
- Public funding of political parties should be introduced to ensure that parties have sufficient resources both for electioneering and for institutional development.
- The institutional capacity of political parties should be strengthened so that they are able to manage their internal disputes and avoid fragmentation and splits. This requires the acquisition of mediation and conflict management skills.
- Political parties should take responsibility for educating voters and training party agents.
- While the 1993 constitution allows for the formation of party alliances and coalitions, a specific party law needs to be developed to provide a regulatory framework for the formation of alliances to contest elections and to make cooperative arrangements within parliament.
- The status of the opposition and the Leader of the Opposition in parliament need to be resolved amicably.
- The practice of floor-crossing needs a thorough review in respect of its impact on representative democracy. Appropriate recommendations should be made as part of the on-going parliamentary reform process.

6

ELECTION MONITORING AND OBSERVATION

INTRODUCTION

Election monitoring and observation represent two key instruments for evaluating and assessing whether the electoral process as it unfolded in Lesotho in February 2007 was conducted on the basis of a level playing field for all the contestants. Election monitoring and observation should, in theory, add value to the institutionalisation of firmer foundations for multiparty democracy, in that observer mission reports emanating from the assessment and evaluation of an election point to certain challenges and constraints in the electoral process which Lesotho ought to take into consideration at the time of its next election.

The 2007 election was observed by both domestic and international missions and individual observers. Domestic observers were coordinated by the LCN. International observer missions included those from the SADC Parliamentary Forum (SADC-PF), SADC, the African Union (AU), the Commonwealth, EISA and the Electoral Commissions Forum of the SADC countries (ECF). All these observer missions prepared their reports and made recommendations on improving the electoral process in the future. For the better management of election-related disputes, Lesotho needs to review its electoral systems, procedures and institutions and to undertake appropriate reforms ahead of the next general election planned for 2012.

THE ROLE OF DOMESTIC ELECTION OBSERVERS DURING THE 2007 GENERAL ELECTIONS

LCN executive director Seabata Motsamai reflected on the historical context of election observation internationally and on the need to have observers during elections. Election monitoring, as it was first known, goes back to the mid-19th century, but in Lesotho's case there seems to have been no observation of either its pre-independence election in 1960 or its subsequent post-independence elections in 1965, 1970 and 1985. The reason seems to be that Lesotho's issues were barely on the international agenda. From 1993, however, Lesotho's elections were witnessed by both domestic and international observers.

Motsamai noted that election observation went beyond being on the alert for problems and challenges. Crucially, it needed to be part of the preventative process that ensured that elections were free and fair. Domestic observation added value where primary players in elections had doubts and suspicions about the electoral process. It also instilled confidence in the electorate to participate in the process and to freely express their political will through the ballot without fear of reprisals. For this confidence to be felt, it was imperative that election observers – whether domestic or international – should display neutrality and non-partisanship in their conduct.

Challenges and limitations of election observation may include the following:

- Some observation missions may believe that their input may cause more instability in the country concerned if they report all their observations.

- Sponsoring institutions may have more power and influence in determining the deployment of domestic observers.
- A country's laws may not be adequate to guarantee free and fair elections.
- Other factors constraining free and fair elections may be beyond the control of the IEC.
- Not all stakeholders in elections know the rules of the game.
- Observers cannot change the outcome of an election.

Given these inevitable limitations, domestic observers in Lesotho played an important role in the 2007 election. According to Motsamai, they contributed to a dramatic expansion of election awareness across the country. CSOs, including churches, were part of the observer force. Domestic observers received training in the principles and importance of elections.

In Motsamai's view, the political environment was generally favourable for the observation of elections. The LCN deployed more than 300 observers stationed in 80 constituencies. There were three categories of observers:

- stationed observers, at polling stations;
- moving observers, moving around within constituencies; and
- constituency-stationed observers, stationed at the offices of returning officers.

A Central Observer Support Team was based in the LCN offices and tasked with the responsibility of supporting the teams on the ground and also of bringing to the attention of the IEC issues that needed immediate attention. The LCN-led domestic observer groups demonstrated a wealth of experience in election observation management. The comprehensive observer checklist was based on:

- the SADC Principles and Guidelines;
- the SADC Parliamentary Forum (SADC-PF) Norms and Standards for Free and Fair Elections;
- the EISA Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO);
- the Universal Declaration of Human Rights; and
- the International Covenant on Civil and Political Rights.

THE ROLE OF INTERNATIONAL AND REGIONAL ELECTION OBSERVERS DURING THE 2007 GENERAL ELECTION

Belinda Musanhu from EISA summarised the main reasons why international and regional observation missions were crucial as:

- preventing and deterring fraud;
- impartially defusing conflict;
- encouraging the acceptance of the final result;
- improving future electoral processes; and
- exchanging accumulated experience between those coming into the country and those already in the country.

The above were broad and general objectives of international and regional observer missions. Specifically, EISA deployed its mission to:

- understand the role of elections in the development and consolidation of democracy in the SADC region;
- document electoral processes;
- expose regional electoral practitioners to best practice in electoral management and electoral observation; and
- promote the formation of institutional and personal relationships to be used to enhance elections within the region.

Musanhu elaborated on the activities of the international and regional observer missions. Their starting point was compliance with the relevant legislation and adherence to a code of conduct. She described the different types of observers as:

- domestic observers;
- regional observers (EISA, SADC-PF and AU);
- diplomatic missions (representatives of embassies); and
- international observers (the same as regional observers but with an international profile).

According to a handbook on electoral observation produced by the Organisation for Security and Cooperation in Europe, the first recorded case of international election observation took place in 1857.

The involvement of international and regional observers in the 2007 Lesotho election began in the pre-election phase with the deployment of a number of pre-election visits, including one by the Commonwealth Secretary-General in December 2006. This included consultations with representatives of all the registered political parties and other stakeholders.

In an effort to address concerns raised by stakeholders involved in the elections, a delegation from the SADC Ministerial Troika of the Organ for Politics, Defence and Security and Cooperation visited the country on 5 and 6 January 2007. EISA deployed a pre-election mission from 9-12 January. This mission noted that the elections would be challenging and would require the participation of all who could help ensure its success. Finally, a National Democratic Institution delegation visited the country from 22-25 January.

While these pre-election missions differed in their approach and size, they acted as a way of assuring electoral stakeholders that despite the clear and acknowledged challenges, the election programme was on track.

The following organisations were accredited to observe the election on 17 February 2007:

- African Union
- British High Commission to South Africa
- Chinese Embassy

- Crossroads Christian Communication
- Commonwealth expert team
- European Commission
- French Consulate
- Independent Electoral Commission of South Africa
- Irish Embassy
- National Democratic Institute
- SADC
- SADC Parliamentary Forum
- United States Embassy
- Universal Human Rights Network
- ECF

Statements from these various organisations highlighted both the negative and positive aspects of Lesotho's electoral process. One positive aspect that was highly commended by all the observers was the fact that prisoners were given the right to vote.

Substantive recommendations were also made, focusing on the participation of women, continuous voter registration, campaign funding, political party funding and clearer guidelines on the formation, operation and registration of alliances and coalitions.

International and regional observer missions continued to be involved in the post-election impasse that engulfed Lesotho. SADC sent an assessment mission in April 2007 and EISA was involved in dialogue both through Sir Ketumile Masire and through the conflict resolution conference (25-27 September 2007) reported on here.

KEY RECOMMENDATIONS

- Domestic and international observer missions have played an important role in building public confidence in the electoral process and its outcomes. Election observation and monitoring should therefore be continued in future elections.
- Smooth coordination between domestic observers and international observers should be ensured to enhance the effectiveness of election observation as a conflict management tool.
- Electoral stakeholders should ensure that the conduct of elections is in conformity with continental and regional election norms, guidelines and principles (including those developed by the AU, SADC-PF, SADC and EISA / ECF).
- All relevant electoral stakeholders (including the government, the IEC, political parties, the media and CSOs) should ensure that recommendations proposed in all the observer mission reports are implemented for the purposes of enhancing the quality of elections.
- The institutionalisation and sustainability of the election observation process are important. Ways and means should be found to ensure that election observation is adequately supported by both external and domestic resources.

7

THE ROLE OF THE NON-STATE SECTOR IN THE ELECTORAL PROCESS AND THE ELECTION AFTERMATH

INTRODUCTION

CSOs play a vital role in the democratisation process generally and in the electoral process specifically. Building and promoting democratic governance is not (and should not be) the exclusive preserve of politicians. This process, including elections, should therefore involve a wide array of actors and stakeholders playing complementary (mutually reinforcing), but at times contradictory (mutually exclusive), roles.

To a considerable degree, the inclusion and participation of non-partisan CSOs in the democratisation and electoral processes will go a long way towards the achievement of democratic consolidation and sustainable political stability in Lesotho. The key question is not whether CSOs should be involved in democratisation, but rather how best they should be involved so that their programmes and activities complement efforts by other relevant political actors.

CSOs ought to play a critical role in democratisation. Specifically, CSOs need to be actively involved in all three phases of the electoral cycle, namely (a) the pre-election phase, (b) the polling phase and (c) the post-election phase.

The role of the media is also crucial for covering the electoral process, educating the electorate and disseminating relevant information.

If Lesotho is to adhere to international, continental and regional commitments to gender equality in the governance realm, the electoral process should ensure parity of men and women in key institutions of governance. Women should be empowered all the way from political parties themselves, through local governance structures and up to national institutions of democracy including the National Assembly and the executive.

ROLE OF CIVIL SOCIETY ORGANISATIONS IN THE ELECTORAL PROCESS

Lira Theko of the Transformation Resource Centre gave an account of the role of civil society formations in Lesotho in the election process. In recent years, she said, the role of CSOs in elections had become increasingly indispensable. CSOs throughout the SADC region had played a crucial role in pressing for democratic dispensations and were known to have started debates that had questioned the use of existing electoral systems, insisting on the need to infuse democratic behaviour in these systems and in countries' institutions.

The political theatre was dominated by political parties whose concern was power alone. CSOs then came in as an alternative to this vacuum. The empowerment programmes undertaken by the civil society groups helped the electorate to understand the dynamics and processes of democratic governance. This in turn broadened the choice of the electorate because voters' decisions would have been informed by CSO interventions.

The various interventions in the electoral process in Lesotho by CSOs after the end of military rule, during the 1993, 1998, 2002 and 2007 general elections related to:

- the electoral system;
- the demarcation of constituencies;
- the independence and impartiality of election management bodies;
- the registration of citizens and voters;
- the quality of the voters' roll;
- civic and voter education;
- access to the media and fair and balanced coverage of election-related events by the media;
- gender representation;
- the funding of political parties and political campaigns;
- the setting of election dates;
- vote counting; and
- voter turnout.

ROLE OF THE MEDIA IN THE ELECTORAL PROCESS

Pheello Selinyane of the NUL discussed the role of the media in Lesotho's electoral politics over the 1993-2007 period. The media, he said, were part of civil society and were equated with the rest of civil society in contemporary discourses on democracy and good governance.

Selinyane said that over the past two decades of transition to multiparty electoral politics, it had become commonplace to use the word 'crisis' to describe developments in the politics of Lesotho. He reminded delegates that in the 1993 general election the media had disparaged all political parties other than the formerly incumbent Basotho National Party (BNP) and the formerly exiled Basutoland Congress Party (BCP). In more recent years, however, the media had ceased to be monolithic and had begun to diverge in their commentaries on the unfolding record of the BCP government. Criticism of the BCP government had included the intractable Lesotho Liberation Army integration question as well as the army, police and prison warder strikes and mutinies.

After the watershed 1998 election, Selinyane said, there had been a perceptible change in the political views of the media. Although not necessarily so across the board, most of the media houses had become less strident and divisive in tone. There was now a greater inclination towards support for the values of mutual accommodation, commitment to agreements and good relations in national dialogue. He noted, however, that only a few radio stations had made a deliberate effort to initiate and mount voter education programmes.

GENDER EQUALITY THROUGH THE ELECTORAL PROCESS

Matseliso Mapetla of the NUL addressed the issue of gender equality through the electoral process. She noted that gender concerns had been in the margins of Lesotho's democracy, undermined by under-representation despite the fact that women made up the majority of the population. Even political parties had not taken adequate care of gender concerns. Mapetla lamented that although the 2007 election had taken place within the right gender framework, both local and international, a number of issues had had effects on gender equality. These were:

- the party registration exercise;
- the fact that political parties and the IEC did not enforce the legal provisions for the inclusion of women in PR lists;
- the registration gender imbalance in favour of men despite Lesotho's predominantly female population;
- the failure of women's groups to advocate women's interests;
- the decrease in the number of women candidates in 2007, with only 125 women candidates compared to 605 men; and
- the fact that only 15 of the 19 registered political parties listed even a single woman in their PR lists.

With MMP, it was expected that women would benefit. The IEC proposed a 50:50 gender split on PR lists but the political parties rejected this proposal. Men remained party gate-keepers. In the event, the women made up less than 15% of the PR lists compared with the 30% threshold figure required for affirmative action.

Shedding a small light in the darkness, the MMP model had led to an increase in the number of woman MPs – of whom there are now 13. Throughout the 2007 election it had become clear that the IEC had no enforceable gender policy. As a result, no gender aggregated data was available and there was no political empowerment for women. It was the responsibility of both state and non-state actors to make sure that gender equality was prioritised.

What was even more disturbing, in Mapetla's view, was the lack of oversight bodies to oversee and audit gender implementation. She argued that there was a need for the country's women's groups to join together in a common voice to highlight women's issues.

KEY RECOMMENDATIONS

- Non-state actors, especially the media, NGOs, women's groups, faith-based organisations and community-based organisations, should involve themselves more in all phases of the electoral process. Particular emphasis needs to be placed on voter and civic education. The electorate needs to be further educated on the MMP model. All stakeholders should also be made to understand the need for peaceful elections.
- The main political actors, such as the government and the political parties, need to regard the non-state actors as partners in the electoral process. They should therefore take the necessary steps to create continuous opportunities not only to engage the non-state actors in the process but to create an atmosphere conducive for them to carry out their roles in the process.
- In the post-election period, especially in times of post-election conflict, the non-state actors should seek to play a more constructive role in contributing to conflict-management efforts. In particular, the media should avoid the sort of inflammatory commentary that increases tensions in the post-election conflict situation.
- Women's participation and engagement in the political and electoral process needs to be increased. All stakeholders, particularly the political parties, should take steps to empower women by, for example, strengthening their women's wings.

For its part, the IEC should put in place a gender policy which should be effectively monitored for proper implementation by all political parties. Emphasis should be placed on the qualitative as well as the quantitative empowerment of women.

- While Lesotho has made considerable progress in terms of women's representation at local government level since the 2005 local government election, the country must adhere to SADC and AU commitments for the achievement of gender parity in all key governance institutions, including, but not limited to, the National Assembly and the executive.

8

REGIONAL EXPERIENCES: DEMOCRATISATION, ELECTIONS AND CONFLICT MANAGEMENT

INTRODUCTION

The conference involved participants from three SADC member states – the Democratic Republic of the Congo (DRC), Swaziland and Zimbabwe. The DRC had just emerged from a protracted violent conflict and had held transitional elections in July and October 2006. Post-election peace had, however, continued to elude this central African state. Swaziland had yet to embrace multiparty democracy and had begun experiencing the problems that go with multiparty elections. Its next elections were scheduled for 2008 and it was not yet clear whether these would be run along multiparty political lines. Zimbabwe had held its conflict-ridden national assembly and senate elections in 2005 and was planning to hold its next general election in 2008, possibly combining both parliamentary and presidential elections.

In a recent extraordinary summit of the SADC Heads of State and Government held in Dar es Salaam, Tanzania, the spotlight had focused on three countries considered as political hotspots in the region today. These had been the DRC, Lesotho and Zimbabwe. Elections in the three countries had tended to trigger conflict rather than bring sustainable peace, harmony and reconciliation.

The present regional conference would allow the selected SADC countries – the DRC, Swaziland and Zimbabwe – to share their experiences with Lesotho, given its recent election and its aftermath. At the same time, Lesotho's experience would provide lessons for these countries in terms of the constructive management of election-related disputes in their future polls. This would apply particularly to Swaziland and Zimbabwe whose next general elections were scheduled for 2008.

MANAGING ELECTION-RELATED CONFLICTS IN THE DRC

EISA's DRC country director, Vincent Tohbi, shared the experiences of the DRC in dealing with elections and conflicts. After many decades of political crisis and civil wars, the DRC stakeholders had signed a peace agreement in 2002 in South Africa. One of the key points of the agreement had been the holding of general elections to put an end to the political transition and to consolidate peace.

A transitional government that included all the major parties and belligerents had been set up to manage the country before the scheduled elections. Stakeholders involved in the process agreed that if it were not well managed, the eagerly anticipated elections could lead to serious violence.

In the DRC's case, Tohbi cited the weakness of the state, political and social issues, ruined infrastructure and the lack of election-related legislation as the main threats to the electoral process. In an effort to address these challenges, four approaches had been developed to counter election-related conflicts. These were:

- a legislative approach;
- a technical approach;
- a diplomatic approach; and
- the EISA model.

In the light of the complex political climate in the DRC, it was envisaged that a very inclusive approach was needed. The legislative approach needed to bring into the election process all the political parties and CSOs not represented in the transitional parliament. Furthermore it had been agreed that the election-related legislation to be adopted should not be discriminatory towards certain groups or candidates. The technical approach consisted essentially of empowering and equipping the IEC with the skills to deliver free and fair elections and to minimise the risk of conflicts. The role of the diplomatic approach was clearly spelled out and defined by the 2002 Peace Agreement. This was a role played by the international community through CIAT – a consultative group comprising the 14 countries that had sponsored the signing of the DRC Peace Agreement.

As these three approaches had been at a very high political level, EISA had felt the need to put in place other mechanisms to prevent or resolve election-related disputes at the grassroots level. The targeted grassroots mechanism was called the EISA model. It involved the establishment of election-related conflict management panels in all the territories and constituencies to carry out mediation during the elections.

MANAGING ELECTION-RELATED CONFLICTS IN ZIMBABWE

Rindai Chipfunde-Vava of the Zimbabwe Election Support Network shared Zimbabwe's experience with the participants. She said that the crisis in Zimbabwe was related to the economic downturn which had started in 1997. Since then there had been conflict in the country which could be attributed to a combination of corruption, the looting of the War Victims' Fund, the pillaging of state resources and land expropriations.

The issue of the legitimacy of the government of President Mugabe had been the main challenge in managing the current conflict in the country. According to Chipfunde-Vava, the issues could be simplified as: the opposition charging that the president had been illegally elected; and the ruling party regarding the opposition as puppets of the West and therefore not legitimate representatives of the people.

The failure of Zimbabwe's neighbours to condemn the crisis had also been cited as a contributory factor. What made it difficult for neighbours to intervene had been the issue of sovereignty and domestic laws. Although Zimbabwe was a signatory to various regional and international agreements, its constitution did not bind it to these agreements.

The absence of an electoral court in Zimbabwe meant that only the High Court could decide electoral issues. Alternative measures had been proposed to deal with this complicated situation. Among these was the creation of political party liaison committees and conflict management committees. It remained a fact, however, that Zimbabwe's membership of regional bodies such as SADC had given other countries an opportunity to intervene through structures such as the SADC Organ on Politics, Defence and Security.

A CIVIL SOCIETY PERSPECTIVE ON CONSTITUTIONAL AND ELECTORAL REFORMS IN SWAZILAND

Lomcebo Dlamini of the Coordinating Assembly of Non-Governmental Organisations of Swaziland told the conference participants that Swaziland had been faced with challenges common to the region, including declining economic growth, rising poverty, increasing unemployment and high HIV and Aids prevalences.

Since Swaziland's independence constitution had been repealed in 1973, the 1973 King's Proclamation to the Nation and other decrees had comprised the constitutional framework of the country in which the king retained the supreme power. However, as a result of a concerted effort by CSOs, a Constitutional Review Commission had been appointed in 1996 to decide on the possibility of a written constitution for the country. Such a constitution had been adopted in 2005.

The legitimacy of the 2005 constitution had, however, been criticised by CSOs on the grounds that the process that had led up to its adoption had excluded many stakeholders. In addition, said Dlamini, the 2005 constitution had contained a number of inconsistencies and contradictions. There had also been many unresolved issues that the constitution had failed to address. For instance:

- the amended or new electoral legislation had yet to be released to the public;
- an Elections and Boundaries Commission had yet to be appointed;
- tinkhundla boundaries had not yet been redrawn to reflect the new constitutional provisions; and
- despite the constitution's clauses on freedom of assembly and association, there was still uncertainty about the status of some political parties and their qualification to contest elections.

Among the many concerns of civil society formations in Swaziland were:

- the independence of the country's Elections Commission;
- the qualitative – rather than quantitative – representation of women;
- the entrenchment of a system that had not worked and had not promoted accountability; and
- the limited effort that had gone into civic and voter education.

KEY RECOMMENDATIONS

- Lesotho needs to critically consider the causes and effects of the violent conflicts in other countries in the region as an early warning mechanism. Lesotho should therefore learn important lessons from election-related conflicts in the DRC, Swaziland and Zimbabwe and use such lessons to improve the quality of its elections and ensure that constructive methods are used in resolving election-related disputes.
- The government and people of Lesotho need to understand that Lesotho is not immune to the kind of violent conflict that has had an extremely negative effect

on the resources, stability and development of various SADC countries that have recently experienced violent conflict. The post-election political tension and violent conflict need to be deliberately redressed through genuine dialogue and other alternative dispute-resolution mechanisms rather than through violence.

- In responding to the post-election conflict situation, stakeholders should adopt a multifaceted approach to the problems. Such a multifaceted approach should include political tolerance, diplomatic engagement, judicial interventions and technical assistance through expert opinion on the problem and its solutions.

9

THE ROLE OF EXTERNAL ACTORS IN THE MANAGEMENT OF ELECTION DISPUTES IN LESOTHO

INTRODUCTION

External actors have played a crucial role in the electoral process and the efforts towards the resolution of the post-election conflict. Especially important had been the roles played by the Commonwealth Secretariat and SADC, both of which had participated in the 2007 election as international observers. The Commonwealth had also played a critical role in facilitating the constructive management of disputes in Lesotho over the past decade and it had continued to play this role after the 2007 general election.

SADC has also played an important role, particularly through its Organ on Politics, Defence and Security Cooperation. Through the Organ, the SADC Eminent Person Mission of His Excellency Sir Ketumile Masire had begun a dialogue process involving all key stakeholders and aimed at an amicable resolution of post-election disputes. Although the dialogue process has not yet been finalised, considerable progress has been made.

Concerns had been raised about the likelihood of the positive gains brought by the electoral reform of 2002 being reversed by developments following the 2007 election, particularly if the post-election disputes were not managed constructively and resolved amicably. Following this election, some opposition parties had expressed misgivings regarding the allocation of parliamentary seats, and had then staged a sit-in in parliament and subsequently organised a stay-away as part of their protest. All these developments had prompted attempts by local actors, especially the Christian Council of Lesotho and the LCN, to mediate in the conflict and to bring about an amicable negotiated settlement. However, as these local initiatives towards a constructive resolution of the problem seemed unable to bear fruit, external initiatives had also been attempted.

At the time of the stay-way, SADC had organised a meeting of the Ministerial Troika on Politics, Defence and Security in Maseru. Opposition parties had presented their grievances to this meeting through the executive secretary, Dr Tomaz Augusto Salomão. The chairperson of the Ministerial Troika of the Organ had passed the issue of the Lesotho post-election political crisis to the higher echelons of the SADC structures and this had led to the tabling of this matter during SADC's recent Extraordinary Summit held in Dar es Salaam, Tanzania, which had decided 'to send a SADC delegation at Ministerial level to go and assess the situation as requested by the political parties'.

Such a delegation went to Lesotho over the 11-14 April 2007 period to establish the facts around the grievances and to report back to the chairperson of the SADC Organ on Politics, Defence and Security. In its fact-finding report, the SADC ministerial committee had found that a number of problems had caused post-election tension and grievances in Lesotho. These had included:

- the manipulation of the MMP electoral model by political parties;
- the formation of controversial political party alliances;
- the unfair allocation of parliamentary seats; and
- the lack of dialogue among political leaders.

Following the submission of the fact-finding report to the chairperson of the Organ, a meeting of the Ministerial Troika of the Organ had been convened in Dar es Salaam in May 2007 to deliberate on its content. One of the decisions of the May meeting had been that SADC should dispatch a high-level team to Lesotho to facilitate a dialogue process aimed at resolving the post-election political impasse. To this end, Sir Ketumile Masire, a former President of Botswana, had been tasked with the responsibility for facilitating the Lesotho dialogue process. Political actors had begun a dialogue process in early June. At the same time, however, there had been intermittent political tension that seemed to be mounting and that in many instances had been marked by political violence. For a sustainable resolution of the post-election conflict, dialogue should be given priority and a political rather than a military solution should be found.

THE ROLE OF THE COMMONWEALTH SECRETARIAT IN THE ELECTIONS AND THE MANAGEMENT OF POST-ELECTION DISPUTES

Professor Ade Adefuye, special adviser to the secretary general of the Commonwealth, read a statement to the conference on behalf of the secretary general. This began with the statement that the Commonwealth valued all its members, including Lesotho. The Commonwealth also valued political stability as this created conditions that were conducive for democracy and good governance. The statement emphasised the commitment of the Commonwealth in ensuring that Lesotho enjoyed peace and security so that the Basotho were able to develop. The statement went on to emphasise the fact that the Commonwealth had always assisted Lesotho in its previous conflicts, such as the 1998 conflict, in which the secretary general had been personally involved in the formulation of the reforms put in place by the Independent Electoral Authority. Those reforms had led to the adoption of the new electoral model, which had seen Lesotho's political climate stabilise after 2002.

The Commonwealth had sent an observer mission to the 2007 election and was hopeful that the mission would help Lesotho to manage its post-electoral conflicts. Part of the reason for the secretary general being represented at this particular conference had therefore been that the Commonwealth wished to help in the search for a peaceful solution to the post-election dispute. The statement had informed the conference participants that the Commonwealth had already made a commitment to bring experts from New Zealand to contribute to the process, and additionally to send the Lesotho IEC personnel on a study tour to New Zealand to learn more about how the MMP worked in practice in that country.

THE ROLE OF THE SADC SECRETARIAT IN THE ELECTIONS AND THE MANAGEMENT OF POST-ELECTION DISPUTES

In a statement prepared for the conference, Lieutenant Colonel (retired) Tanki Mothae of SADC had indicated that SADC was committed to building peace in the region and promoting democratic processes. He said that this commitment to the consolidation of democracy was, for example, demonstrated by the regional institutionalisation of the principle of electoral observation which was underpinned by regional frameworks such as the SADC Treaty, the

Protocol on Politics, Defence and Security Cooperation, the Strategic Indicative Plan for the Organ and, in particular, the SADC Principles and Guidelines Governing Democratic Elections, all of which promoted democratic electoral processes.

Mothae's statement noted that SADC had been involved in the Lesotho election process before, during and after the 2007 election. Besides having closely monitored the pre-election activities in Lesotho, SADC had sent an election observer team during the elections, which had noted that the political environment during the elections had been calm. SADC's continued involvement in Lesotho had included the appointment of former president Ketumile Masire of Botswana to lead a mediation process between the political parties in Lesotho.

KEY RECOMMENDATIONS

- Stakeholders in Lesotho should ensure that legal hearings of election-related disputes were expedited in order for the SADC-mediated dialogue to be resumed.
- SADC and the Commonwealth Secretariat should facilitate a speedy finalisation of the dialogue process of the SADC Eminent Person Mission of Sir Ketumile Masire for the amicable resolution of the current political impasse.
- SADC and the Commonwealth Secretariat should facilitate the speedy appointment of three external experts from Denmark, Germany and New Zealand to review the application of the MMP electoral system during the 2007 general election and to make appropriate recommendations for the future, and with such recommendations to be implemented by the Lesotho authorities.
- There is a need for improved communication between the SADC Eminent Person Mission and the SADC Secretariat on one hand and the key political stakeholders in Lesotho, including the ruling and opposition parties, on the other.
- The role of the external actors in the Lesotho conflict should be advisory and reconciliatory rather than prescriptive and judgmental.

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CONCLUSIONS ON IMPACT AND SUSTAINABILITY

The regional conference was meant to facilitate dialogue on Lesotho's post-election political crisis with a view to seeking lasting political solutions. For the purposes of ensuring both local ownership and sustainability of the suggested solutions, EISA had collaborated with a local agency, the LCN, in this venture. The LCN had played a critical role in the electoral process, including voter education, civic education, conflict management, election monitoring and observation, and the facilitation of dialogue among parties in the post-election phase. After the conference, follow-up activities had generally been undertaken by the LCN. This strategy had ensured the sustainability of the impact of the conference.

The conference had contributed to the efforts of His Excellency Sir Ketumile Masire, who is the SADC Envoy facilitating negotiations aimed at a peaceful resolution of the post-election conflict in Lesotho. This contribution is recognised by SADC itself in its report on the latest mission of Sir Ketumile Masire to Lesotho on 6-9 February 2008.

This was the first visit of the SADC Special Envoy to Lesotho since July 2007, and the Envoy expressed his concern that between July 2007 and February 2008 not much systematic dialogue had taken place between and among the parties to ensure a coordinated approach for implementing the resolution of agreed issues that had not been the subject of on-going litigation. These issues had included political tolerance, observance of the rule of law, safety and security matters, media freedom and the position of the Leader of the Opposition.

However, the Masire mission had expressed its encouragement that the IEC and the country's political parties had been holding monthly meetings to address challenges relating to elections. The mission also noted that meetings had been organised between the ruling party and opposition parties at the behest of the prime minister. The mission further noted that EISA jointly with the LCN had hosted a conference bringing all relevant stakeholders together to deliberate on the post-election conflicts and to explore strategies for their amicable resolution. The report of the Masire Mission cited four of the recommendations made during the conference:

- The IEC and relevant institutions should enforce the Electoral Code of Conduct.
- The mediation process led by the SADC Eminent Person, Sir Ketumile Masire, should be provided with the necessary support and the political commitment of all stakeholders in order that it can achieve its principal objective of resolving the post-election political challenges facing Lesotho.
- Civil society should continue to engage the broad cross-section of the population on key challenges facing the country in relation to democracy, development and conflict resolution.
- Lesotho should develop internal conflict management mechanisms.

The long-term impact of the conference was intended to be political stability and the advancement of the democratisation frontiers in Lesotho to avoid a return to authoritarian rule. The conference had contributed to the on-going momentum for dialogue as a means for resolving disputes in Lesotho.

The conference had continued the dialogue process that the LCN and the IEC/United Nations Development Programme facilitation team had already begun, and had extended this to the SADC regional level.

The conference had continued EISA's quest for credible elections and democratic governance in Lesotho through its election observer mission and its programme to strengthen political parties.

The conference had contributed indirectly to the implementation of SADC's own democratic governance agenda as enshrined in the 2004 Strategic Indicative Plan of the Organ on Politics, Defence and Security Cooperation in relation to Lesotho, especially the efforts by the SADC Special Envoy, Sir Ketumile Masire, former president of the Republic of Botswana.

The debate and deliberations at the conference had culminated in an agreement by participants on practical proposals for the necessary political reforms (including electoral and institutional reforms) for the purpose of entrenching the country's democratic system.

The reform agenda was therefore already under way in Lesotho.

APPENDIX 1
KEYNOTE ADDRESS

KEYNOTE ADDRESS

by

H.E. Cassam Uteem, Former President of the Republic of Mauritius

Director of ceremonies;
Government representatives;
Leaders of political parties;
Members of the diplomatic corps;
Chairperson of the Independent Electoral Commission-Lesotho, Mr Leshele Thoahlane;
EISA executive director, Mr Denis Kadima;
LCN chairman and executive director, Mr Seabata Motsamai;
Distinguished participants, ladies and gentlemen;

It gives me great pleasure, and indeed it is a signal honour, to address such an august gathering, which for the next few days will deliberate on elections and democracy in the Kingdom of Lesotho, one of the treasured members of the Southern African Development Community (SADC).

A couple of weeks ago, I heard a most welcoming piece of news regarding Lesotho that, unlike the much publicised discovery of the 450 carat diamond, did not hit the media headlines. At the United Nations Conference on Trade and Development, Director for the Division of LDCs (the so called least developed countries) Mr Habib Ouané announced that Lesotho would 'very soon' leave the group of least developed countries to join that of the middle-income ones. Lesotho would already have graduated to the new status were it not for the negative impact on Lesotho's economy of the world crisis in the textile industry.

In spite of natural calamities like the prevailing condition of drought, which is causing so much hardship to the population and which we pray will soon be over, Lesotho will sooner rather than later join the middle-income group of countries and be in a better position to achieve the Millennium Development Goals, especially in so far as poverty reduction is concerned.

However, as we are all aware, the political leaders of the country more than anybody else, the path of development is strewn with obstacles; prominent among them are man-made calamities (i.e. conflict, strife, civil war, etc.) that create instability and insecurity. Countries like Lesotho and my own, Mauritius, badly need foreign investment for developing their infrastructure i.e. roads and buildings, but also social infrastructure like schools, hospitals, kindergartens, etc.; and stability and security are the two most important incentives to draw foreign investment into any country. We therefore cannot afford to allow a stalemate as a result of unresolved conflicts. The sooner they are settled through constructive dialogue the better chance we stand to attract the foreign direct investment that is so essential for our development and progress.

May I at the very outset of this conference congratulate, on my behalf and yours, the organisers of this important and timely dialogue forum i.e. EISA and the Lesotho Council of Non-Governmental Organisations. This dialogue forum is being held at an important moment of our democratisation process in the SADC region.

It is worth underscoring that the two most important end products of multiparty elections are:

- the enhancement of political participation by the electorate in the democratic process; and
- the formation of a legitimately constituted government that is truly representative of the people and enjoys their trust and confidence.

The holding of multiparty elections almost every five years is a positive sign for participatory democracy. However, multiparty elections should not only be held regularly, they should also be of high quality so as to add value to democracy. The quality of elections is judged by the extent to which they are conducted within the legal and institutional frameworks enshrined in each country's constitution and electoral laws. It is also judged by the extent to which the elections meet international and regional standards, norms and principles. If the quality of an election is assured, then the outcome is bound to be satisfactory to the major parties concerned. This is where today's conference becomes extremely important for all democracy stakeholders in Southern Africa in general and in the Kingdom of Lesotho, in particular.

It is an open secret today that many elections since the beginning of democratisation in the 1990s have been marred by disputes of various kinds, and in some instances by violent conflict which has generated worrying political instability in our region. Of course, elections are a contest where the stakes are high and in that situation often times conflict is likely to occur. Perhaps the challenge, then, ladies and gentlemen, is not so much to wish away conflict or bemoan its occurrence, but rather to devise institutionalised mechanisms for its constructive management and resolution. In a word, election-related conflict and disputes should be considered as a reality of politics. They are part and parcel of democratisation. Nevertheless, the challenge for all democracy stakeholders is to anticipate these conflicts and put in place effective institutional mechanisms for managing them constructively. This will ensure that election-related disputes are pre-empted and prevented early enough before they trigger political instability that may derail democracy and cause the socio-economic development of the country to be hampered.

This reality is today recognised by our governments at both continental and regional levels. From the continental (macro) level all the way through to regional (meso) level and national (micro) level, African leaders are today more and more conscious of the need for ensuring constructive management of election-related disputes and ensuring high quality elections with a view to deepen representative democracy and strive towards political stability in our countries. It is precisely in pursuit of democratic consolidation and political stability that during its 38th Ordinary Session of the Assembly of Heads of State and Government held in Durban, South Africa in July 2002, the OAU/AU adopted the Declaration on the Principles Governing Democratic Elections in Africa. This is a vivid demonstration of the firm commitment of the

African leaders to clean, free and fair elections conducted on the basis of a level playing field and with minimum incidence of conflict. The AU Declaration, among other things, commits member states to the following important principles:

- Democratic elections are the basis of the authority of any representative government.
- Regular elections constitute a key of the democratisation process and therefore are essential for good governance, the rule of law, and the maintenance and promotion of peace, security, stability and development.
- The holding of democratic elections is an important dimension in conflict management and resolution.
- Democratic elections should be conducted:
 - freely and fairly;
 - under democratic constitutions and in compliance with supportive legal institutions;
 - under a system of separation of powers that ensures, in particular, the independence of the judiciary;
 - at regular intervals, as provided for in national constitutions;
 - by impartial, all-inclusive, competent, accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics; and
 - under the unrestricted scrutiny of party monitors and non-partisan observers.

In a nutshell, the African Union embraces the idea that, at all times, elections have to add value to a vibrant democracy.

At the regional level, there are three complementary initiatives that aim at assisting our countries to ensure that elections are both of a high quality and peaceful. Firstly, the SADC-Parliamentary Forum (SADC-PF) based in Windhoek, Namibia developed its Norms and Standards for Elections in the SADC Region in 2001. Incidentally, the SADC-PF Norms and Standards were first put to the test during Lesotho's 2002 general election. The SADC-PF norms and standards for elections cover:

- elections and the individual rights;
- elections and the government; and
- fostering transparency and integrity in the electoral process.

Secondly, EISA jointly with the Electoral Commissions Forum of SADC countries (ECF) have developed another complementary instrument known as the Principles for Election Management, Monitoring and Observation (PEMMO) in the SADC Region, which has been in use since 2003. EISA used PEMMO in observing the 2007 general elections in Lesotho under the leadership of my colleague, H.E. Sir Ketumile Masire, former President of the Republic of Botswana. PEMMO serves also as the basis of observation by most civil society observer groups in their respective countries. PEMMO, like the SADC-PF instrument I mentioned earlier, outlines problems facing SADC countries in elections and offers best practices for improvements to be introduced with a view to redressing the scourge of violent conflict arising out of elections.

PEMMO, the French version of which I remember launching in Antananarivo, Madagascar, in October last year, covers the whole gamut of principles and procedures related to the electoral process as follows:

- the institutional and legal framework;
- pre-election phase process;
- election phase process;
- post-election phase process;
- election observation and monitoring; and
- code of conduct for observers.

Thirdly, during its Annual Summit of Heads of State and Government held in Mauritius in August 2004, SADC adopted the Principles and Guidelines Governing Democratic Elections. The SADC principles and guidelines have five main components namely:

- principles for conducting democratic elections;
- mandate and constitution of SADC observer missions;
- guidelines for the observation of elections;
- rights and responsibilities of SADC election observers; and
- responsibilities of the member states holding elections.

The Principles and Guidelines commit SADC member states to the following 10 best practices in striving towards quality elections marked by peaceful political contest: (a) full participation of the citizens in the political process; (b) freedom of association; (c) political tolerance; (d) regular intervals for elections as provided for by the respective national constitutions; (e) equal opportunity for all political parties to access the state media; (f) equal opportunity to exercise the right to vote and be voted for; (g) independence of the judiciary and impartiality of the electoral institutions; (h) voter education; (i) acceptance and respect of the election results by political parties proclaimed to have been free and fair by competent national authorities in accordance with the law of the land; and (j) challenge of the election results as provided for in the law of the land.

I am therefore fairly optimistic that the four initiatives already developed (a) by the African leaders through the African Union, (b) by the parliamentarians through the SADC-PF, (c) by civil society and electoral commissions through EISA/ ECF and (d) by our governments through SADC will go a long way in ensuring that regular elections in our countries are of high quality and ensure peaceful political outcomes. It is also gratifying to note that the AU, SADC-PF, SADC Secretariat, EISA and ECF formed part of a number of international observer missions that witnessed the 2007 general elections in Lesotho. Their statements on the election indicated that while some electoral aspects were contentious, the process, in and of itself, was credible in accordance with accepted principles and guidelines. Nevertheless, as the saying goes, the devil is always in the detail, and soon after the international observers left the country, post-election tension and conflict ensued.

Director of ceremonies;
Government representatives;

Leaders of political parties;
Members of the diplomatic corps;
Chairperson of the IEC-Lesotho, Mr Leshele Thoahlane;
EISA executive director, Mr Denis Kadima;
LCN chairman and executive director, Mr Seabata Motsamai;
Representatives of civil society organisations;
Academics and resource persons;
Distinguished participants, ladies and gentlemen.

A combination of national and regional efforts has thus far contained the conflict bringing belligerent parties together in a dialogue process. I pay tribute to my colleague, Sir Ketumile Masire, who has been mandated by SADC to facilitate the dialogue process and I am optimistic that given a chance and political commitment by all the stakeholders, the dialogue process for the resolution of the post-election conflict in the Mountain Kingdom of Lesotho will be successfully and amicably concluded. As members of SADC, we value democracy and political stability in Lesotho. We will not stand idly by while stability in Lesotho is put in jeopardy, for we know that lack of stability in Lesotho is a threat to democracy and the development of the country. We are also cognisant of the fact that political instability in Lesotho does have ramifications for peace and security in the entire SADC region. That is why SADC is justifiably concerned about the post-election developments and is actively involved in the mediation process for a peaceful resolution of the current conflict.

I would like, by way of conclusion, to wish the participants at this regional conference on 'Lesotho's 2007 General Election: Towards a Constructive Management of Post-Election Disputes' three days of fruitful deliberations. I am confident that your efforts will bear the desired results as we all strive towards democratic consolidation and political stability in the SADC region.

Let me leave you with the following quote from the recently published report of a task force set up to find ways of better integrating Muslim Americans into the American society, especially after the tragic events of 9/11:

There is no form of government more challenging than democracy. It rests on the will of the majority, yet it requires the protection of minority rights. It is the strongest when it is most inclusive, but inclusion can lead to conflict and delay. It sets high ideals for itself – so high that it often falls short A democracy is a work-in-progress. It will never be perfect, but it can always be made better.

I have much pleasure in declaring this conference open and I thank you all for your attention.

**APPENDIX 2:
STATEMENT BY SADC**

THE ROLE OF SADC IN THE FEBRUARY 2007 GENERAL ELECTIONS OF THE
KINGDOM OF LESOTHO AND THE MANAGEMENT OF THE POST-ELECTION DISPUTE

by

Lt Col. (rtd) Tanki Mothae, Director, Organ on Politics, Defence and
Security Cooperation Directorate

INTRODUCTION

This paper is intended to outline the role of the Southern African Development Community (SADC) in the general elections of the Kingdom of Lesotho held on 17 February 2007. The paper will also address SADC's current mediation role in the post-electoral political dispute which is being mediated by His Excellency Sir Ketumile Masire, former President of the Republic of Botswana. The objective is to provide an overview of SADC's role in 2007 electoral process and post-electoral phase.

OVERVIEW OF SADC'S ELECTORAL OBSERVATION IN MEMBER STATES

SADC is committed to building a community that promotes democratic processes and recognises that democracy and good governance are pertinent to regional peace, stability and sustainable development. This commitment to the consolidation of democracy is, for example, demonstrated by the regional institutionalisation of the principle of electoral observation, which is underpinned by regional frameworks such as the SADC Treaty, the Protocol on Politics, Defence and Security Cooperation, the Strategic Indicative Plan for the Organ (SIPO) and, in particular, the SADC Principles and Guidelines Governing Democratic Elections which promote democratic electoral processes.

The electoral observation practice enables SADC to assess the status of compliance with the SADC Principles and Guidelines Governing Democratic Elections, as well as adherence to the principles of democratic elections and transparency of political systems. As stipulated in the electoral observation Principles and Guidelines, SADC strives to promote the full participation of citizens in decision-making processes and the consolidation of democratic practices and institutions, as well as to enhance the credibility of elections and democratic governance in the region.

The SADC observer missions are undertaken following an invitation by a member state to observe its elections. The mandate of the mission is based on the SADC Treaty and the Protocol on Politics, Defence and Security Cooperation. The mission constitutes observers from a variety of sectors which include women's organisations, trade unions, government officials and opposition parties. Examples of recent electoral processes covering the period 2006-2007 whereby SADC observers were deployed include the multiparty elections in the Democratic Republic of Congo, the Republic of Madagascar, the Republic of Zambia and, early this year, the Kingdom of Lesotho.

ROLE OF THE SADC ELECTORAL OBSERVER MISSION IN THE GENERAL ELECTIONS OF THE KINGDOM OF LESOTHO HELD IN FEBRUARY 2007

At the invitation of the Government of the Kingdom of Lesotho to SADC, as well as being guided by the SADC standard practice to support a member state that is holding elections, SADC deployed its electoral observer mission to Lesotho from 5-18 February 2007 for the observation of the country's general elections held on 17 February 2007. The mission was headed by the Honourable Minister John Chiligati, MP and Minister of Labour, Employment and Youth Development from the United Republic of Tanzania. The mission deployed field teams of observers to constituencies which included Maseru, Mohale's Hoek, Quthing, Mafeteng, Leribe, Berea, Butha Buthe and Qacha's Nek.

It is important to note that prior to the deployment of SADC observers, in its efforts to also support the pre-electoral process, SADC facilitated consultative forums with representatives of Lesotho's political stakeholders. These forums sought to encourage political stakeholders to march with a united purpose and encouraged concerted efforts to hold peaceful, free and fair elections that promote the consolidation of democratic institutions and good governance in Lesotho.

Once on the ground in Lesotho, the SADC Electoral Observer Mission noted that the pre-election phase was generally characterised by peace and political tolerance. A few isolated violent incidents were addressed by the law enforcement agencies. The mission, and in particular the head of mission, also had the opportunity to interact with representatives of political parties, the Independent Electoral Commission (IEC), members of the diplomatic corps accredited to Lesotho, the Council of Churches, as well as civil society. These interactions enabled the mission to gain insight into the political climate and compare notes with other stakeholders on the electoral process.

In its conclusions of the polling process, the mission concluded that the process was open and transparent, allowing Basotho to express their franchise peacefully, freely and unhindered. In particular, the mission noted that during the polling process, a high level of political maturity and tolerance was displayed, a peaceful atmosphere was nurtured by supporters of the different political parties, the ballot boxes complied with the SADC Principles and Guidelines Governing Democratic Elections as they allowed for a transparent voting process, and voter education enabled voters to make informed decisions when voting. In this regard, SADC concluded that the general elections of 17 February 2007 were free, fair, credible and well managed.

ROLE OF SADC IN THE POST-ELECTORAL POLITICAL DISPUTE*Pre-dialogue phase*

Since the holding of the elections which saw the will of the people reinstating the LCD as the ruling party, the post-electoral political climate has unfortunately been characterised by political tension.

In response to an invitation in April 2007 from His Excellency the Right Honourable Pakalitha Mosisili, Prime Minister of the Kingdom of Lesotho, to SADC to undertake a mission to Lesotho to assess the post-electoral political environment, SADC fielded a ministerial working mission comprising the Ministerial Troika of the Organ on Politics, Defence and Security Cooperation

to Lesotho. The objective of the mission was to conduct an assessment of the post-electoral situation in Lesotho and make recommendations to the chairperson (August 2006-August 2007) of the SADC Organ on Politics, Defence and Security Cooperation, His Excellency Jakaya Mrisho Kikwete, President of the United Republic of Tanzania as per the March 2007 Extraordinary Summit directive.

The mission constituted the United Republic of Tanzania (Chairperson – August 2006-August 2007), Republic of Angola (Deputy Chair – August 2006-August 2007) and the Republic of Namibia (Outgoing Chair – August 2006-August 2007). The ministerial mission comprised the Head of the Mission, the Honourable Captain (rtd) John Chiligati (MP), Minister of Labour, Employment and Youth Development of the United Republic of Tanzania, the Honourable Marco Hausiku (MP), Minister of Foreign Affairs of the Republic of Namibia and the Honourable Dr Angelo Veiga, Deputy Minister of Home Affairs of the Republic of Angola.

In its findings drawn from consultative meetings with various stakeholders which included the ruling party, opposition parties, former media monitoring panel and election facilitation group, diplomatic corps accredited to Lesotho, Council of Churches and civil society groups, the ministerial mission noted that the stakeholders attributed the post-electoral political dispute to, among others, the following:

- Application of the mixed member proportional model
- Allocation of parliamentary seats
- Informal political alliances
- Code of conduct for the elections.

Cognisant of the findings, the ministerial assessment mission concluded that the post-electoral political situation in Lesotho was tense and that there was a need for SADC to respond urgently and assist in resolving the political challenges facing Lesotho. In this regard, the mission recommended, among others, the following pertinent undertakings:

- SADC should initiate a process of political dialogue for the political stakeholders.
- SADC should identify an eminent person from the region to facilitate the dialogue process.

The proposed recommendations were approved by the relevant SADC statutory bodies in consultation with political stakeholders in Lesotho. This approval resulted in the appointment of His Excellency Sir Ketumile Masire, the former president of Botswana, as the SADC Eminent Person who would facilitate the post-electoral political dialogue in Lesotho.

Dialogue phase

Driven and underpinned by its determination to promote the region's common political values, systems and institutions that preserve and foster the democratisation process in member states and promote a regional climate of peace and stability, SADC mandated His Excellency Sir Ketumile Masire to facilitate a dialogue between the ruling party, opposition parties and other relevant stakeholders. The objective of the dialogue was to support Basotho in their efforts to resolve the post-electoral political dispute in an amicable and speedy manner.

In this regard His Excellency Sir Ketumile Masire undertook two missions to Lesotho to facilitate the dialogue. The first mission, undertaken from 14-16 June 2007, provided a road map that was adopted by all stakeholders to guide the main dialogue which marked the Eminent Person's second mission. The second mission commenced on 25 June 2007 and concluded on 1 July 2007.

In its development, the dialogue road map considered the issues that the political stakeholders identified as contributory causes to the dispute. These were as follows:

- Firstly, issues related to the consolidation of democracy and good governance in Lesotho, which include matters of political tolerance, peace and security, media conduct, and the recognition of the official status of Leader of the Opposition.
- Secondly, issues that pertain to queries on the application of the MMP model more specifically centred on its application following the outcome of the general elections held on 17 February 2007. Additionally, the concerns raised on the varying interpretations of the allocation of parliamentary seats as allocated by the IEC.

In regards to the issues pertaining to the MMP, the stakeholders agreed to have MMP model experts review the model and its application. Furthermore, the stakeholders agreed to deliberate on the MMP issues at a later stage once the review process was complete.

Against this backdrop, the road map guiding the main dialogue of 25 June–1 July 2007 addressed the following:

a. Creation of an enabling environment for a successful dialogue

- Political tolerance
- Assurance of safety and security
- Normalisation of the conduct of the media
- Commitment to upholding the rule of law, as well as ensuring peace and stability

b. Consideration of certain democratic parliamentary processes

- Resolution of recognition of official status of Leader of the Opposition
- Membership of the Council of State

c. Review of dialogue progress and outcomes

- Agreement on the time-frame and the way forward

Following a week of fruitful deliberations, the main dialogue concluded with a proposed framework comprising responsive measures that would guide the current efforts to resolve the political concerns. The forum also agreed that the next leg of the dialogue would continue once the election-related court cases and the review of the MMP model were concluded.

CONCLUSION

It is on this promising note that SADC's instrumental mediation role in Lesotho's post-electoral political dialogue remains. The region has commended all stakeholders for their

commitment to the dialogue and their willingness to resolve their differences in an amicable manner. Moreover, the region notes that the dialogue process has presented a vital step for the institutionalisation of a sustainable culture of dialogue and political tolerance in Lesotho.

The success of political stability, peace and sustainable development in Lesotho is also a success to the region as a whole. Thus, the region will remain steadfast in standing shoulder to shoulder with Basotho to support the dialogue process to its successful conclusion, which will ensure political stability, tolerance and cooperation.

APPENDIX 3
STATEMENT BY THE COMMONWEALTH SECRETARIAT

**THE ROLE OF THE COMMONWEALTH SECRETARIAT IN THE ELECTIONS
AND THE MANAGEMENT OF POST-ELECTION DISPUTES**

by

Professor Ade Adefuye, Special Advisor to the Commonwealth Secretary General
and Head of the Africa Section of the Political Affairs Division

Let me start by conveying very warm greetings from the Commonwealth Secretary General who last visited Lesotho in December 2006 and had the privilege of talking to representatives of all 19 political parties at the Ministry of Foreign Affairs on issues relating to the election of 2007. But that was not his first visit to Lesotho. In fact Lesotho and the Commonwealth have come a long way, particularly during the tenure of the current Commonwealth Secretary General. The first place he visited together with me upon assuming duty in 2000 was Lesotho, and at the time we were dealing with the perceived defects inherent in the first-past-the-post (FPTP) system which was threatening political stability in the country. We came and met with the prime minister and members of all the political parties.

That then began my engagement with stakeholders in Lesotho. I, myself, have been here since 1998 in the strategic planning unit. But my direct involvement in Lesotho in terms of political matters started in 2000. I should start off by extending my gratitude to both EISA and the LCN for organising this important and timely conference. I'm leaving Lesotho on Saturday to proceed to the Gambia with one principal objective: to create a similar situation that I have seen here, where we could have a discussion on issues that are very politically volatile yet in such a friendly and tolerant atmosphere; where people exchange views and there is a commitment to dialogue on both sides. If Sierra Leone had had the kind of situation that you have here, the country would not have been engulfed in a protracted and costly civil war. Granted, it is not a perfect thing, but it is a start. What now remains is to make sure that dialogue is continuous and sustained even if there are divergent views and opinions. The spirit of willingness to submit contentious issues to dialogue is very commendable. You have heard of the experiences in the DRC, Zimbabwe and Swaziland. If only there had been a frank and cordial exchange of views in those countries, they would not be in the volatile political situation in which they find themselves today. So I must commend both EISA and the LCN for their marvellous work, and propose that EISA considers opening branches of the organisation in other parts of Africa so that they avail this service to people who want to advance peace, democracy and stability in Africa. I will report to my boss in the Commonwealth Secretariat the tremendous assistance that you guys continue to make.

I will spend the next five minutes explaining what the Commonwealth does in Africa. For us in the Commonwealth our main functions are democracy and development. We do believe that for African countries to develop there must be democracy. Democracy is able to create an atmosphere conducive to sustainable human development. Since the demise of apartheid in South Africa, the Commonwealth has accelerated its vigorous campaign for democratic

governance among its member states and throughout the globe. We provide technical assistance to election management bodies. We observe elections and at the end of a mission, our observers make recommendations for improvement of the electoral process. One major thing we do is that we also assist in training after the elections, like we did in Lesotho following the 2007 election. Some two months ago we had a seminar for members of cabinet and permanent secretaries in Lesotho on how to improve effectiveness and efficiency in the public service. We are planning to organise a similar workshop for parliamentarians with the cooperation of the Commonwealth. We also encourage member states to adopt democracy, and one major thing that we do is to resolve and prevent conflicts. We do believe we have been able to make good progress on that front and have established a good reputation for ourselves in terms of conflict resolution. We always have a good knowledge of the major causes of political crisis in most of our member states.

There is no gainsaying that African countries need peace and stability in order for democracy and development to be achieved. With regard to Lesotho, we look at the fundamental causes of political instability. It could be the nature of the constitution; it could be factors of history which we inherited from the colonisers; it could even be the nature of the political system in existence. So, we then advise a modification of the system that was in existence and this is why right now we are working with Swaziland on the constitution. I must say on Swaziland, there are some good elements in the new constitution. We try and help countries to amend existing constitutions and train them to understand that constitution very well.

In Lesotho, we discovered that the FPTP system was a major cause of political instability because the number of votes scored by political parties was not reflected by the number of seats they win in parliament. So there was a suggestion for reform towards adoption of the current mixed-member proportional (MMP) system. Thus, the 2002 election, the first test case for MMP in Lesotho, was quite a straight forward and seamless political affair devoid of post-election violence. But then came the 2007 elections and it seems post-election turbulence has started to haunt Lesotho once again. There is no system that is 100% perfect. The constitutional system and the political arrangement are as good as they are implemented. If we have the right spirit, the right commitment and place national interest above partisan or personal interests, the constitution is as good as we want to make it.

That is the basis of my appeal to you. You really have to be sure that the FPTP system has some inherent defects. MMP is supposed to be an improvement on it, yet we are beginning to see that it is possible to exploit loopholes that were not noticed by the designers of this model. Therefore, this is still a learning process and I quite appreciate the desire of many people in this audience to have the situation as perfect as it can be. But I must caution that we should not expect that dealing with the electoral model is a panacea for Lesotho's difficulties. We also must not expect quick fix results when dealing with complex political problems like the ones that this conference is seized with. If you know how long it took the Americans to get their constitution enacted, you would understand what I mean. Rome was not built in a day. You cannot have a perfect constitution and a perfect political situation in Lesotho overnight. Yes, we all have high expectations and yearn for a speedy resolution to the current problem, but let us base our hope on reality. De-personalise the issues and look for the interests of Lesotho in the long-term.

After the 2002 election, it became obvious that no rigging was taking place; it was just the system that was wrong not the people or the institutions. In all my travels in the world, Lesotho has exhibited the worst defects of the FPTP system. That is true! Elections are not being rigged; the simple answer is that the system was both inadequate and deficient. We designed the new one in the form of the MMP model and now we discovered that it is as good as we want to make it. It also has its own defects, as we have found out now. So many things will have to be done to make sure that we have an instrument that consolidates political stability. Now how do we go about this? We have identified the system, the problems, and have adopted the right response. One way to make sure that we get to the Promised Land is that we must identify and strengthen the institutions that support democracy. These are all the arms of government: the executive, legislature and judiciary.

In spite of all that has been said, in spite of all the controversy, we in the Commonwealth observed that election and that is why I'm happy with what Mr Thabane said today, that they are not contesting the outcome of the elections. The people spoke, they chose the party that they want to rule them. It was clear and unambiguous; the LCD won, and we can't do anything about it. A government is in place and should be allowed to function. There is still a dispute, but while that dispute is being settled nothing, and I mean absolutely nothing, should cast doubt on the ability and the integrity of government to function. When you do this, you are not only undermining the government, you are undermining Lesotho.

Turning to the legislature. Parliament has been voted in and there is a lot of conflict on the composition of parliament. I understand that there are some cases that are before the court, but whatever you do in all these things, parliament as a supreme law-making body must be respected. Nothing must be done to tarnish its integrity and its ability to function as the law-making body. So long as the dispute has not yet been resolved, nothing must be done to denigrate its credibility and its ability to function.

Then you have the judiciary. People might have their opinions about personalities in the judiciary, but the independence of the judiciary must be respected by all. When the Supreme Court makes a judgement, the buck stops there. If you undermine the independence of the judiciary, you are digging the grave not only of your party or government but of your country's democratic governance. Yes, there may be need for judicial and justice reform in some respects, but the institution must be accorded its due respect.

The executive, legislature and judiciary must be strengthened and respected. Nothing must be done to undermine their integrity.

Then you have the Independent Electoral Commission (IEC). People might have their own opinions about the IEC, but I have been dealing with them for the last five years and I must tell you that I respect them. Among the electoral commissions in Africa, they rank very, very high. We said in our report that when we came in September 2006, there was a problem with registration. This was partly due to the timing of the elections. The earlier these issues are resolved the better for Lesotho, the better for Africa and, definitely, the better for the Commonwealth.

**APPENDIX 4
CONFERENCE PROGRAMME**

**DAY ONE
TUESDAY, 25 SEPTEMBER 2007**

08:00-09:00 Registration

WELCOME, INTRODUCTORY REMARKS AND OFFICIAL OPENING

Facilitator: Dr Khabele Matlosa, Senior Advisor-Research, EISA

09:00-09:15 **Welcome and Introductory Remarks**
Mr Mabusetša Lenka, President, Lesotho Council of Non-Governmental Organisations (LCN)
Mr Denis Kadima, Executive Director, EISA

09:15-09:45 **Keynote Address and Official Opening**
His Excellency President Cassam Uteem, Former President of the Republic of Mauritius

09:45-10:00 Group photo / Tea / Coffee

SESSION ONE: ELECTIONS, CONFLICT AND DEMOCRACY
Facilitator: Mrs Mphonyane Mofokeng, LCN Human Resource Commissioner

This session focuses on elections in Lesotho. It investigates why and how elections in Lesotho tend to trigger conflicts. It delves into the factors accounting for the conflicts and political instability in the country, especially following elections. The session further probes into successes and failures of efforts aimed at managing these conflicts and how, in the final analysis, these election-related conflicts impact on the country's democratisation process. Election-related conflicts may not be effectively managed if a culture of political tolerance does not exist, and is not cultivated and entrenched. One way in which tolerance is ensured during elections is through the development of and adherence to an electoral code of conduct bidding political stakeholders to agreed norms and principles throughout all the stages of the electoral process. The session wraps up with proposals for the entrenchment of democratic governance through constructive management of conflicts (especially election-related disputes) and the entrenchment of a culture of political tolerance. This session further probes into the socio-economic impact of the post-election conflict. It is intended to highlight the fact that an election-related conflict does not only have political consequences, but socio-economic consequences too. The session therefore chronicles the impact of the conflict on Lesotho's resource-poor economy, which is currently under the grip of a food crisis.

10:00-10:20 **The 2007 General Election in Lesotho: Managing the Post-Election Conflict**
Dr Khabele Matlosa, Senior Advisor-Research, EISA

10:20-10:40 **Promoting a Culture of Political Tolerance: How Did Parties Conduct Themselves During the 2007 General Elections?**
Mr Sehoai Santho, Governance Consultant, Moruo Consulting

10:40-11:00 **The Socio-Economic Costs of the Post-Election Conflicts**
Dr Masilo Makhetha, Head of Department, Economics, NUL

11:00-12:00 **Discussion**

SESSION TWO: THE LESOTHO 2007 GENERAL ELECTIONS: PROCESSES AND OUTCOMES
Facilitator: Ms Keiso Matashane-Marite, Director, Women and Law in Southern Africa (WLSA), Lesotho

This session focuses on the electoral process. It will investigate how the election was managed throughout its three main stages, namely: (a) the pre-election stage; (b) the polling day stage; and (c) the post-election stage, and will outline the specific roles of key stakeholders, including civil society organisations. A specific focus will also be devoted to the role of the Independent Electoral Commission (IEC) as the main institution responsible for election management. The session will further probe into how the new mixed-member proportional (MMP) electoral system in Lesotho has been put into practice thus far since 2002. It will be recalled that Lesotho made a deliberate shift from its old first-past-the-post (FPTP) electoral system and adopted the new MMP system following the political conflict of 1998. It is therefore imperative that a review of this new model is undertaken and a critical assessment made on how the new model has been implemented during the 2002 and 2007 general elections. Concrete policy recommendations will emerge from this session regarding how best to make sure that the electoral model facilitates peaceful resolution of conflict, ensures political stability and entrenches democratic governance.

12:00- 12:20 **Management of the 2007 General Election: Challenges and Successes**
Mr Leshele Thoahlane, Chairperson, Independent Electoral Commission (IEC), Lesotho

12:20-12:40 **An Analysis of the Electoral Process and its Outcome**
Mr Sofonea Shale, Coordinator, Development for Peace Education (DPE)

12:40-13:00 **An Assessment of the Implementation of the Mixed Member Proportional Electoral System since the 2007 General Election**
Mr Khothatso Ralitsie, Director, IEC-Lesotho

13:00-13L30 **Discussion**

13:30-14:30 Lunch

SESSION THREE: INTRA AND INTER-PARTY RELATIONS AND DEMOCRATISATION**Facilitator: Mrs Maseisa Ntlama, LCN Board Member**

This session focuses on the role of political parties in the process of democratisation in Lesotho. Lesotho is a multiparty constitutional democracy in which parties play an important role, especially during elections. There are 19 registered political parties in Lesotho. Some political parties are active and participate in the democratic process, while others are dormant, only active during elections and thereafter hibernating in obscurity only to re-emerge come the next election. Political parties still face numerous internal problems to become effective drivers of democratic practice and culture in the country. One of the major challenges for political parties relates to factionalism and splits which often happen around elections. Another challenge relates to how parties form and manage election pacts and coalitions during elections. This session will make appropriate recommendations in relation to how best to redress the adverse effects of internal fragmentation of political parties, party splits and floor-crossing. It will further propose how best to ensure that election pacts and party coalitions add value to democratisation and promote political stability.

- 14:30-14:50 **Electoral Alliances and Party Coalitions in Southern and East Africa**
Mr Denis Kadima, Executive Director, EISA
- 14:50-15:10 **Political Party Alliances and the Outcome of the 2007 General Election in Lesotho**
Dr Kopano Francis Makoa, Dean of Faculty of Social Sciences, National University of Lesotho
- 15:10-15:20 **Intra-Party Disputes and Floor-Crossing in Lesotho**
Mr Victor Shale, Researcher, EISA
- 15:20-16:20 **Discussion**

DAY TWO**WEDNESDAY, 26 SEPTEMBER 2007**

- 08:30-09:00 Registration

SESSION FOUR: ELECTION MONITORING AND OBSERVATION**Facilitator: Dr Tumelo Tsikoane, Development Studies, National University of Lesotho**

This session deals with the process of monitoring and observation of elections. Election monitoring and observation represent two key instruments for the evaluation and assessment of whether or not the electoral process as it unfolded in February 2007 in Lesotho was or has been conducted on the basis of a level playing field for all contestants. Election monitoring and observation are, in theory, supposed to add value to the institutionalisation of firmer foundations for multiparty democracy in Lesotho, in that the observer mission reports

emanating from the assessment and evaluation of an election do point to certain challenges and constraints in the electoral process, which Lesotho ought to take into consideration in its next round of elections. Given the monitoring and observation of the 2007 general election, is there need for Lesotho to review its electoral systems/procedures/institutions and undertake appropriate reforms ahead of the next general election in 2012, with a view to ensuring constructive management of election-related disputes?

- 09:00-09:20 **The Role of Domestic Election Observers during the 2007 General Elections**
Mr Seabata Motsamai, Executive Director, LCN
- 09:20-09:40 **The Role of International and Regional Election Observers during the 2007 General Election**
Ms Belinda Musanhu, Senior Programme Officer, EISA
- 09:40-10:40 **Discussion**
- 10:40-10:50 Tea/Coffee

SESSION FIVE: THE ROLE OF THE NON-STATE SECTOR IN THE ELECTORAL PROCESS AND THE ELECTION AFTERMATH

Facilitator: Mr Victor Shale, Researcher, EISA

This session focuses attention on civil society organisations (CSOs), which play a vital role in the democratisation process. Building and promoting democratic governance is not (and should not be) the exclusive preserve of politicians alone. This process, including elections, therefore, of necessity, has to involve a wide array of actors and stakeholders playing complementary (mutually reinforcing), but at times contradictory (mutually exclusive), roles. To a considerable degree, the inclusion and participation of non-partisan CSOs in the democratisation and electoral processes will go a long way in striving towards democratic consolidation and ensuring sustainable political stability in Lesotho. This session highlights the reality that the key question to pose today is not whether or not CSOs ought to be involved in democratisation, but rather how best to involve them in such a way that their programmes and activities complement efforts by the government and the private sector. This session inquires into the role of CSOs during the electoral process and in the process of the management of post-election disputes. This includes the role of the media. It will also probe the extent to which elections in Lesotho promote gender equality in the governance process.

- 10:50- 11:10 **Role of Civil Society Organisations in the Electoral Process**
Mr Lira Theko, Transformation Resource Centre (TRC)
- 11:10- 11:30 **Role of the Media in the Electoral Process**
Mr Nthakeng Selinyane, Development Studies, NUL
- 11:30-11:50 **Gender Equality Through the Electoral Process**
Mrs Matseliso Mapetla, Institute for Southern African Studies (ISAS), NUL

11:50-13:00 **Discussions**

13:00-14:00 Lunch

SESSION SIX: REGIONAL EXPERIENCES: DEMOCRATISATION, ELECTIONS AND CONFLICT MANAGEMENT

Facilitator: Mrs Matseliso Mapetla, ISAS, NUL

This session will focus on lesson-sharing on elections, democratisation and conflict in the SADC region. The session features panellists from the DRC, Swaziland and Zimbabwe. The DRC has just emerged from a protracted violent conflict and held its transitional elections in July and October 2006. However, peace and stability continue to elude this central African state as the post-election violent conflict has clearly demonstrated. Swaziland has not yet experienced democratic transition. Political parties are still banned in that country. The recently adopted new constitution has brought about cosmetic changes that do not transform the political system along democratic lines. Yet, Swaziland continues to hold regular elections and the next local government elections are scheduled for 2007 and general elections due in 2008. Zimbabwe held its conflict-ridden national assembly and senatorial elections in 2005 and is planning to hold its next general election in 2008, possibly combining both parliamentary and presidential elections into one. This session will allow the participants from three selected SADC countries to share their experiences with their counterparts in Lesotho. At the same time, Lesotho's experience will provide lessons for these three countries in terms of constructive management of election-related disputes in their future polls. Thus, a cross-fertilisation of experiential learning is expected from this session.

14:00-15:00 **Managing Election-Related Conflicts in the DRC**

Mr Vincent Tohbi, Country Director, EISA, DRC

Managing Election-Related Conflicts in Zimbabwe

Ms Rindai Chipfunde-Vava, Director, ZESN, Zimbabwe

A Civil Society Perspective on the Constitutional and Electoral Reforms in Swaziland

Mr Emmanuel Dlangamandla, Director, CANGO, Swaziland

15:00-16:00 **Discussion**

DAY THREE

THURSDAY, 27 SEPTEMBER 2007

08:30-09:00 Registration

SESSION SEVEN: INPUT BY GOVERNMENT AND POLITICAL PARTIES

Facilitator: Mr Seabata Motsamai, Executive Director, LCN

This session will involve key political actors in Lesotho, namely government and political parties. It kicks off with a statement from government on the post-election conflict and how it is being addressed so far. This session further provides political parties with the platform to share with conference participants their

positions regarding how best to resolve the post-election conflict in Lesotho and what strategies need to be put in place to avert a similar conflict in future elections. Representatives of political parties will share their views on ways and strategies of redressing Lesotho's current post-election conflict.

09:00-09:30 **Government Statement on Constructive Management of Post-Election Disputes in Lesotho**
Honourable Mpeo Mahase-Moiloa, Minister of Justice and Constitutional Affairs

09:30-10:00 **Discussion**

10:00-10:15 Tea/Coffee

10:15-12:00 **Political Parties Panel**

ABC

ACP

BBDP

BCP

BDNP

BNP

LCD

LWP

MFP

NIP

PFD

12:00-13:00 **Discussion**

13:00-14:00 Lunch

SESSION EIGHT: THE ROLE OF EXTERNAL ACTORS IN THE MANAGEMENT OF ELECTION DISPUTES IN LESOTHO
Facilitator: Dr Tefetso Mothibe, History Department, National University of Lesotho

The session discusses the role of external actors in the electoral process and the efforts towards resolution of the post-election conflict. Specifically, focus is given to the roles of the Commonwealth Secretariat and the Southern African Development Community (SADC), both of which participated in the 2007 elections as international observers. The Commonwealth has played a critical role in facilitating constructive management of disputes in Lesotho over the last decade and continues to play this role following the 2007 general election. SADC has also played an important role through the SADC Organ on Politics, Defence and Security Cooperation in particular. Through the Organ, the SADC Eminent Person Mission of His Excellency Sir Ketumile Masire has created a dialogue process involving all key stakeholders aimed at an amicable resolution of post-election disputes. Although the dialogue process has not yet been finalised, considerable progress has been registered.

- 14:00-14:30 **The Role of the Commonwealth Secretariat in the Elections and the Management of Post-election Disputes**
Professor Ade Adefuye, Special Advisor to the Secretary General and Head of the Africa Section of the Political Affairs Division, Commonwealth Secretariat
- 14:30-15:00 **The Role of the SADC Secretariat in the Elections and the Management of Post-Election Disputes**
Lt Col. (rtd) Tanki Mothae, Director, SADC Organ on Politics, Defence and Security Cooperation
- 15:00-16:00 **Discussion**
- 16:00-16:30 **Summation and Way Forward**
Dr Khabele Matlosa, Senior Advisor-Research, EISA
- 16:30-16:45 **Official Closure**
Mr Paul Sematlane, Vice-President, LCN

Conference Rapporteurs

Victor Shale, Researcher, EISA
Sydney Letsholo, Research Assistant, EISA
James Gadin, Programme Officer, EISA

Conference Coordinating Team

Victor Shale, Researcher, EISA
Sydney Letsholo, Research Assistant, EISA
Kedibone Tyeda, EISA
Nkgakong Mokonyane, Programme Assistant, EISA
Motseoa Mohapi, Finance Manager, LCN

ABOUT EISA



EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance field throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values and practices and to enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes: electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA was formerly the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is currently the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

VISION

An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment

MISSION

EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa

VALUES AND PRINCIPLES

Key values and principles of governance that EISA believes in include:

- Regular free and fair elections
- Promoting democratic values
- Respect for fundamental human rights
- Due process of law / rule of law
- Constructive management of conflict
- Political tolerance
- Inclusive multiparty democracy
- Popular participation

- Transparency
- Gender equality
- Accountability
- Promoting electoral norms and standards

OBJECTIVES

- To enhance electoral processes to ensure their inclusiveness and legitimacy
- To promote effective citizen participation in democratic processes to strengthen institutional accountability and responsiveness
- To strengthen governance institutions to ensure effective, accessible and sustainable democratic processes
- To promote principles, values and practices that lead to a culture of democracy and human rights
- To create a culture of excellence that leads to consistently high quality products and services
- To position EISA as a leader that consistently influences policy and practice in the sector

CORE ACTIVITIES

- Research
- Policy Dialogue
- Publications and Documentation
- Capacity Building
- Election Observation
- Technical Assistance
- Balloting

