



**SADC ELECTORAL OBSERVER MISSION  
TO THE KINGDOM OF LESOTHO**

**PRELIMINARY STATEMENT**

**BY**

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INTERNATIONAL RELATIONS AND COOPERATION OF THE REPUBLIC OF  
SOUTH AFRICA**

**AND**

**HEAD OF SADC ELECTORAL OBSERVER MISSION**

**TO THE**

**NATIONAL ASSEMBLY ELECTIONS TO THE KINGDOM OF LESOTHO,  
HELD**

**ON 26 MAY 2012**

- The Independent Electoral Commission of the Kingdom of Lesotho;
- Esteemed Leaders of the Political Parties;
- Local Traditional leaders;
- The Christian Council of Lesotho;
- Religious Leaders;
- Members of Civil Society;
- Your Excellencies High Commissioners and Ambassadors accredited to the Kingdom of Lesotho;
- Members of the Diplomatic Corps;
- Esteemed Members of the various Observer Missions;
- Esteemed Members of the Media;
- Distinguished Guests;
- Ladies and Gentlemen.

It is indeed an honour and pleasure to welcome you all to this important event, the presentation of the SADC Electoral Observation Mission (SEOM) Preliminary Statement on the election process in the Kingdom of Lesotho.

## **1. INTRODUCTION**

In line with the Southern African Development Community (SADC) *Principles and Guidelines Governing Democratic Elections*, the Government and Independent Electoral Commission of the Kingdom of Lesotho invited SADC to observe its National Assembly Elections which were held on 26 May 2012.

Following the invitation, the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, His Excellency Jacob Gedleyihlekisa Zuma, President of the Republic of South Africa, constituted the SADC Electoral Observer Mission (SEOM) to the Kingdom of Lesotho and mandated the SADC Executive Secretary, Dr Tomáz Salomão to facilitate the administrative and logistical support for the Mission.

The Chairperson of the SADC Organ on Politics, Defence and Security Cooperation appointed Hon. Ebrahim Ismail Ebrahim, Deputy Minister of International Relations and Cooperation of the Republic of South Africa to head the Mission.

The SADC Electoral Observer Mission was officially launched on 12 May 2012, by Hon. Ebrahim Ismail Ebrahim, in the presence of the Executive Secretary of SADC, SADC Observers as well as other stakeholders in Lesotho.

After weeks of intensive work, the SADC Electoral Observer Mission has the honour to announce its preliminary views on the outcome of its observation of the electoral process in Lesotho. A final report in line with the *Principles and Guidelines Governing Democratic Elections* shall be released within thirty (30) days after the announcement of the election results.

## **2. THE ROLE OF THE SADC ELECTION OBSERVER MISSION**

The Mission derives its mandate from the *SADC Principles and Guidelines Governing Democratic Elections*, which in turn emanates from the *OAU/AU Declaration on the Principles Governing Democratic Elections in Africa* and the *AU Guidelines for African Union Electoral Observation and Monitoring Missions*. Furthermore, as a point of reference, the Mission worked within the legal framework of the Kingdom of Lesotho.

In developing the nature and scope of our observation, the Mission sought to determine the existence of the following pre-conditions for free and fair elections and in accordance with *the SADC Principles and Guidelines Governing Democratic Elections, Article 4*:

- (i) Constitutional and legal guarantees of freedoms and rights of citizens;
- (ii) Conducive environment for free, fair and peaceful elections;
- (iii) Non-discrimination in voter registration;
- (iv) Existence of an updated and accessible voters' roll;
- (v) Timely announcement of the election date;

- (vi) Where applicable, transparent funding of political parties based on the agreed threshold in accordance with the laws of the land;
- (vii) Neutral location of polling stations ;
- (viii) Establishment of the mechanism for assisting the planning and deployment of electoral observation missions; and
- (ix) Counting of the votes at polling stations;

Before the launch of the SEOM, SADC Observers underwent a two day refresher training session conducted by the Electoral Institute for Sustainable Democracy in Africa (EISA) from 07-08 May 2012. The training, among other things, focused on the following:

- (i) SADC's Role in Election Observations;
- (ii) Election Observation Methodology;
- (iii) Code of Conduct for Election Observers;
- (iv) International and Regional Election Observation Benchmarks; and
- (v) Understanding the electoral- political landscape of Lesotho.

During the launch of the SEOM on 12 May 2012, Observers were urged to adhere to the *SADC Principles and Guidelines Governing Democratic Elections* in the performance of their duties. Emphasis was placed on the following:

- That the observers must comply with the laws and regulations of the Kingdom of Lesotho;
- That they should maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties and candidates in contention of the election process. Furthermore they will not display or wear any partisan symbols, colours or banners;
- That they will base all reports and conclusions on well documented, factual and verifiable evidence from a multiple number of credible sources as well as their own eye-witness accounts; and

- That they should work harmoniously with each other and other observer missions/organisations in their areas of deployment.

### **3. DEPLOYMENT OF SEOM OBSERVERS**

The Mission deployed thirteen (13) teams of observers in the ten (10) Districts of Lesotho. The SEOM was constituted by field teams and given the responsibility to cover their areas of deployment so that the Mission could obtain a comprehensive understanding of the electoral process in the country and be in a position to provide an informed assessment.

SEOM deployed seventy six (76) observers drawn from eight (8) SADC Member States. In compliance with SADC policies relating to gender balance, the SEOM included Members of Parliament, political and electoral experts, Civil Servants, senior government officials and members of Civil Society. The activities of the Mission across the country were coordinated at the Operations Centre based at the Lesotho Sun Hotel in Maseru, Kingdom of Lesotho. The Operations Centre was staffed with officials from the Troika of the Organ and the SADC Secretariat.

### **4. CONSULTATIONS WITH STAKEHOLDERS**

In the discharge of its duties, the SADC Electoral Observer Mission interacted with various stakeholders in order to gather information on various aspects of the electoral process. The stakeholders included *inter alia*:

- Political parties contesting the elections;
- Independent Electoral Commission Chairperson, Commissioner Limakatso Mokhotho;
- Local traditional leaders;
- Government officials from the Ministries of Foreign Affairs, Home Affairs, Public Safety and Parliamentary Affairs;
- Deputy Attorney General;

- Directorate on Corruption and Economic Offences;
- Religious leaders;
- The Christian Council of Lesotho;
- Acting Police Commissioner;
- The Lesotho Defence Force Commander;
- High Commissioners and Ambassadors accredited to the Kingdom of Lesotho;
- The United Nations Development Programme (UNDP);
- Non-Governmental Organisations;
- Heads of other observer groups- the African Union (AU) Observer Mission, Electoral Institute for Sustainable Democracy in Africa (EISA), the Commonwealth Observer Mission, Electoral Commission Forum of SADC (SADC-ECF), SADC Parliamentary Forum, Local Observers; and
- The Lesotho Communications Authority.

These interactions have assisted the SADC Electoral Observer Mission to understand the prevailing political environment in the country.

## **5. MAJOR ISSUES RAISED BY THE STAKEHOLDERS**

The SADC Electoral Observer Mission wishes to highlight issues of concern expressed by some stakeholders on the electoral process. These include, *inter alia*, the following:

- Discrepancies in the number of registered voters;
- Complaints about the intra, inter and bulk translocations of some of the electorate;
- Lack of confidence in the procedure and mandate regarding the dispute resolution mechanism;
- Lack of proper updating on the voters' roll;
- Timely availability of the voters' roll;
- Inaccuracies related to party acronyms and names on the ballot paper;

- Complaints on the demarcation of the constituency boundaries during the local government elections of 2011;
- Media polarised along party lines; allegations of bias towards the governing party by state media and of bias towards opposition parties by private media;
- The threat of violence during the electoral process;
- The use of State resources such as State vehicles for political campaigns;
- Concerns regarding the comments by the Army Commander of Lesotho on the maintenance of law and order during the electoral process;
- Concerns over the legitimacy of the recent floor crossing process;
- Allegations of unfair access to private transport in preparation for the final rallies; and
- Complexities of the Mixed Member Proportional Representation (MMP) Model.

The SADC Electoral Observer Mission (SEOM) pursued some of these concerns in a systematic manner by conducting further investigations and at times sought clarification from relevant parties. Some of the responses provided were as follows:

- (i) The use of state resources such as state vehicles for political campaigns:

The SEOM was informed that the use of state vehicles by Ministers and other entitled officials in Lesotho is allowed during the election period, in line with the Electoral Act Section 122 (pii).

The SEOM, however, observed that on a number of occasions, clearly marked departmental vehicles were being used during political campaigns.

(ii) Issues relating to the Voters roll

With regards to matters concerning the voters roll, the SEOM was informed of the following:

Juvenile Registrations

The matter was referred to the Monitoring Committee under the auspices of the IEC, consisting of all eighteen (18) parties, who investigated the complaints. Initially forty seven (47) cases were reported and in the end seven (7) cases were confirmed and registrations cancelled. The matter will be further dealt with by the police.

Bulk Transfers

The demarcation was prompted by demographic shifts which altered the size of constituencies necessitating bulk transfers of the electorate. The IEC conducted extensive consultations prior to the demarcation process in 2010. Communities and political parties were consulted prior to the new boundaries being gazetted. Where it appeared that communities were in doubt following the changes that took place, further workshops were conducted past the closing date.

Existence of Deceased persons on the voters' roll

The registration of deaths through the Ministry of Home Affairs, with the assistance of Chiefs, only recently became compulsory by law. The IEC indicated that there was also an additional rural verification mechanism whereby the traditional leaders confirmed the identity of the registered voter as well as the elimination of deceased voters from the voters' roll.

It was also impressed upon the SEOM that double voting would be mitigated against with the use of indelible ink.



(iii) Access to Media

The Mission observed that Lesotho has one (1) state owned television and radio station (Lesotho TV and Radio). With regards to privately owned media, it is observed that there are several print newspapers and radio stations. The dominance of state owned media has given rise to accusations and perceptions of a lack of impartiality regarding the coverage of opposition parties during the electoral process. It is important to note that the ruling party has similarly raised concerns regarding the coverage of their party by private media.

In terms of the electoral code each political party was to be afforded equal airtime for campaigning in the build-up to the elections (5 – 24 May 2012) of one and a half hours each, in line with Article 67 of the National Assembly Electoral Act, 2011.

The SEOM noted that there was an effort to cover the electoral campaigns by all parties involved in line with the Broadcasters issued licenses i.e. public, private, commercial and community broadcast licenses.

The Lesotho Communication Authority informed the SEOM that no formal complaint regarding coverage has been lodged.

It should be noted that some parties and other stakeholders have reported that recent media coverage was much improved as compared to the previous elections.

(iv) The threat of violence during the electoral process

The SEOM noted the prevailing politically charged environment with isolated incidents of violence reported in the build-up to the elections, but was assured by the Lesotho Security establishment that there was no eminent threat to the electoral process.

- (v) Concerns over the legitimacy of the floor crossing

The SEOM acknowledges that whilst Floor Crossing in Parliament is Constitutional in Lesotho, concerns regarding the recent floor crossing were raised with the SEOM and the Mission reserves the right to comment on the matter as it is sub-judice and has historical precedence in the Kingdom of Lesotho.

- (vi) Lack of confidence in the procedure and mandate regarding the dispute resolution mechanism (Tribunal)

The SEOM understands that a judgment was passed regarding a dispute between two (2) political parties and that this judgment was immediately refuted by one of the parties, calling into question the mandate and authority of the Tribunal.

However, some stakeholders mentioned that this case does not strictly speak to the electoral process and should rather have been taken to a court of law.

- (vii) Allegations of unfair access to private transport in preparation for the final rallies.

The SEOM received concerns regarding the access to private transport in preparation for the final rallies. The SEOM in its investigations was informed that the unavailability and cost of private transport in regards to transportation to political rallies was a result of market forces. It is also worth noting that open trucks have been used in the past to transport supporters to rallies and the decision to ban this mode of transport by government was viewed with suspicion and resisted by opposition parties.

## **6. PRE – ELECTION PHASE**

The pre-election phase was characterised by a largely tolerant and peaceful political atmosphere. Overall, the Independent Electoral Commission of Lesotho conducted its work in a transparent, orderly and professional manner. Political parties exhibited mutual political tolerance and were generally free to do their campaigning without any significant hindrance.

The SEOM, however, observed the following issues of concern relating to the pre-election period:

- Campaigning based more on personality politics than party manifesto by some political parties with the potential to exacerbate the risk of post electoral violence; and the
- Deployment of armed military personnel during the campaign period as it is against the general norm, this was seen as intimidating to the electorate in particular the aerial surveys of the last rallies by the air force.

In view of the above concerns, the SEOM commends all the relevant stakeholders, in particular the political parties, for promoting a peaceful atmosphere conducive for campaigning.

## **7. POLLING PROCESS**

It is SEOM's overall view that the elections were conducted in an open and transparent manner. SEOM was impressed by the patience of voters who were able to express their franchise peacefully, freely and unhindered in all polling stations.

In general, the distribution of the electoral materials was on time. However, in some instances there were challenges with the delivery and provision of equipment such as lamps.

Most polling stations opened and closed on time. The electoral officials explained the procedures, assisted the voters who did not understand the voting process.

There was cooperation between election authorities and other institutions (including local chiefs) in providing explanations on election related matters. The presence of vigilant party agents, observers and law enforcement officials in the polling stations assured all stakeholders of the integrity of the process.

## **8. COUNTING PROCESS**

The SEOM observed that the counting process began after the closing of the polling stations. The counting process was conducted procedurally. In polling stations observed, party agents, electoral officers, international observers witnessed and followed closely the counting of votes together with the electoral officials without any hindrance.

After the counting, the SEOM observed that electoral officers as well as party agents signed for the results in the presence of everybody and the agents for each candidate received a copy of the results.

## **9. SADC ELECTORAL OBSERVER MISSION RECOMMENDATIONS**

Upon completion of the observation exercise, the SEOM is pleased to share the following recommendations with Basotho:

- Timely provision of updated voters roll by the electoral Commission to allow for verification and correction by the voters;
- Introduction of National identity document to be used for voter registration as opposed to the use of Passports so as to deter suspicion of underage voters and general mistrust of the voters roll by the electorate;
- Consider improving the regulation of Media in particular the monitoring mechanism to address Media polarisation;

- Consider improving the quality of the ballot paper in order to safeguard the secrecy of the vote;
- Promote awareness and encourage the utilisation of the existing mechanisms and systems such as the Electoral Tribunal of the IEC, related to the electoral process; and
- To mitigate logistical challenges such as the need for heating and lighting at polling stations, consider holding elections outside the winter season.

## **10. BEST DEMOCRATIC PRACTICES AND LESSONS LEARNT**

In the course of observing elections, our Mission noted that over and above, general adherence to some of the *SADC Principles and Guidelines Governing Democratic Elections*, the following best democratic practices and lessons in Lesotho's electoral process were observed:

- Use of mobile voter registration;
- Efforts for registration of voters outside the Country;
- An impressive voter turn out across the population spectrum which signifies civic commitment of the citizens;
- Provision of Advance voting for the essential services personnel prior to the main voting day;
- Use of indelible ink and translucent ballot boxes;
- Existence of an electoral tribunal to attend to all electoral disputes, complaints as and when they occur;
- Establishment of the Monitoring Committee comprising of major stakeholders to attend to issues arising from the electoral process;
- Accreditation of national observers; and
- An improvement in the party funding model to facilitate transparency and equity.

## 11. CONCLUSION

The Mission is pleased to share its observations with Basotho and all relevant stakeholders benefiting from these observations.

The SADC Electoral Observer Mission has come to the conclusion that although some of the concerns raised are pertinent, they are nevertheless not of such magnitude as to affect the credibility of the overall electoral process.

Therefore, on behalf of the Chairperson of the Organ on Politics, Defence and Security Cooperation, His Excellency Jacob Gedleyihlekisa Zuma, President of the Republic of South Africa and on behalf of the entire SADC family, I wish to heartily congratulate Basotho for holding a free, fair, transparent and peaceful National Assembly election on 26 May 2012.

Indeed, the Mission is impressed with the way that Basotho have been able to express their democratic right to vote. This is a valuable contribution to the consolidation of democracy and political stability, not only in the Kingdom of Lesotho but in the SADC region as a whole.

In line with *SADC Principles and Guidelines Governing Democratic Elections* and the Electoral laws of the Kingdom of Lesotho, the Mission would like to urge all political parties and candidates to respect the will of the people. In the event of any grievances, the SEOM would urge all to seek redress in line with the relevant laws of the country.

The SEOM would like to express gratitude to Basotho for their hospitality and cooperation during the deployment of the Mission.

I thank you all.

Maseru,

28 May 2012