

**WHAT CAUSES ELECTION-RELATED CONFLICT WITHIN DEMOCRACIES:
A CASE STUDY OF LESOTHO.**

BY

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DECLARATION

I, the undersigned, hereby declare that “What causes election-related conflicts within democracies: A case study of Lesotho” is my own work, that it has not been submitted for a degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged by complete references.

Tlohang W. Letsie

.....

November, 2009



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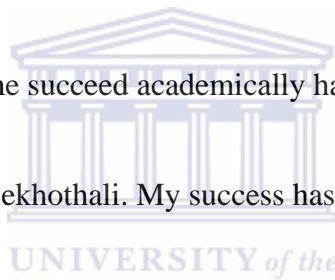
My late father, Moqeba. His memories always make me put an extra effort in whatever I do.

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ABSTRACT

Lesotho general elections have been characterised by illegitimate conflicts since pre-independence elections in 1965. These conflicts have had a detrimental effect on the country's already weak economy and have sometimes claimed human lives. While it does not, in and of itself, constitute a sufficient political condition for democracy, elections are a critical ingredient in this political system. It is therefore important that elections held are free and fair, and the results are accepted by all the stakeholders. Due to the ambiguity of the concept of 'free and fair elections', several regional, continental and international bodies came up with the guidelines of what is to qualify as free and fair elections. Despite being mostly declared as free and fair by the observers, Lesotho's elections have never been accepted by all participants.

This research sought to understand the nature of election-related conflict and what needs to be done to arrest the eruption of such conflict in Lesotho. It sought the opinions of selectively respondents who have been involved in the conflicts in different ways. The interviews and documented literature revealed that what constitutes a background to election-related conflict involves issues that are many and varied. Among others such issues include the following: weak political institutions, use of vulgar language by political leadership, and the weak economy that intensifies neo-patrimonial tendencies.

The research concluded that all the factors associated with the eruption of illegitimate conflicts during and after general elections in Lesotho are a result of the politicians' desire to retain or capture national resources to satisfy their selfish interests and those of their cronies. The conflicts could be minimised if the country's economy could be transformed to provide the politicians with alternatives of economic survival outside the structures of government. Furthermore, to minimise the conflict, the country should consider establishing electoral courts. These have the potential of speeding up the resolution of electoral grievances, in the process preventing them from graduating into serious conflicts.

LIST OF ACRONYMS

ABC	– All Basotho Convention Party
ACP	– Alliance of Congress Parties
ACL	– Anglican Church of Lesotho
AU	– African Union
BCP	– Basutoland Congress Party
BDF	– Botswana Defence Force
BNP	– Basotho National Party
CPL	– Communist Party of Lesotho
EMB	– Elections Management Body
FPTP	– First Past the Post
IEC	– Independent Electoral Commission
IPA	– Interim Political Authority
KBP	– Kopanang Basotho Party
LCD	– Lesotho Congress for Democracy
LDF	– Lesotho Defence Force
LEP	– Lesotho Education Party
LCN	– Lesotho Council of Non-Governmental Organisations
LLA	– Lesotho Liberation Army
LLP	– Lesotho Labour Party
LPC	– Lesotho People’s Congress
LWP	– Lesotho Workers Party
MFP	– Marematlou Freedom Party
MMP	– Mixed Member Proportional
MP	– Member of Parliament
NIP	– National Independent Party
NLFP	– New Lesotho Freedom Party
NPP	– National Progressive Party
PFD	– Popular Front for Democracy
PR	– Proportional Presentation

- PSC** – **Public Service Commission**
SADC – **Southern African Development Community**
SANDF – **South African National Defence Force**
SDU – **Sefate Democratic Union**
UDP – **United Democratic Party**



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CHAPTER 1: RESEARCH PROBLEM AND LITERATURE REVIEW

1.1. Background and outline of research problem

Apart from the pre-independence elections of 1965, Lesotho has held general elections on five occasions. The first post-independence election was held in 1970 and the next in 1993 after more than two decades of authoritarian rule. After the country's return to democracy in 1993, Basotho went to the polls in 1998, 2002, and 2007. The outcomes of all elections, however, have been contested, leading in some cases to bloody conflicts between the losers and the winners. These conflicts reached a peak when, in 1998, they went out of control and the government sought military intervention from Botswana and South Africa. The conflicts have claimed human lives and had a detrimental effect on the country's already weak economy.

The country's political leadership made efforts to address the conflicts. The most notable two being the establishment of the Independent Electoral Commission (IEC) in 1997 and the adoption – with the external assistance within the framework of a political structure styled the Interim Political Authority (IPA) - of a Mixed Member Proportional (MMP) electoral model in 2002. These efforts have, however, not produced a lasting solution to Lesotho's election-related conflict as problems persist. Many lives have been lost and property destroyed as a result of these conflicts since the first general election in 1965. Some of the statistics of lives lost during general elections form part of the sections of this thesis where each of the general elections is discussed.

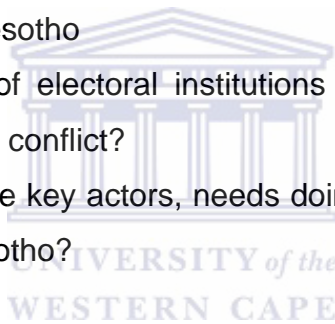
Election-related conflict violates the very human liberties supposed to be protected in democracies. Lesotho, like other countries aspires to one day becoming a consolidated democracy. However, with every election held accompanied by conflict as has been the case until 2007 that aspiration looks a distant dream. As will be read in the next sections, the conflict reached its peak in

1998, subsided in 2002, but rose again in 2007. The question stakeholders need to ask is: What is it that the country fails to do right? It was as desire to understand the nature of these conflict this study was conducted.

1.1.1 Research questions and objectives

The aim of this study has been to search for a thorough understanding of what political conflict is, and how it relates to elections in Lesotho. The understanding of the nature of this conflict will help not only those directly involved in the conflicts, but also those who make policies aimed at bringing peace and tranquillity to the Kingdom of Lesotho. This understanding was sought by trying to find answers to the following questions:

1. What is political conflict? When is it unacceptable? When has this manifested itself in Lesotho
2. What is the history of electoral institutions in Lesotho? How does this relate to the history of conflict?
3. What, according to the key actors, needs doing to further reduce election-related conflict in Lesotho?



Objectives:

The specific objectives of the study were to:

1. Define political conflict, both as legitimate and illegitimate politics
2. Outline the history of elections and electoral institutions in Lesotho.
3. Explore the history of election-related conflict in order to identify the causes of conflict.
4. Identify what, according to the key actors, needs to be done to reduce election-related conflict.
5. Provide general conclusions emanating from the research then make recommendations to policy makers and stakeholders.

1.2. Literature Review

This section provides an overview of the existing literature concerning election-related conflicts in Lesotho. It first examines the evolution of election-related conflict in the country before highlighting some of the areas around which conflict has centred in the past. The literature review examined served as a guide and framework of the study; and as a source of secondary data.

1.2.1. Lesotho as a Nation-State

Lesotho is a small Kingdom completely surrounded by the Republic of South Africa. Lesotho was formerly a protectorate of the Great Britain. It gained its independence on October 4, 1966. On attaining independence, Lesotho adopted political features similar to those found in Great Britain. Firstly, Lesotho is a constitutional monarchy where the king is the head of state and the prime minister is the head of government. Secondly, as in Britain, Lesotho has a bicameral legislature made of the lower house (National Assembly) and the upper house (Senate). Members of the lower house are elected directly by the citizens. The upper house is composed of the 22 principal chiefs who are permanent members, and 11 other members nominated by the king (Pule, 2002). Until the 1998 general elections Lesotho used the constituency-based FPTP electoral model; this model was dropped for the MMP in 2002 (Matlosa, 2008).

1.2.2.. Evolution of election-related conflicts in Lesotho

This section concerns itself with the evolution of election-related conflict in Lesotho and examines how conflict manifested itself in each election held from the pre-independence general election to the most recent in 2007.

1.2.2.1. Pre-independence election – 1965

In 1965 Basotho voted for the first time in a general election. The election was to determine a party to which Britain would hand over power at independence a year later. The elections were won narrowly by the Basotho National Party (BNP) which captured 31 of 60 seats contested. The Basutoland Congress Party (BCP)

took 25, the Marematlou Freedom Party (MFP) got four seats (Mahao, 1997: 6). One point to note about the 1965 election results is that the BNP did not only have a slim majority in parliament, but also won with a minority vote in that it managed to win only 42 percent of the national vote. The two losing parties rejected the election outcome, claiming the elections were rigged, and demanded a government of national unity that would prepare for fresh elections (Pule 2002: 173). Later, in June 1966, the two losing parties refused to sign the final document granting Lesotho independence at the Independence Conference held in Britain while the King reluctantly signed (ibid).

The two parties' rejection of the election outcome was to be followed by bitter conflict that claimed 10 lives as the BNP used the state to call off the gathering organised by the two losing parties (Makoa, 2002). Working in concert with the King, the two parties had organised a gathering at Thaba-Bosiu in which he was to be the main speaker. The BNP government viewed the gathering as one of the measures through which the King and the opposition parties attempted to destabilise, and ultimately to unseat it (Pule 2002). The alliance of the King and the BCP was strange in that the latter had always been hostile to the monarchy and chieftainship. The King had entered this strange alliance as he was not satisfied that under the new constitution he was to become a constitutional monarch, which would deny him political powers he aspired to possess. As shown by future events, this rejection of election results by the two parties, coupled with the involvement of the King in election-related conflict, had set the stage for the instability that was to characterise Lesotho's politics for decades.

1.2.2.2. The 1970 General Election

The first post-independence general election in Lesotho took place in 1970, four years after Lesotho was granted independence by Britain. However, the preparations favoured the ruling BNP. Highlighting some of the biases of the preparations, Khaketla (1971: 193) states that 'following the scrapping of 1965 electoral law and its replacement by that of 1968, the candidate deposit was

raised from R50, the fee paid in 1965, to R200'. This was a hefty amount by Lesotho standards. While this arrangement created problems for opposition parties who struggled to raise such monies, it was not the case with the ruling party as it had access to the public purse. Furthermore, opposition parties were disadvantaged by the time-frame for the submission of nomination forms. The candidates were given seven days to collect the nomination papers, learn how to fill them in, and to submit them to the nomination courts (Khaketla 1971:203). To be valid, the papers had to be signed by the secretary-general and the chairman of the party (ibid). This was obviously problematic to the opposition parties because of the terrain of the country and unreliable transport and communication systems. The same could, however, not be said about the ruling BNP which had full access to the government's vehicles and communication channels such as the national radio station and telecommunications systems.

In spite of the hindrance brought by the exorbitant fees to the opposition parties, and the failure of the Chief Electoral Officer to adequately address the grievances, polling finally took place on Tuesday 27 January. Voting took place in a peaceful atmosphere, the feat confirmed by the Prime Minister, Leabua Jonathan, on the state radio on January 28 and 29 (Khaketla 1971: 207). The results were made public to the nation through the state radio as soon as they were received from constituencies by the Electoral Office. However, when both the ruling BNP and the opposition BCP were tied at 23 constituencies apiece, the Prime Minister made an announcement declaring a state of emergency, citing intimidation during elections and the need to maintain law as driving reasons behind his unexpected step (Pule 2002: 175). By declaring the state of emergency, Jonathan made a strategy to hold on to the political power that he looked about to lose because of the eminent loss of elections. The trend had shown that the BCP was going to win the remaining constituencies. According to Breytenbach the final result would have been as follows: BCP 35 seats; BNP 23 seats; and MFP two seats (1975: 108).

The Prime Minister's claim of intimidation during the elections came as a surprise to the nation as he had earlier made an announcement to the contrary. Apart from the annulment of the election, Jonathan 'declared the state of emergency, suspended the constitution, suspended the judiciary, put the then King Moshoeshoe II under house arrest, arrested opposition leaders, and banned the Communist Party of Lesotho (CPL)' (Matlosa, 1997: 95). Jonathan's drastic steps proved to be a catalyst for political conflict that became violent at times. With opposition parties protesting over the annulment of elections on one hand, and the ruling party defending its actions on another, the country was embroiled in a political animosity that characterised the subsequent sixteen years of BNP's one-party-rule and beyond. The dictatorial tendencies that followed the annulment of elections, particularly the arrest of opposition leaders drove BCP leadership into exile. It was in exile the BCP was able to organize (with the assistance of South Africa) a guerrilla army, the Lesotho Liberation Army (LLA) Makoa (2002). The LLA launched sporadic attacks on Lesotho from South Africa in a guerrilla war that lasted six years from 1979 to 1985. During this period much infrastructure was bombed by the LLA and lives were lost as Lesotho armed forces engaged the BCP'S guerrilla army. The events that followed the 1970 elections brought to Lesotho a serious polarity that endures today. Lesotho' politics remains polarised with the Nationalist faction (those aligned to BNP) on one extreme and the Congress faction (aligned to BCP and its breakaway parties) on another.

The one-party rule of the BNP came to an end on the 20th January 1986 when the army staged a coup detat, replacing civilian dictatorship by military dictatorship. Immediately after the coup, the military regime suppressed all the political activity through the Political Activities Order (No. 4). The reign of military regime was, however, not without challenges. Among others, the regime was soon faced with a problem of financing some of its obligations. Mahao notes that 'since 1986 the thaw in relations between the governments of Lesotho and South Africa, and especially the former's persecution of South African Liberation movements personnel at the behest of the latter had led many donor countries

and agencies to reconsider their aid disbursements to Lesotho' (1997:3). The above coupled with the world recession, mismanagement of state resources, and growing numbers of the expelled or retrenched Basotho miners intensified economic hardships and drastically swelled the growing numbers of the army of the unemployed (ibid). The subdued political and economic situation generated a mood potentially explosive towards the regime with number of civil society organizations confronting the regime. In response, the regime usually intensified repression and this necessitated a need for a political change. The regime finally bowed to the pressure and returned power to the civilians through the democratic election of 1993. This election forms part of the discussion in the next section.

1.2.2.3. 1993 General Election

The second post-independence election followed in 1993. This followed the 23 years of authoritarian rule, 16 of the BNP's one party rule and seven of the military interregnum. It is understandable the election was likely to cause excitement in the nation considering the long period of democratic absence. As with the previous general elections, preparation for the 1993 general election became the responsibility of the incumbent government through the Electoral Office, which used to be headed by personnel seconded by foreign countries. This arrangement was later to be one of the most serious issues around which electoral conflict was centred. Polling finally took place on the 27th March and when the results were published it emerged that the BCP had won all the 65 constituencies with an overall 75% of the votes cast as seen in Table 1. The BCP's landslide victory was interpreted by many observers as the 'righting of the 1970 wrong' when the party was denied its rightful claim to state power (Southall & Petlane 2005, read in Matlosa 2008; Mahao, 1997). In spite of being voted for by 22.6 % of national voters, the BNP did not win a single seat in the legislature. This was all because of the First Past the Post (FPTP) electoral model.

Table 1: The Election results of 1993

Party	Votes cast	Share of votes	Seats won
BCP	398 355	74.7	65
BNP	120 686	22.6	0
KBP	417	0.078	0
LEP	63	0.011	0
LLP	244	0.045	0
MFP	7 650	1.43	0
NIP	241	0.045	0
PFD	947	0.17	0
UDP	582	0.10	0
INDEPENDENTS	2 753	0.51	0
TOTAL	532 678	100%	65

Source: Sekatle (1999: 41)

Following the humiliating loss to its bitter rival the BCP, the BNP claimed 'the elections were rigged and challenged the results in the courts of law' (Kadima, 1999: 76). Attempts to reverse the results through courts of law failed and the BNP engaged in protests that threatened the country's political stability, and led to loss of life. The protests reached their peak when, after a petition was delivered to his palace by members of opposition parties, King Letsie III dissolved the BCP government on August 17, 1994 claiming he had been 'petitioned by thousands of Basotho on 15th August to take this action' (Mothibe 1999: 49; Pule 2002: 202). Some of the reasons provided by the King for dissolving the BCP government are found in the contents of the letter he wrote to the Prime Minister Ntsu Mokhehle. Part of the letter reads:

You will no doubt have borne witness to the deteriorating political situation in the country and the tension generated nationwide. For the sake of peace, stability, reconciliation and unity of the Basotho nation, it has been

found prudent to relieve you of your responsibilities as Prime Minister of Lesotho with immediate effect (Pule 2002: 203)

A number of lives was lost during the skirmishes that followed what came to be popularly known as the “Palace Coup”; ‘order and normalcy were compromised when the Lesotho Council of NGOs (LCN) led two strikes to force the King to restore the (elected) BCP government’ (Selinyane, 1999: 41). The BCP government was later restored after diplomatic intervention by South Africa, Zimbabwe and Botswana, and the subsequent signing of a Memorandum of Understanding by the King and the BCP. Among others the King and the BCP agreed to the re-installing of former King Moshoeshoe II, something that the BCP government had long rejected. It is common knowledge that King Letsie III had always been a reluctant monarch who would happily hand the reigns of power to his father if afforded a chance (Transformation Resource Centre Lesotho, 15 September 2009). It is also common knowledge that the BCP government had not only rejected, but made mockery of the issue whenever it was raised in parliament. For instance, it was common then to hear BCP MPs making insulting statements during parliamentary radio broadcasts, comparing the former king to a castrated bull that had lost its testicles and could not get them back. Failure by the BCP government to adequately address the issue of re-installment of King Letsie III’s father to his former throne rendered the relationship between the King and the BCP government volatile. It is on the basis of this that one can safely infer that the King simply found the BNP’s petition – that he claimed to dissolve the BCP government on the basis of - as a convenient platform from which to launch an attack in order to get rid of the hostile BCP government.

1.2.2.4. 1998 General Election

The next election followed in 1998. This came shortly after a split in the 1993 victors – BCP, following internal factional battles and the resultant formation of the Lesotho Congress for Democracy (LCD) in parliament in June 1997. The formation of the LCD in parliament relegated the BCP to official opposition. The

then leader of the BCP and Prime Minister Ntsu Mokhehle had on Monday, June, 9 held a press conference in the National Assembly in which he made the following announcement:

...I announce the formation of a new political party, which shall be known as the Lesotho Congress for Democracy. The main objective of this new party as the name implies, will be to deepen and to foster democratic rule in Lesotho. Because we have the support of the majority of parliamentarians, there will be no change in government. We wish those members in parliament who will remain with the BCP success in their new role as the official opposition in parliament.... (TV Lesotho, 9 June 1997, read in Pule, 1997: 22).

The legitimacy and legality of the newly formed LCD government formed a centre of debate for politicians and academics alike. Some sections of the population, particularly those political parties that sympathised with the BCP, claimed that Mokhehle's actions were illegitimate. Other sections of the population found nothing wrong with the formation of the new party. The view of the latter section is reflected in Sekatle's argument that:

political analysts and constitutional lawyers contend that the Prime Minister's move does not constitute a breach of Lesotho's constitution because he is "the leader of the political party that commands the support of the majority of members of the National Assembly" as it is required by the constitution (1997: 74)

The formation of the LCD and its sudden rise to government became a very contentious issue around which the conflicts were to be centred. The formation of the LCD united sworn enemies, the BCP and the BNP who together called on the King to dissolve the LCD-dominated parliament and form a government of national unity (Kadima, 1999: 76). The King did not heed the protesters' call and

a tense atmosphere prevailed until the eve of the May 1998 election (ibid). Polling finally took place on May 23, 1998. It is important to note that unlike all previous elections, the 1998 elections were administered by the Independent Electoral Commission (IEC) formed late in 1997. Prior to the polling day, the three opposition parties BNP, BCP and MFP applied to the High Court for a postponement of elections on the grounds that the IEC had failed to provide them with the provisional voters' roll. The court ruled in favour of the applicants, but ruled it did not have the power to postpone the election, as such power rested only with the king. The elections thus went ahead.

The results showed the LCD had unexpectedly won 78 of the 79 constituencies up for grabs on polling day; one went to the BNP. Voting had been postponed in the Moyeni constituency due to the death of one of the candidates. The constituency was later won by the LCD. The implication of the results was that the LCD had 99% of in parliament seats in spite of winning only 60.5% of the national vote (Southall, 2003: 288). This distribution of seats reflected what Mahao has called the 'absurdity of the backward first-past-the post electoral model to which Lesotho was still hanging inspite (sic) of being rejected by many jurisdictions turning towards democratic rule' (1997: 6). Table 2 shows the results of the 1998 general elections.

Table 2: The results of the 1998 general elections

Party	Votes cast	Share of votes (as a percentage of the national vote)	Seats won
LCD	364 290	60.6	78
BCP	63 445	10.6	0
BNP	146 566	24.4	1
CPD	1 185	0.20	0
KBP	174	0.03	0
LEP	92	0.02	0
LLP/UDP	357	0.06	0
MFP	7 546	1.27	0
NIP	1 644	0.28	0
NPP	2 897	0.49	0
PFD	3 077	0.52	0
SDU	3 160	0.20	0
INDEPENDENTS	6 536	1.10	0
TOTAL	593 955	100%	79

Source: Sekatle (1999:41)

*Total number of seats is 79 and not 80 because voting did not take place in Moyeni because of the death of one of the candidates.

Three opposition parties namely BCP, BNP, and MFP refused to recognise the LCD government because, they alleged, it had won the elections fraudulently (Mothibe, 1999). The three challenged the authenticity of the election results in the courts and as their challenges failed they organised a march to the Royal Palace on August 4, 1998. After handing their petition, the protesters refused to leave the palace gates. Instead they organised a sit-in that was to last more than a month until it was dispersed by the South African National Defence Force (SANDF) on the morning of September 22, 1998.

The sit-in witnessed recurring clashes between protesters and police that claimed not fewer than 10 lives (Makoa, 1999). As time passed and frustration mounted, the protesters mounted pressure by seizing government vehicles and parking them at the palace gate (at this time known as the “Freedom Square”) and closing government offices and ordering civil servants to stay at home. At this time there was no order in Lesotho, the police had completely lost the control of the situation and the army was not interested in intervening. Kapa (2009: 6) writes that the army ‘declined to intervene on the grounds that this was a political problem that needed political leaders to resolve’.

In the few incidents when the army members did get involved in the disputes, they defended the protesters against the police. A classical example was on the evening of September 3, 1998 when the police, trying to disperse the protestors, exchanged fire with members of the army who were on duty at the palace. In this clash an opposition activist and a police officer died and 12 protesters were injured (Mohlanka, 11 September, 1998, quoted in Makoa, 1999). The tension reached new proportions when on the morning of September 22, 1998 members of the SANDF violently removed protesters from ‘Freedom Square’. Suddenly the country was close to anarchy and business property in Maseru and the neighbouring towns of Mafeteng and Mohale’s Hoek were looted and several set on fire by people who took advantage of the almost anarchical situation. More than a century after 1998, the effects of the riots remain visible in the towns affected. No serious reconstruction has taken place and most of what used to be big business structures remain shells. According to the ANC Daily News Briefing, the cost of repairing the damage to Maseru alone was estimated at around two billion Maloti/Rands (September 26, 1998).

1.2.2.5. The 2002 General Election

Following days of unrest and disorder that intensified after the arrival of the SANDF, and later the Botswana Defence Force (BDF), order was gradually restored and the LCD took back its position as the government. The Southern African Development Community (SADC) member states namely South Africa, Botswana and Mozambique intervened diplomatically in an effort to find a solution to the Lesotho political crisis. It was through their efforts the Interim Political Authority (IPA) was formed to lay a foundation for fresh elections as a way to redress the conflict resulting from the 1998 elections. The electoral process was dully administered and polling eventually took place on May 25, 2002 (Southall, 2003: 275). The most significant aspects of this election were the adoption of the Mixed Member Proportional (MMP) model and the increasing of parliamentary seats from 80 to 120 as a way of accommodating the 40 members who would be elected to parliament through the proportional representation (PR) wing of the model.

The LCD once again won the elections overwhelmingly, this time taking 77 of the 78 constituencies contested. Polling for FPTP did not take place in two constituencies because of the deaths of some candidates. Southall (2003: 288) writes that “when the parliamentary seats were finally allocated, the ruling LCD was barred from securing any seat from the PR wing of the electoral model because it already had 77 (or 65%) of the total number of 118 (constituency + PR) seats being competed for on the election day (or twelve more seats than their proportional entitlement)”. The remaining 41 seats were shared among nine opposition parties. This was seen as a milestone by many observers as, for the first time in its history, Lesotho was having an inclusive parliament of 10 political parties, with the BNP as the main opposition with 21 seats (Kabemba 2006: 21).

Contrary to expectations, this development did not eliminate, but merely minimised protests over the election results as the protests continued to surface, albeit less frequently. This became evident when the BNP once again rejected

the election results. Its leader, Major General Metsing Lekhanya, made 'generalised complaints about electoral malpractice and alleged curious statistical patterns in the votes' (Southall, 2003: 290). Lekhanya's objections, however, soon faded as opposition parties decided it would be more meaningful to "fight" from within the parliament. Thus, all the opposition members took their share of the 41 seats and joined the parliament.

In spite of the opposition parties taking up their parliamentary seats, Makoia observed that tension was high and conflict persisted between the members of parliament belonging to the ruling party and those of the opposition parties (2004: 36). This conflict manifested itself in several ways including financial discrimination, against opposition MPs. Among others, opposition parliamentarians were excluded from constituency allowances enjoyed by MPs who had entered parliament through FPTP; all LCD members but one. The general feeling among opposition members was that like the FPTP MPs who were entitled to constituency allowances, they (opposition MPs) also deserved to be paid some allowances as they too represented certain percentages of citizens, although not in constituencies, but country wide. It was on the basis of what he observed in parliament that Makoia argued that 'what the new electoral arrangement achieved was just to transfer (not eliminate) the conflict from the street into the parliament' (ibid). It has to be noted the conflict that Makoia argued had been transferred into parliament was not just a conflict of ideas and opinion – usually found in democratic parliaments – but conflict characterised by hatred and animosity between members.

1.2.2.6. Snap elections - 2007

The five year parliamentary term was to end in April 2007. As this date got closer, a new party, the All Basotho Convention (ABC) was formed in parliament by 17 disgruntled MPs from the ruling LCD and one independent candidate who had been earlier expelled from the LCD. The formation of the ABC brought a significant change to the Lesotho politics. Firstly, it dramatically shifted the balance of power in parliament in that the LCD was now left with just 61 seats (or

a 2 seat-majority). Amid rumours of more LCD MPs' willingness to join the new party, the Prime Minister, fearing a repeat of 1997 when the newly formed LCD relegated the BCP to opposition, 'acted swiftly and advised the King to dissolve parliament and call for new elections' (Likoti, 2008: 77). A snap election was thus called for February 27, 2007.

Secondly, the ABC immediately occupied the position held by the BNP since 1993 as the main challenger to the ruling party. This was attributable to ABC ability to attract the youth through its entertainment-filled campaign strategy, and disillusionment among BNP supporters as a result of power struggles within their party leadership. Furthermore, the ABC's instant popularity could be attributed to the charismatic character of its leader, Tom Thabane who, because of his successes in the ministries he headed, was known as "Mr Delivery" (Likoti, 2009). Thus, when polling took place on the February 27, it was obvious it was going to be a two horse race between LCD and ABC.

In an effort to strengthen their chances of winning the elections, the two main contenders, the LCD and the ABC, formed electoral alliances with other minor parties, the National Independent Party (NIP) and the Lesotho Workers Party (LWP) respectively. The point to note about the LCD/NIP alliance specifically was that it was surrounded by controversy, having been signed by the deputy leader of NIP, apparently behind the back of the leader and the founder of the party, Anthony C Manyeli. Kapa states that this faction of the NIP collaborated with the LCD to 'forcefully kick out' Manyeli from his party's leadership as 'he disagreed with them on forming the controversial alliance' (2008: 13). This led to acrimony and a split within the NIP, followed by protracted legal battles (Matlosa, 2008).

The two big parties, the ABC and the LCD did not contest PR seats; they instead had their members included in the party lists of their smaller allies who in return did not contest constituency seats. The arrangement was such that members of the aligning parties would vote for bigger parties on the FPTP ballot paper and

for the smaller parties on the PR ballot paper (Matlosa 2007). The allocation of PR seats that resulting from this arrangement was to later become a post election issue on which new conflict was to centre.

Election results disclosed the LCD had lost 18 out of 79 constituencies in which voting for the FPTP seats took place. Seventeen of these constituencies went to the ABC, one to the Lesotho People's Congress (LPC), another splinter party from the LCD in 2001. A point of interest about these results was that the newly formed ABC won all constituencies in the capital Maseru and all other urban constituencies but five. The LCD, however, won the remaining five urban constituencies and all rural constituencies except Seqonoka that went to the LPC. The final allocation of seats saw the LCD/NIP alliance get 82 seats and the ABC/LWP 27 (IEC, February 2007). However, instead of the winning alliance forming a governing coalition, the LCD ruled alone and the NIP took the opposition benches. On the other hand the ABC and the LWP remained a single caucus and voted together. The pact between the LCD and the NIP is the subject of the current dispute between the government and the opposition parties with the latter maintaining the former has usurped several parliamentary seats that belong to it (Hoeane, 2009). Table 3 shows the actual results of the February National Assembly Elections.

Table 3: The Actual Results of the February 2007 General Election

Party	Total valid votes	Constituency seats won by party	Party's allocation of compensatory seats	Total number of seats	% party votes	% Seats won (constituency + compensatory seats)
Alliance of Congress Parties	20 263	1	1	2	4.6	1.7
Basotho Batho Democratic Party	8 474	0	1	1	1.9	0.8
Basotuland Congress Party	9 823	0	1	1	2.2	0.8
Basotho Democratic National Party	8 783	0	1	1	2.0	0.8
Basotho National Party	29 965	0	3	3	6.8	2.5
Lesotho Workers Party	107 463	0	10	10	24.3	8.4
Marematlou Freedom Party	9 129	0	1	1	2.1	0.8
National Independence Party	229 602	0	21	21	51.8	17.6
New Lesotho Freedom Party	3 984	0	0	0	0.9	0.0
Popular Front for Democracy	15 477	0	1	1	3.5	0.8
All Basotho Convention	—**	17	0	17	0.0	14.3
Lesotho Congress for Democracy	—**	61	0	61	0.0	51.3
Total	442 963	79***	40	119	100	100

** ABC and LCD did qualify for compensatory seats, but benefited from PR seats won by LWP and NIP respectively

***The total numbers of constituency seats and of the whole National Assembly do not add up to 80 and 120 respectively because the elections in Makhaleng Constituency No.45 were postponed due to the death of one of the candidates and a fresh election was held on Saturday 30 June 2007. The election was won by the ruling LCD

Source: Matlosa 2007

After the allocation of seats by the IEC, 'five opposition parties, namely ABC, BNP, MFP, Alliance of Congress Parties (ACP), and LWP protested the allocation of seats and called for the leader of NIP (mysteriously left out of his party list by the faction that got into alliance with the LCD) to be sworn in as an MP despite the fact that he did not contest the election' (Matlosa 2008: 41). This call was rejected by the Speaker of parliament who made it clear that only people who contested and won constituency seats and those who appeared on the PR lists of their parties could be sworn as MPs. The Opposition argued that if the model had been applied appropriately, the LCD/NIP alliance would have received a total of 62 seats as against 82. The ABC/LWP alliance, on the other hand, would have received 29, seats as opposed to its 27. Other smaller parties 'would have increased their parliamentary seats through the PR component and one small party, the New Lesotho Freedom Party (NLFP), which is not represented in Parliament would have at least won one seat' (ibid). If the allocation had been applied as the opposition parties desired, the results would have been as shown in table 4.

Table 4: Hypothetical Results of the February 2007 National Assembly Elections

Party	Total valid votes	Constituencies by party	Party's allocation of compensatory seats	Total number of seats	% party votes	% seats won (constituency + compensatory seats)
Alliance of Congress Parties	20 263	1	4	5	4.6	4.2
Basotho Batho Democratic Party	8 474	0	2	2	1.9	1.7
Basutoland Congress Party	9 823	0	3	3	2.2	2.5
Basotho Democratic National Party	8 783	0	2	2	2.0	1.7
Basotho National Party	29 965	0	8	8	6.8	6.7
ABC/LWP	107 463	17	12	29	24.3	24.4
Marematlou Freedom Party	9 129	0	3	3	2.1	2.5
LCD/NIP	229 602	61	1	62	51.8	51.1
New Lesotho Freedom Party	3 984	0	1	1	0.9	0.8
Popular Front for Democracy	15 477	0	4	4	3.5	3.4
Total	442 963	79**	40	119	100	100

Source: Matlosa 2007

In protest, the MFP challenged this allocation of seats in the courts. In its application, the party had

urged the High Court to declare the allocation of seats in the National Assembly 2007 polls as of no force and effect due to some irregularities, as well as declaring alliances between the Lesotho Workers party (LWP) and the All Basotho Convention (ABC) as well as that between, the National Independent Party (NIP) and Lesotho Congress for Democracy (LCD) null and void. Lastly the MFP sought the court to direct IEC to reallocate PR seats in the National Assembly (Nyaka, 2008)

According to the Lesotho National Assembly Elections Order 1992 section 104(2)(b), the High Court should have made a final order in relation to elections results petitions within 30 days. However, it took the High Court far more than a year to make a final judgment in the MFP case. The judgment came to be delivered only on the July 2, 2008 with the MFP eventually losing on technicalities. Nyaka reports that “when passing judgment, Justice Semapo Peete indicated that the party (MFP) has no *locus standi* (legal standing) as per Section 69 subsection (3) of the Constitution and that the High Court does not have jurisdiction to preside over the matter”(ibid).

As time passed and no common ground was found between the LCD government and opposition parties, the protests gained momentum and the country was thrown into instability that led to regular work boycotts, particularly in Maseru. In response to work protests and alleged attacks on some ministers' homes, the government declared a dusk-to-dawn curfew in the capital. It was during this curfew that security forces went all-out to abduct and torture some of the key opposition figures and their sympathisers. For instance, 'the prominent opposition leaders – A. C. Manyeli (NIP), V. M. Malebo (MFP), M, Billy (LWP) – were charged with a number of cases including high treason, defamation of

courts, inciting instability etc. Most of the cases have since been dismissed by the courts' (Kapa, 2008: 9).

Even the ordinary civilians were not spared the wrath of the security forces' iron fist. Their rights were grossly violated during the curfew and a couple of lives lost. Reporting on human rights in Lesotho, the Bureau of Democracy observed that the "Lesotho government's human rights record deteriorated in 2007 due to government's response to violent attacks on senior government and political figures, during which security forces committed serious abuses, including unlawful deprivation of life, torture, and use of excessive force" (March 11, 2008). In one incident a university political science lecturer who is also a politics and development editor of the Public Eye newspaper, Nthakeng Selinyane survived death by a whisker when his car was shot at from behind immediately after leaving a roadblock manned by the security forces (Interview at Maseru 08 July 2009). Selinyane is a well known critic of the government and has written extremely elections in Lesotho. One can therefore, safely assume that the attempt on his life was a calculated move by the security agents.

As a direct result of the election-related unrests of 2007, for the first time in decades, Lesotho produced refugees as some of the opposition activists sought political asylum in South Africa. Some remain in South Africa today. One of the most prominent of these 'refugees' was a retired Lesotho Defence Force (LDF) Warrant Officer Makotoko Lerotholi who was one of the bodyguards of Tom Thabane - the leader of the opposition party, the ABC. Before he fled the country, Lerotholi was arrested by the military and severely assaulted on suspicion he was involved in alleged attacks on some members of the cabinet. The government later came to accuse Lerotholi of being the mastermind behind the attacks on the Lesotho army barracks and a subsequent attack on State House, and the alleged attempt to assassinate Prime Minister Mosisili in April this year (Molomo, 2009). Lerotholi has since died in exile, allegedly as a result of the torture by the Lesotho army in 2007 and was buried in Maseru on Saturday

October 28, 2009 (Sunday Express 01/11/2009). It is worth noting Lerotholi was not the first “refugee” of the 2007 persecutions to die in exile. Pakiso Semoli earlier died in exile in 2007 (Selinyane 2009, 19).

No solution has been found to the conflict in spite of it attracting regional attention. Following the tabling of the findings of its mission earlier sent to Lesotho, SADC, in a meeting convened in Dares Salaam, Tanzania, in May 2008, appointed Sir Ketumile Masire, a former President of Botswana, to mediate in the feud. After more than a year of unfruitful engagements, Masire has since abandoned his mediation, citing lack of cooperation from the ruling LCD (Intelserv.co.ls). Delivering the ‘Talking Notes’ of his report in Maseru on the 9th July 2009, Masire stated that:

... although I have not concluded the Mission assigned to me by SADC, I do not feel able to continue on account of the approach to the matter taken by the Government of the Kingdom of Lesotho. This is regrettable because in the seminar (in which the experts of the MMP model were to be called to provide their opinion on the contested allocation of seats) lay the crucial opportunity to expertly identify the precise weaknesses in the application of the MMP Model in order to enable the people of Lesotho to make such reforms as may be considered necessary (Staff Reporter: Intelserv.co.ls 2009)

It remains to be seen what the future holds for Lesotho as the government has rejected the recommendations of SADC (through Sir Ketumile Masire) over the allocation of seats. The Deputy Prime Minister Lesao Lehohla is reported to have said ‘Masire has completely gone off the rails because his mandate was to facilitate the dialogue over the dispute between the government and the opposition. ... he has now exceeded that to play the role of the arbitrator with supposedly a final say in the matter and we find that a bit disturbing’ (Hoeane 2009).

Following the abandonment of the SADC mission by Masire and his team, the opposition parties insisted there was need by the IEC to review the allocation of seats. The ruling party insisted on its original position that re-opening the issue would be tantamount to undermining the courts. In an attempt to force the ruling party to the negotiations table, the opposition parties called for a three day work boycott beginning Monday August 3, 2009. Although not very successful, the strike was eventually called off on the second day when the parties agreed to begin fresh talks under the mediation of the retired Bishop Phillip Mokuku of the Anglican Church of Lesotho (ACL). In spite of ongoing negotiations, the leader of the ruling party, Prime Minister Pakalitha Mosisili has on several public gatherings maintained his party was not going to budge on its position in regard to the allocation of seats. He reiterated his party stance at a gathering in Teyateyaneng on Saturday August 8, 2009 (Hoeane 2009, 1). Following differing views on the contents of the ruling by Judge Semapo Peete, the parties, under the mediation of Bishop Mokuku, agreed to seek an independent legal opinion on the part of the judgment involving the allocation of seats (Linake, Intelserv. Co.l.s, August, 20 2009). The next section examines specific areas that according to existing literature have proved to be the roots of election-related conflicts. Furthermore, it discusses some of the initiatives taken to remedy the conflicts.

1.3 The roots of conflict and initiatives taken to remedy the conflict.

This section identifies areas that the existing literature points to as those which over the years have proved to be a centre of election-related conflict in Lesotho. These include the outcomes of the elections, elections management bodies, and electoral models. In each area identified, initiatives taken in the past to remedy the situation are also examined.

1.3.1. Outcomes of the elections.

While it is clear that the whole electoral process in Lesotho is in one way or another characterised by conflict between the ruling and opposition parties, it is

mainly after the announcement of election results that the reigning conflict takes greater, sometimes violent, proportions. This has been the trend since pre-independence election in 1965 when the opposition parties namely BCP and MFP alleged the BNP had rigged the elections. The same trend surfaced again in 1970. In spite of arrangements favouring the ruling BNP, the electoral process went ahead without much strife. It was only when the results seemed to favour the opposing BCP that the Prime Minister began to cry foul and subsequently annulled the elections; a similar trend resurfaced during 1993 and 1998 elections. However, the point to note about the 1998 elections is that the conflict was already visible *before* the polling day, the environment was already poisoned. This was evidenced by the opposition parties' decision to take part in the elections "under protest" after the High Court had ruled in their favour in the case in which they accused the IEC of not giving them sufficient time to audit voters lists (Pule 2002). The court had, however, stated it did not have powers to postpone the elections (for which the complainants had applied). Even in this particular case, the conflict began to intensify only *after* the results had indicated opposition parties had lost. The 2002 and 2007 general elections were no different in that it was also *after* the announcement of the election results that the conflict intensified.

The most notable initiative to resolve the conflicts has been the engagement of the courts. However, the courts have seemed unable to provide the necessary solution. This is because more often than not, the courts decide their cases on the basis of determining who between the two opposing parties is guilty. This they do paying little regard for the consequences of their decisions, except where such consequences may have serious national implications. This has proved not to be very appropriate for political cases, as politics is never a zero-sum game and involves compromises. It was probably on the realisation of this that, the 'SADC heads of state and governments committed themselves a regional version of the African Union (AU) Declaration by adopting the Principles and Guidelines Governing Democratic Elections' (Menang 2006: 62). Among others, these

leaders committed themselves to the establishment of relevant courts to arbitrate electoral disputes (ibid). Lesotho is however, yet to establish such a court and electoral disputes continue to be heard by the normal courts.

1.3.2. The Elections Management Bodies (The Electoral Office and the IEC)

Until 1998, elections in Lesotho were administered by the Electoral Office. This was a government department under the Ministry of Interior (later Home Affairs). During elections the office usually engaged foreign “experts”. For instance during the 1993 elections, the office was headed by Noel Lee who was seconded to Lesotho by the government of Jamaica. By virtue of it being a government department it was clear the Electoral Office would not serve both the ruling and political parties equally. This first became evident during the preparations for the 1970 elections when the then Electoral Officer, Johannes L. Pretorius, a South African, failed to address some of the grievances of the opposition parties in relation to exorbitant candidate deposits (Khaketla, 1971). Furthermore, the Electoral Office became a central issue after the 1993 general election. Its role was one of the issues being raised by the BNP when it refused to accept defeat; claiming the elections were rigged in favour of the BCP by the Electoral Office.

Immediately after the 1993 election, the opposition parties proposed to the BCP government that the subsequent elections be run by an independent body. The BCP was, however, 'strongly opposed to the appointment of the IEC in spite pressure from all other political parties' (Sekatle, 1997: 85). The Independent Electoral Commission (IEC) of Lesotho came to be established only in 1997 through the Second Amendment to the Constitution Act, 1997. It is important to note that the IEC was established shortly after the formation in parliament of the LCD. The newly formed LCD used its majority in parliament to vote for the law that replaced the Electoral Office and the Delimitation Board by the IEC. This move can be explained as a way of enticing opposition parties, and an attempt to minimise their antagonistic view against the LCD. The genuineness of the move remains questionable because the very LCD members who voted for the

establishment of the commission were the same people who were against the idea when still in the BCP.

It goes without saying that the establishment of the IEC had brought hope to the nation that the election results would now be accepted by all parties. However, this proved to be a far fetched dream as the 1998 elections, the first to be run by the IEC, became the most violently disputed. Subsequent conflict almost threw the country into a civil war. Since then, the role of the IEC has been at the centre of every election-related conflict. The opposition parties view the commission as a “comrade in crime” of the government. This is evident in that in most cases lodged in courts by the opposition parties the IEC becomes the first defendant and the government the second, or the other way round.

1.3.3. The Electoral Models.

Electoral models have also proved to be one of many issues that have triggered election-related conflict in Lesotho. Firstly it was the FPTP model that was used from 1965 to 1998. This model always produced results that were questionable in one way or another. Firstly, in 1965 the model allowed the BNP to form a government in spite of having only 42 % of the national vote; the party had won 31 of the 60 constituencies up for grabs (Mahao, 1997). Secondly the model made the headlines, for the wrong reasons of course, when it ‘over-rewarded’ the winners and ‘punished’ the losers in 1993 and 1998. In 1993 the model allowed the BCP to take 100 % of parliamentary seats despite winning only 74 % of the total vote (Southall, 2003: 275). In 1998, the model made news again when it awarded the LCD a 98 percent parliamentary representation although it had scored just above only 60 % of the national vote (Kadima, 1999). The implication of these skewed allocations of seats was that in the two cases 25.3 % and 40 % of the voters were left un-represented in parliament. The weakness of the model was exposed when the unrepresented parties became frustrated and sometimes resorted to violence.

In an effort to remedy the weaknesses associated with the FPTP model, the MMP model was adopted to replace the FPTP in the 2002 general election. The adoption did, however, not come without struggles. It came after many struggles within the IPA as the LCD and the opposition parties could not easily reach consensus. On one hand the 'opposition parties wanted a mixed model that swung in the form of extreme PR; on another, the LCD wanted to hang on the model that would retain FPTP as its fundamental basis' (Southall, 2003: 276). The final compromise favoured the LCD and the new model was to consist of 80 FPTP and 40 PR seats. As a result of the new model, the allocation of seats in parliament following the 2002 general elections saw 10 parties represented in Lesotho's parliament. While the main opposition party, the BNP did dispute the results, and promised to take no part in any by-elections as a way of protest, there was no serious conflict after the 2002 elections. The model was thus hailed as a success and Lesotho received accolades from the international community.

The model was used once more in the 2007 general elections. In an attempt to increase their chances of winning the elections and gaining more seats in parliament, the main contenders, the LCD and the ABC entered alliances with smaller NIP and LWP respectively. According to Matlosa, "the alliances effectively distorted the MMP electoral model" (2008:35). How the alliances were to work, together with the resultant allocation of seats have been discussed in detail in section 1.2.2.6 and do not need repetition. It is however, important to emphasise that because of the distortion of this model Lesotho was once more thrown into violent conflict that resulted in loss of numerous lives. The conflict persists and it seems unlikely there will be a meaningful solution anytime in the near future. In an attempt to help Lesotho solve this conflict, the SADC had appointed Sir Ketumile Masire, a former President of Botswana as a mediator between the ruling LCD and the opposition parties. Masire has since abandoned the mission citing lack of cooperation from the Lesotho government (Staff Reporter: Intelserv.co.ls 2009). As seen earlier a fresh mediation process has begun under the leadership of Bishop Phillip Mokuku.

It is important to note that reforms are being planned on the MMP model as a way of plugging the loopholes that the political parties have taken advantage of in the past. Selinyane notes that, “the Law Review Committee of the IEC , which brings together all the registered parties, has just completed a comprehensive revamp of the election law, with a view to plugging the loopholes that have seen a series of recent national polls dogged by bitter complaints” (Public Eye, June 19 2009). Proposed changes include that it becomes compulsory for all political parties to contest elections at both the constituency ballot and the party ballot of the MMP model; each party be bound to contest elections in a minimum of 10 constituencies out of a total 80 national constituencies. It remains to be seen whether the LCD dominated-parliament will legislate in favour of the reforms or not.



1.4. Layout of the rest of the mini-thesis

Chapter 2 presents a theoretical framework and research design. The first part provides working definitions of the key concepts of this study, namely elections and conflict. Furthermore, it provides an examination of the theories that form the basis of this study. These include liberal accounts of democracy and illegitimate conflict, free and fair elections, electoral institutions, and the neo-patrimonial state. The second part provides a detailed description of the methodology used in carrying out this research. This consists of a rationale for purposely selecting respondents; what motivated the use of and the semi-structured interviews; utility of content analysis; and the ethical considerations that guided this research.

Chapter 3 provides a full account of research findings and their analysis. It examines different areas and issues the respondent took to be the causes of election-related conflict in Lesotho. These include failure by relevant national institutions to adequately perform their duties, and weak economy and neo-patrimonial tendencies in Lesotho; just to mention the main two. The chapter also provides answers to research questions that were aimed to establish what can

be done to minimise or eradicate the conflict. It discloses that the respondent felt that the conflicts could be minimized if the economy of the country was transformed and the political elites could develop the political will unity for the attainment of national development.

Chapter 4 is concerned with a conclusion that is basically the summary of the main findings and the researcher's view of the applicability of the respondents' recommendations. It argues conflict in Lesotho is motivated by the desire of the political elites to ensure access to the country's limited resources. Most factors to have fanned conflict are to a greater extent linked to competition over resources.



CHAPTER 2: THEORETICAL FRAMEWORK AND RESEARCH DESIGN

2.1 Definition of concepts.

This section concerns itself with providing the working definitions of the key concepts of this study. This will help to provide the actual meanings of the concepts as used in this particular study. These concepts are elections and conflict. These concepts form the central part of this study. It is, therefore, important that the meanings of each – as used in this study – are unpacked and clearly understood.

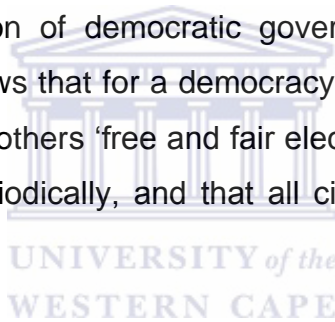
2.1.1. Elections

For the purpose of this study elections refer to a process through which citizens vote in someone from among many candidates, to fill seats in a parliament. It is important to note that contrary to the mistake many people make, elections are far more than just voting. Elections are a multi-phased process that stretches over a long period. Stages of the electoral process include, among many registration of voters, nomination of candidates, campaigning, polling, and announcement of results.

As a process, elections are premised on the liberal democratic theories of representation that appreciate a need for citizens to be represented by others in public decision-making. Elections have become a common feature of modern states because of the huge populations and vast geographical boundaries. These render it difficult for citizens to participate individually in public affairs, hence representation by an elected few. Commenting on elections, Axford and Rosamond state that 'for the citizens, elections provide a particularly low-cost method of participating in the political process' (1997, 132). Arguing on the basis of rationalist strand of liberal theories of representation, Ball highlights elections as the best way through which citizens can select their representatives. He

argues that being a creature of reason, 'man will use his vote in an intelligent fashion and is consequently entitled to a share in the selection of representatives' (1993, 122).

Among others, the liberal theories of representation emphasise the importance of individual rights and the necessity of limiting the powers of government to protect those rights (Ball & Peters, 2005:163). Elections are generally regarded a precondition for the process of democratisation. For Bratton and Van De Walle (1997: 194) 'a transition to democracy can be said to have occurred only when a regime has been installed on the basis of a competitive election, freely and fairly conducted within a matrix of civil liberties, with results accepted by all participants'. According to Matlosa, elections are supposed to ensure the deepening and consolidation of democratic governance and political stability (2003: 98). It therefore follows that for a democracy to be representative, it must be characterized by among others 'free and fair elections in which citizens' votes weigh equally, are held periodically, and that all citizens have suffrage' (Kapa, 2003:70).

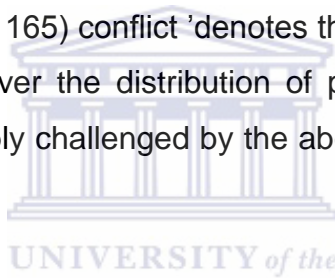


Elections perform a number of functions within political systems. Among others, they provide citizens a means of choosing representatives to participate on their behalf where direct participation is not feasible. Furthermore, elections are a means of generating legitimacy to governments. Most importantly, elections serve as a mechanism for changing governments, or extending or renewing the mandate of incumbent regimes (Kapa, 2003; Helgesen, 2008). By virtue of being an integral feature of the liberal democracies, elections are taken to be a panacea for conflict and instability. However, in Lesotho, elections have over the years, triggered numerous conflicts, in the process undermining the very process of democratization.

2.1.2. Conflict

Like of other social science concepts, the meaning of conflict remains nebulous and elusive. The concept has been defined differently by many different authors to suit particular settings in which it has been used. However, all definitions recognise the fact that conflict involves a relationship of more than one person or groups, and that it involves competition. Another point of similarity between all authors who have defined conflict is an admission that conflict is part and parcel of societal life and cannot be wished away. Furthermore, all the authors are in agreement that conflict is not always bad, but it becomes a liability to the society if it reaches certain proportions where it becomes unmanageable (Mccoy, 2008 & Herb, 1988). Some of the definitions of conflict are examined below.

According to Matlosa (1999: 165) conflict 'denotes the incompatibility of interests, choices, goals and ideas over the distribution of power and scarce resources among many actors. Probably challenged by the above definition, Makoa argues that the term conflict



...connotes more than incompatibility or divergence of objectives, opinions, personal or group values and views. It includes overt and violent mutual antagonism, and the threat of violence between opposed groups and/or parties with capacity to mobilize people for violent confrontation (2002: 2).

A more loaded and specific definition of conflict is provided by Piper (2005). Following Dahl, he classifies political conflict in democracies into two; conflict as a clash of wills, and conflict as illegitimate politics. The former, like the one provided by Matlosa, views conflict in a general sense as being prevalent, and without necessarily being destructive in societies (see also Mccoy, 2008 & Herb, 1988). Conflict as a clash of wills as presented in the above two definitions is the one on which elections as a process are based. Elections involve a competition which in itself is based on the divergence of values and interests. For instance

there is always a clash of wills when people vote for different parties. In this manner conflict is not problematic, hence conflict as a clash of wills is not the type of conflict with which this study was concerned.

As illegitimate politics, conflict is defined in a more sophisticated way to imply 'specific behaviours deemed unacceptable in a liberal democracy' (Piper, 2005: 32). As a starting point to understanding conflict as illegitimate conflict, it is important that the concept of liberal democracy be briefly discussed. Liberal democracy is according to Hague et al (1992: 18), 'a political system that is concerned with limiting the powers of government and protecting individual rights'. Within liberal or representative democracies elected 'officers' undertake to 'represent' the interests or views of citizens within the framework of 'rule of law' (Held 1993: 15). As a political system liberal democracy is theoretically underpinned on liberalism which among others stresses on individual rights and liberties (Ball & Peters 1993: 163). Liberal democracy has some distinctive political features, which include the following: 'that free and fair elections in which citizens' votes weigh equally are held periodically; that all citizens have suffrage; and that they are free both to oppose the government and to compete for public office' (Kapa, 2004: 70).

It should be noted the right to elect leaders in a free and fair election is just one of the numerous requirements for a system to be classified as a liberal democracy. Concurring with this assertion, Green & Luehrmann write that:

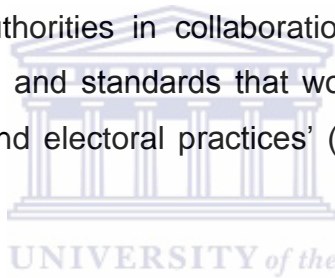
liberal democracies are based on a deeper institutional structure that offers extensive protections for civil and political rights, individual and group liberties such as freedom of thought and expression, freedom of the press, and the right to form and join assemblies or organizations, including political parties and interest groups (2003: 304).

It is therefore necessary that elections be conducted within an environment conducive to protection and respect of individual liberties. This is the environment in which no liberties are infringed upon; and where there are effective specified mechanisms for redressing such infringements in case they occur.

However, what constitutes free and fair elections has been a point of contention for some time. In fact, most of the time the perpetrators of election-related conflict have claimed their actions were motivated by the fact that elections were not free and fair in one way or another. For instance, the violence that erupted in Lesotho after the 1998 elections was sparked, among others by the opposition parties' claim that the elections were not fair. The opposition parties had participated in elections 'under protest' after the court had ruled in their favour that the IEC was at fault for not having provided them with the voter lists in time. The court had however, dismissed the opposition parties' application that demanded the court to postpone the elections (Pule, 2002: 208).

It was as a result of the ambiguity of the concept that several regional, continental and international bodies had come up with the guidelines of what is to qualify as free and fair elections. All these guidelines are based on the principles in line with liberal-democratic ideals. It is a violation of some of these guidelines that constitutes conflict as illegitimate politics. For instance, it constitutes a conflict as illegitimate politics when violence is illegally used on opponents; when competitors are illegally denied access to, or excluded from some of the activities or resources enjoyed by their rivals. Generally, all the organizations are in agreement on the principles of what constitutes free and fair election. This is observed by Matlosa (2004: 3) when he writes that 'SADC election principles, in a large measure, resemble the African Union election principles adopted during the 2002 AU Summit in Durban'. AU principles themselves are not different from those adopted by the Inter-Parliamentary Union in Geneva in 2006. More on the principles of free and fair elections is covered in the next section.

As a way of eliminating election-related conflict, or at least reducing it, countries such as Lesotho and South Africa have established Independent Electoral Commissions to administer their elections. The functions of these commissions are almost identical. For instance, the functions of the IEC in Lesotho includes ‘to ensure that every election and referendum held is free and fair, and to manage any conflict related to electoral issues’ (Independent Electoral Commission of Lesotho Mission Statement). On the other hand, among the functions of the South African IEC are requirements to ‘promote conditions conducive to free and fair elections, and to adjudicate disputes which may arise from the organisation, administration or conducting of elections and which are not of an administrative nature’ (Piper, 2005: 36). The similarities in the functions of the two commissions are not surprising for in the conference held in Pretoria in 2003 the African Association of Electoral Authorities in collaboration with the AU Commission agreed to ‘determine norms and standards that would govern the conduct and management of elections and electoral practices’ (Pretoria Conference Report, 2003).



To manage conflict, the South African IEC came up with a code of conduct, which according to Piper (2005) provides a best example of understanding conflict as ‘illegitimate politics’. This code of conduct is signed by parties during elections. In Lesotho to the contrary, there is no specific code of conduct that parties or candidates sign during elections. The behaviour of parties and candidates is guided by the general electoral code of conduct as set out in schedule 4 of the National Assembly Elections Order of 1992. This code of conduct is almost similar to the one signed by South African parties and candidates (this code of conduct is included in appendix A). Table 5 lists the principles of a liberal democratic system and reconciles them with the various elements of the code of conduct drawn by the South African IEC for players in elections.

Table 5: Principles of liberal democracy vs RSA IEC code of conduct

Principles of liberal democracy See Green & Luehrmann (2003: 304)	SA IEC electoral code of conduct See Piper (2005: 36-37).
Protection for civil and political rights	Parties and candidates are prohibited from: <ol style="list-style-type: none"> 1. Violence during an election 2. Intimidating opponents 3. Unreasonably preventing access to voters. 4. Defacing or destroying billboards, placards, or any other elections material of other parties. 5. Abuse of position of power to influence the conduct or outcome of an election.
Individual and group liberties	
1. Freedom of thought and expression	Commits all players to publicly state that everyone has the right to: <ol style="list-style-type: none"> 1. Freely express their beliefs 2. Challenge and debate the political beliefs and opinions of others
2. Freedom of the press	Commits all players to publicly state that everyone has the right to: <ol style="list-style-type: none"> 1. Publish and distribute election materials 2. Lawfully erect banners, billboards, placard and posters
3. Right to form organisations	Commits all players to publicly state that everyone has the right to:

- | | |
|--|--|
| | <ol style="list-style-type: none">1. Recruit members2. Hold public meetings and to travel to and attend meetings. |
|--|--|

Source: own

While its establishment was a celebrated move, the IEC in Lesotho has not been able to eradicate conflict as illegitimate politics. Failure by the commission to fully abide by the international bodies' elections guidelines continues to breed conflict in Lesotho politics. This is manifested as the commission fails to ensure the existence of level playing fields for all parties participating in elections, and to ensure that there is a clear separation of party from the state. For instance, the argument put forward by some players and observers is that the ruling party has the monopoly over the use of government resources, such as vehicles during electoral campaigns.

Based on the above argument, it would be reasonable to infer that 'political conflict, particularly elections-related, arises from the failure of the system to ensure constitutional liberties and to establish limits on the arbitrary exercise of executive power; and from any action that violates the democratic ideals as seen in international organizations' electoral guides to free and fair elections. Such actions include intimidation, illegitimate use of violence, and illegal exclusion of other parties from resources enjoyed by other competitors' (Green & Luehrmann, 2003). It is important to note that such actions have a potential to fester and possibly graduating to political instability if not well managed. The theoretical framework on which this study was premised is discussed in the next section

2.2. Theoretical framework

Theories forming the basis of this study include liberal accounts of democracy and illegitimate conflict, free and fair elections, electoral institutions, and the neo-patrimonial state. Generally these theories assist in unravelling the concept of

conflict, particularly illegitimate conflict as defined within the hegemonic liberal-democratic model. The theories also outline the various kinds of electoral systems, particularly their strengths and weaknesses, together with electoral management bodies, as the key institutions designed to manage conflict in representative democracies like Lesotho. Furthermore, the theories provide the understanding of the developing African context of politics, which places more importance of political power as a source of wealth (patrimonial politics). The assumptions of each of the theories are applied in the study to the Lesotho's context as a way of finding answers to the research questions discussed in section 1.1.1.

2.2.1. Liberal Democracy and Illegitimate Conflict

Much has been said about liberal democracy in the previous section. However, it is important to reiterate that liberal democracy is theoretically underpinned by liberalism which stresses the respect and protection of individual rights and liberties (Ball, 1993; Hague et al, 1992). To better understand individual rights and liberties as contained in liberal democratic theory, it is imperative to visit some of the works of John Stuart Mill. Most of Mill's ideas on individual freedom and liberties form the basis of modern liberal democratic principles and are contained in most, if not all modern states' constitutions. A utilitarian that he was, Mill argued that happiness was the ultimate goal of each individual and ultimately of society at large. He, therefore, believed it was the responsibility of a government to take positive steps to maximise the happiness of the society (Baradat 1979, 94). This, he further argued can be achieved if individual freedoms and liberties are respected and protected by the governments. For Mill, liberty implied 'the right to do as one wants free from the interference of others, so long as what one wants does no harm to others' (Mill 2002: 44). Mill went further to claim that liberty is a fundamental human right (ibid). Mill argued in particular for freedom of thought and discussion. Baradat writes that according to Mill, 'freedom of speech and thought should be given absolute protection under the law because individual liberty was the surest way of reaching happiness'

(1997: 97). Mill was a strong advocate of minority rights and wanted 'constitutional safeguards in democracies for the rights of minorities' (King and Kendal 2004: 46). It is clear, therefore, that Mill would call for the adoption of proportionally representative electoral models to ensure representation of minority groups.

Mill was specific on what he thought to be the type of government suitable for the maximisation of happiness within societies. He believed a representative form of government was best-suited to ensure happiness - the principal objective of society. It thus follows that to Mill, democracy was the most appropriate of all types of political systems as it could best secure happiness of all and foster self-development and individuality (Mill 2002: 44). Mill defended representative government as the most suitable form of political authority for ensuring happiness, both for society and individual because it 'provides moral training and encourages the development of natural human sympathies. The result is the habit of looking at social questions from an impersonal perspective rather than that of self-interest' (ibid).



In spite of his passion for democracy, Mill warned that as a political system, democracy had its own limitations. He warned that democracy could at times lead to a tyranny. He further argued that 'although democracy was the preferable form of government, it also had a tendency to limit individual liberty' (Baradat 1979; 97). It was on the basis of this argument that Mill called for the absolute protection of freedom of speech and thought. Mill firmly believed that for a democracy to achieve an intended objective – ensuring happiness, members must have as much education as feasible and so become better citizens. He believed 'where the citizens are unfit and passive, democracy can be an instrument for tyranny' (Mill 2002: 46). Mill believed that when educated, citizens would participate more and in the process increase the chances of democracy achieving its objective. As stated earlier, Mill believed individuality was good. He was thus wary democracy had a 'chief danger of suppressing individual

differences and of allowing no genuine development of minority opinion and of minority forms of culture, and imposing a single and inflexible set of mass values' (ibid). However, he remained adamant that with educated and participative citizens, democracy was the best form of government possible.

Liberal democracy reflects a deep concern with the abuse of power by the state at the expense of the individual. To qualify as a liberal democracy or, in Dahl's terms, a polyarchy, a political system must be characterised by political participation of the citizens and respect and protection of civil rights.

In order to clearly understand what liberal democracy is, it is necessary that it is distinguished from electoral or illiberal democracy. An illiberal democracy is a system characterised by the formal establishment of a democratic electoral process but with major shortcomings in terms of the provision of constitutional liberties and the establishment of any limits on the arbitrary exercise of executive power. Defining illiberal democracies, Mair (2008: 115) claims they are the political systems in which 'an acceptance of popular democracy and of government 'by' the people is combined with the persistence or even re-introduction of restrictions and limits on individual freedoms and rights'. Sadly, Lesotho was, until at least 2005, classified as an illiberal democracy (Mair 2008: 117). The assumption of the theory is that there is likely to be less illegitimate conflicts in political systems that are liberal democracies and more of such conflicts in illiberal democracies. The theory has therefore been useful for this study in assessing the relationship between the political system and the elections-related conflicts that are persistent in Lesotho.

2.2.2. Free and fair elections.

Political analysts such as Goodwin (2006) assume that there exists a direct relationship between the type of election held and conflict. Such analysts believe that whenever elections are not free and fair, there will be high levels of conflict and vice-versa. While it is generally believed, as indicated above, that free and

fair elections breed stability, what constitutes free and fair elections has for years been a point of contention among analysts. It was as a result of the ambiguity of the concept that several regional, continental, and international bodies have produced guidelines on what qualifies as free and fair election. These guidelines are based on principles in line with democratic ideals such as equality of individuals.

As seen in Goodwin-Gill (2006: -viii-) the principles of free and fair elections can generally be grouped into three main categories. Firstly, there should be respect and protection of voting and elections rights. These include a right to register as a voter; right to vote, right to appeal if denied a chance to vote, and right to vote in secret. A second category involves candidature, party and campaign rights and responsibilities. These consist of among others, a right to participate in government; a right to belong to a party; to freely campaign for election; *campaigning on equal basis of political parties, including the party forming the existing government* (my emphasis). Lastly, the principles stipulate the state's rights and the responsibilities. These include among others the establishment of the independent electoral management body, regulation of political parties funding, and ensuring the *separation of party from the state* (my emphasis). These principles have been used in the study as a yardstick to understand election-related conflict as it manifests itself in Lesotho.

2.2.3. Independent Electoral Management Bodies (EMBs)

Election management bodies are central to the electoral processes everywhere. It is a widely held belief within the political science fraternity that the administration of elections by an independent election management (EMB) body renders such an electoral process legitimate and, therefore, minimises conflict. It is as a result of this belief that many countries have established independent bodies to run their respective elections. For instance, Lesotho and South Africa have established independent electoral commissions. Much has been said about these two particular commissions in earlier sections of the paper, and so it will

not be repeated. Generally EMBs have to be efficient with legitimacy to enforce rules and assure fairness and the cooperation of all stakeholders (Menang 2006). To be efficient and credible, Menang further argues, EMBs should among others 'be independent, that is, they must not be part of the formal government bureaucracy; should be neutral, objective, transparent and accountable to parliament rather than to government; should have autonomous budgets that are voted directly by parliament; their members should be selected on the basis of ... the individuals calibre, stature, public respect, competence, impartiality and their knowledge of elections and political development processes' (2006: 63).

2.2.4. Electoral Models

One of the most vital elements in the electoral process is the electoral model. According to Dyer (2003: 143) electoral models 'act as variables in the distribution of political power'. This implies that the use of 'good' and legitimate electoral models may reduce or eliminate election-related conflicts. However, Dyer warns that electoral models are not politically neutral, as they reflect the diverse values and purposes of those who construct them (ibid). There are a number of electoral models used in different political systems. It is not easy to say which among such models, is the best as none has proven to be immune to criticism. Blais and Massicote note that analysts and practitioners have debated the issue of the best model for more than a century but have not been able to come up with a universally accepted answer (1996). For the purpose of this study three electoral models have been examined, namely FPTP, Proportional Representation (PR), and MMP. These are the models that have been part of the Lesotho electoral process at one stage or another. The strengths and weaknesses of each will be briefly sketched.

FPTP relates to an electoral model used within a political system in which a country is divided into a number of constituencies equal to the number of seats in parliament. To win a contested seat, a candidate needs simply to obtain more votes than any other challenger. One of the most obvious strengths of the FPTP

is that it outperforms all other models in terms of simplicity. Apart from simplicity, FPTP is cheaper to run in that it does not call for extra rounds of ballots. The system is further credited by its supporters for producing 'one party majority governments which are mostly stable than coalition governments' (Dyer, 2003). It also ensures accountability in that 'it makes it easier for voters to get rid of the party they do not like from the government, replacing it with the new; the feat that is not very easy in coalition governments' (Blais and Massicote, 1996: 73). FPTP has however not been able to avoid criticism. The system is criticised for allocating seats disproportionately from the overall percentage of party votes (Dyer: 2003). The system is further weak in that it excludes minority parties from being represented in parliament (See Mahao 1997; Matlosa; 2008).

The list system is the strand of the PR system that has been used in Lesotho as part of the MMP model since its adoption in 2002. PR relates to a system where the country is treated as a single large constituency and political parties draw lists of the candidates who will be allocated parliamentary seats in proportion to the percentage of the party vote. PR is praised by its proponents for ensuring broad and fair representation of parties in parliament. Such representation, the argument goes further, ensures greater diversity of viewpoints (Blais and Massicote, 1996: 74). Still on representation, PR is hailed for its ability to 'reconcile the question of ethnic representation within heterogeneous societies where voting is along ethnic lines (ibid). This it does by ensuring that each ethnic group gets representation proportional to its national vote. PR is however accused by its critics of giving parties too much power in that they are the ones who draw the list of candidates. This, the accusation goes further, leads to MPs being less accountable to voters and more to the party. PR is also accused of regular formations of coalition governments which are in most cases unstable (experiences of Mauritius can give weight to this argument).

There are two forms of mixed member systems, namely Mixed Member Parallel and Mixed Member Proportional. As indicated earlier, the latter is being used in

Lesotho. It is for this reason that proportional form of the mixed system forms the core of this section. MMP relates to a system composed of the mixture of both FPTP and PR. Formulae combinations of the two vary from one country to another. In this system two separate ballot papers are used, one for the election of the constituency-based MPs, and the other for the election of the party MPs (Matlosa, 2008). For instance, in the Lesotho National Assembly there are 80 FPTP and 40 PR seats. With this system, the allocation of seats at the PR level is dependent on what happens on the FPTP seats and compensates for any disproportionality that might have occurred.

The parallel form of the mixed member systems on the other hand is slightly different from the proportional form discussed above. While both forms use two separate ballot papers, the difference lies in seat allocation. With the parallel form, 'the two sets of elections are detached and distinct and are not dependent on each other for seat allocations' (Likoti 2009: 7). It therefore follows that, unlike the proportional, the parallel form is not aimed at compensating for any disproportionality; it awards seats on the basis of votes cast and nothing more.

The major advantage of the MMP is that it combines together the advantages of both the FPTP and the PR systems, particularly with regard to broadening parliamentary representation. Like all other models, MMP has not been able to avoid criticism. It is accused among others for affording the smaller parties a platform in parliament and in government through the formation coalition governments, which are mostly unstable ((Dyer, 2003). The next theory, the neo-patrimonial state, is discussed in the next section.

2.2.5. Neo-patrimonial state

According to Bratton & Van de Walle (quoted in deGrassi, 2008: 1) 'neopatrimonialism is commonly understood as a hybrid regime consisting of, on the one hand, an exterior modern, formal, rational-legal state like apparatus (the "neo") and on the other hand, a patrimonial spoils network in which centralized

elites mobilize political support by using their public position to distribute jobs, rent-seeking opportunities, and resources as personal favours'. Describing African states as being neo-patrimonial, Van de Walle (2001: 52) posits that in these states, 'patrimonial practices coexist with modern bureaucracy; officeholders almost systematically appropriate public resources for their own use and political authority is largely based on clientelist practices, including patronage, various forms of rent-seeking, and prebendalism'. Kabemba argues that Lesotho, like her other African counterparts is trapped in the problem of patrimonialism (2003). The capture of state power in these countries is translated into economic power through accumulation; the state becomes inextricably entangled, resulting in a rent-seeking state with rent-seeking elite connecting themselves to the state, turning the state monopoly to their personal benefit and to that of their families, friends, and clients (Matlosa, 1997).

Under these circumstances winning elections becomes more than just capturing state power. The stakes become high and losers at the elections hardly come to terms with the loss. This is because the loss of elections does not imply only the loss of parliamentary seats, it also implies loss of employment opportunity, and all related financial gains. The losers resort to desperate measures that in most cases lead to eruption or intensification in conflict. The importance attached to winning elections is evident in Lesotho. Because of a weak economy and a lack of a viable private sector, the state in Lesotho has become the second largest employer after the volatile and poorly paying textile industry (Kapa, 2006). The implication of this is that patronage is used by those who hold state power to provide the scarce employment opportunities to those who are in one way or another aligned to the political elite of the ruling party. On the other hand centrality of the state in economy implies that government tenders are usually given to the traders and firms that have links to the ruling party. This state of affairs renders elections in Lesotho a zero-sum game, hence all the struggles over elections. While it is true that competition for the spoils of office occurs even in liberal-democratic systems, it is in illiberal democracies such as Lesotho where

neo-patrimonial tendencies are most common. This emanates from weak institutions which cannot adequately deal with corrupt officials.

2.3 Research design

This section provides an outline of the methods used to conduct this study. The section is divided into a number of subsections that include research methodology; types of data, both primary and secondary; data processing, presentation, and analysis; and ethical considerations that guided the research.

2.3.1 Research Methodology

With this study, my main concern was to have an in-depth understanding of election-related conflict as it unfolds in Lesotho. This study has as a result been entirely qualitative in nature. According to Babbie and Mouton, in qualitative studies researchers are always primarily interested in describing the actions of the research participants in great detail, and to understand the social phenomenon in terms of the actors' own beliefs, history, and context (2001, 271). By virtue of being qualitative, the study has adopted qualitative methods of data collection. Qualitative data was chosen because of its utility for descriptive types of study such as this one. Showing the utility of qualitative data, Miles and Huberman state that qualitative data are 'a source of well grounded rich descriptions and explanations of processes in identifiable local contexts; with qualitative data, one can see precisely which events led to which consequences and derive fruitful explanations; qualitative data are likely to lead to serendipitous findings and to new integrations, they help researchers go beyond initial conceptions and to generate and revise conceptual frameworks; findings of qualitative data have a quality of "undeniability", words ...have a concrete, vivid, meaningful flavour that often proves more convincing to a reader – another researcher – a policymaker – a practitioner – than pages and summarised numbers' (1994: 1).

Data collected through the use of intense semi-structured interviews was preferred. This was to allow the researcher to probe for more information on

important points raised by the interviewees as interviews progressed. According to Lee (2007) the strengths of qualitative methods such as semi-structured interviews lie in the fact that they meet intended aims, as well as provide indirect effects. Among the intended aims, these methods 'encourage more open discussions and capture feedback in context; have indirect effects in that they provide feedback mechanism for grievances as well as an opportunity to raise queries' (ibid). A detailed explanation of the methods used for data collection is discussed in the next section. Furthermore, interview schedule and questionnaire are included as appendix D and E respectively.

2.3.2 Qualitative Data

Qualitative data was gathered by seeking the opinions of the people who have directly been involved in the elections-related conflicts in Lesotho, either as belligerent factions or as mediators. The respondents were as a result purposely selected. A total of 16 respondents were initially targeted. However, because of logistical constraints, such as unavailability of some respondents and a limited time the researcher had in Lesotho, only 11 respondents were interviewed. Eleven, however, sufficient as all the respondents were people of high calibre who understood the conflict very well. These consisted of five senior political party officials (each drawn from one of the five main political parties that were once involved in the conflicts namely the All Basotho Convention (ABC), Basotho National Party (BNP), Basutoland Congress Party (BCP), Lesotho Congress for Democracy (LCD), and Marematlou Freedom Party (MFP)); one member of the Lesotho Council of Non-governmental Organizations (LCN) who has in the past mediated in the conflicts; one church leader representing the heads of churches who have in the past mediated under the auspices of the Christian Council of Lesotho (CCL); a current senior official of the IEC; a former commissioner of the IEC; and two academics. All the interviews were held in Maseru during the first two weeks of July 2009.

2.3.3 Secondary data and documentation

Secondary data in this study include such documents as the National Assembly Election Order, 1992, IEC publications; Government Gazettes; judgements of the past court cases on election-related conflicts; academic journals; newspaper articles; political parties and government publications.

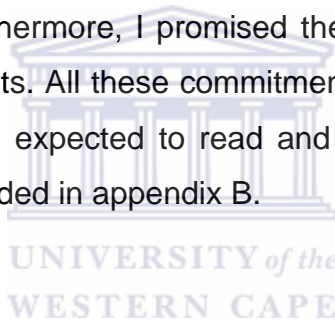
2.3.4 Data processing, analysis, and presentation

Once the data had been collected, content analysis was employed to analyse it. The data had been collected through written notes as well as recording of the interviews. The written notes were carefully studied and the tapes replayed to identify the factors identified by each respondent as a way of coding data. Coding refers to the process in which raw data is organised into conceptual categories to create themes or concepts which are used to analyse the data (Neuman; 2000). The coded data was then thoroughly studied and inferences made. According to Neuman to infer means to pass judgment, to use reasoning, and to reach conclusion based on evidence. It is therefore important to emphasize that all the conclusions made in the study were made based on the evidence given by the respondents. The findings and judgments were then compiled and presented as will be seen in chapter 3.

2.3.5 Research Ethics

This study was conducted within the field of Social Sciences. As a result it had to abide by the ethical rules and regulations of the discipline and maintain professional integrity. Many social science associations that include amongst others the British Sociological Association, the Association of Social Anthropologists of the Commonwealth, and the Social Research Association abide by standard ethical codes of social research. Generally, these codes require researchers to 'have a responsibility both to safeguard the proper interests of those involved in or affected by their work, and to report their findings accurately and truthfully' (Caputi and Balnaves, 2001: 239).

The consideration of this ethical code guided the entire process of interviews with the respondents. The respondents were people who have in the past been involved in election-related conflict in one way or another. Some might have had traumatising experiences during the conflicts. As a way of abiding by ethical considerations during the research process, I committed not to proceed with the interviews without the consent of the participants; not to act in any way that would lead to the respondents feeling shame or embarrassment. As a way of ensuring the autonomy of the respondents, I committed to protect their identity unless they indicated otherwise. Most of the respondents, however, stressed there was no need to hide their identity and gave permission to have their names shown in the study. Their names are therefore listed under appendix C. I also fully informed the respondents about the nature of the research and the role they were expected to play. Furthermore, I promised the findings of the study would be relayed to the respondents. All these commitments are captured in a consent form that respondents were expected to read and sign before interviews were conducted. The form is included in appendix B.



CHAPTER 3: RESEARCH FINDINGS AND ANALYSIS

The reception I got from the interviewees was in most cases astonishing. All the respondents expressed willingness to share their knowledge and experiences about the election-related conflicts in Lesotho with me. In most cases interviews extended far more than the hour initially intended as a maximum. Most interviewees emphasised the content, and not the length of interview, was important. As a result they sacrificed time for the interviews.

As can be expected in any research involving opinions, there were differing, sometimes completely contradictory views on certain issues while the views were similar in others. Generally all respondents concurred that election-related conflict in Lesotho is an on-going phenomenon inherent in each and every stage of the electoral process. All respondents admitted, however, that it is mainly after the announcement of election results that the conflict graduates to greater proportions, sometimes violent. The respondents however, differed in opinion in regard to why the conflict persists until it takes a new form after the announcement of results. An analysis of the interviewees' responses revealed a number of factors that were identified by the respondents as the causes or intensifiers of the elections-related conflict. These include among others the discriminatory usage of public resources for elections purposes by the ruling party; failure to concede defeat by losing parties; rigging of elections; the questionable management of the elections by the IEC; biased courts; the country's weak economy; election observers. Elaborate opinions of the respondents regarding each of the areas are discussed in the next section.

3.1 Discriminatory use of state resources during elections

One of the main principles of free and fair elections is the ensuring of a level playing field. This implies all parties, including the party forming the existing government, have to campaign on an equal basis (Goodwin-Gill, 2006: -viii-). Mbagua posits failure to ensure playing fields are level and the subsequent selective use of state resources by the incumbent parties form one of the most common causes of the electoral conflicts (2006: 27). The discriminatory use of state resources by the ruling party was one of the areas on which the respondents differed. All agreed the ruling party enjoys preferential use of state resources, such as vehicles and media channels, during electoral processes. What the respondents differed on was the legitimacy of such exclusionary practices. One respondent argued the use of the national resources by the ruling party is often exaggerated by the opposition. This interviewee went on to show that this is inevitable in that members of the ruling party campaign for elections while still occupying public offices. These are mostly members of the cabinet, who in spite of parliament being dissolved, remain in charge of ministries until a post-election cabinet is formed. By virtue of being in office, the respondent went further; 'such officials are entitled to the 24 hours use of these resources'. Based on this argument the respondent felt the use of state resources by the ruling party should not be seen as an issue of conflict. The respondent strongly advised those who complained about this issue to rather 'focus their efforts on how to mobilise resources for financing their own campaigns instead of complaining of things that cannot be changed'.

A host of other respondents were of the opinion that the exclusionary use of state resources by the ruling party renders elections unfair in that the party campaigns from an advantageous position. Asked to comment on the fact that members of the ruling party have to use the state resources as they campaign while they still occupy public office, one respondent replied that the argument holds, but only to a limited extent. This respondent argued that the reasoning holds only to as far

as ministers' official cars are concerned. 'The same cannot be said about government vans and buses that transport supporters to the ruling party's campaigns'. In order to highlight how the ruling party benefits from competing from the advantaged position, one respondent noted that the ruling party has all of its rallies aired on both Radio and TV Lesotho. This is never the case with the opposition parties. The opposition has to rely on few Maseru-based private radio stations. This does not in anyway redress the problem as these radio stations hardly cover Maseru itself. To the contrary, Radio Lesotho covers almost 100 % of the country. It is important to note that the respondent claimed even these Maseru-based radio stations providing campaigning platform to the opposition do so at their own peril as they often find themselves in the government "bad books". Such media houses are sometimes denied advertisement business by government ministries and departments because of their sympathy with opposition parties. An example made in support of this allegation was of the Public Eye newspaper. According to the informant, a few years back the government ordered all its departments to stop advertising with the newspaper on the grounds the newspaper was anti-government. This sanctioning of the paper was reported by the respondent to have been endorsed by the then LCD secretary Mpho Malie who is alleged to have boasted the sanctions would teach the newspaper in future to treat the government as a business partner. With the private sector being weak in Lesotho, doing business with government is the only sustainable survival strategy for any firm. In most cases this leaves the media houses in a position where they have to make a choice between reporting the opposition parties' business and perish, or ignoring them in order to survive financially.

The respondents revealed that while the members of the incumbent government and the ruling party enjoy unlimited mileage in state vehicles and media during elections, opposition parties have to rely private funds to finance their campaigns. The argument is that while it is not illegal for parties to have private sponsorship, it is not easy for the parties, especially those outside the

government, to secure such sponsorships because of the country's weak private sector. The only assured money parties receive for campaigning is the paltry subvention of M450 (equivalent of South Africa's R450) the IEC provides per each registered candidate. One respondent observed that apart from the money being of little value, it is rendered even less useful by the fact that the IEC usually releases it to the parties only a few days before the polling day. One party leader recalled how due to the delays caused by the IEC, he could manage to pass the money from IEC to his party's candidates in the rural constituencies only after the polling day.

As said earlier, the theory of free and fair elections assumes that conflict is high when elections are not free and fair. For the elections to be free and fair, parties, ruling and opposition, have to campaign on an equal basis, and there has to be a clear separation of the ruling party from the state (Goodwin-Gill 2006: -viii-). All respondents agreed the two principles hardly exist during elections in Lesotho, hence the unending conflict. With the ruling party campaigning from an advantageous position as it is the practice now, it is likely that conflict will always persist. The relationship between failure to accept defeat by the losing parties and conflict is discussed in the next section.

3.2 Failure by the losing parties to accept defeat

As stated earlier, all general elections held in Lesotho since 1965 had their results disputed. Not surprising therefore, failure to accept election results by the losing parties has been identified as one of the areas on which conflict is centred. The argument here is that conflict takes new levels when losers fail to recognise the winners. Respondents had two different views with regard to failure to accept elections' results. The first view regards the refusal of elections' results as "unfortunate actions of elements against democracy". The second view takes this refusal as justified and the only right way to take under the circumstances the losers find themselves in.

For the first view, losers refuse to accept election results as they cannot cope with the emotional pain of losing. One respondent who supported this view claimed the members of the opposition parties in Lesotho lack 'sporting behaviour. They fail to admit that failure is part and parcel of life'. According to this respondent, 'the opposition parties become too ambitious and spent fortunes on the campaigns with the hope of making up for the losses if they win elections and form the government'. Asked if the losing parties ever show unhappiness during the earlier stages of the electoral process, the respondent stated that the parties normally do not want to use the existing mechanisms to address the "small issues" that surface in the early stage of the electoral process. The respondent went further to argue that the parties later resort to these "small issues" and use them as excuses for not accepting defeats.

While they generally shared the position of the first view that losing is by nature emotionally painful, the proponents of the second view believed there is more to failure to accept defeat than just the natural pain. The proponents of this view maintained that the failure to accept election results is motivated among others by rigging of elections, failure of the conflict resolution mechanisms to resolve conflicts adequately, as well as the use of vulgar language by the victors to humiliate losers. Refuting the suggestion that the losers always refuse to concede defeat, one respondent stated that whenever they found it legitimate, the opposition parties have always been quick to concede defeat. This respondent made an example of a case in 1993 when the MFP congratulated the BCP for its victory. This was according to the respondent, meant to 'do away with the overstated assumption of the pain of defeat, as well as to set a precedence of tolerance for a viable democracy'.

On many occasions parties that have disputed election results, they have claimed that the elections were rigged. For instance, as described earlier in the paper, both the BCP and the MFP claimed elections were rigged in favour of the BNP in 1965. In 1993 the 'equation' was reversed and the BNP claimed the

elections were rigged in favour of the BCP. It, therefore, did not appear as a big surprise when one interviewee mentioned that the opposition parties refuse to accept defeat because such defeats resulted from the rigging. This respondent claimed that usually, the total numbers of constituency votes given by the IEC do not correspond with the aggregate numbers recorded at the polling stations. As an example of how numbers can be manipulated, the respondent mentioned an alleged case at the Seqonoka constituency in the 2002 elections. According to the respondent, although the LPC was the eventual winner at the constituency, the final total of votes provided by the IEC was far less than the aggregate of the votes the party received at the constituency's polling stations. 'This discrepancy was not seriously investigated as the party affected - the LPC, won the constituency despite the discrepancy', continued the respondent. An attempt to investigate this alleged discrepancy did not yield results as all other interviewees interviewed after this particular respondent did not seem to know of the incident.

Respondents also refuted a claim that losers do not use existing mechanism to address dissatisfactions that emerge during the early stages of the electoral process. The respondents argued that parties do use the existing mechanisms but are always given a raw deal in that judgments from these mechanisms always favour the ruling party, regardless of evidence the opposition parties might produce. A few examples of cases where opposition parties approached authorities to redress their grievances but failed were provided. For instance, respondents noted that in 1998 the conflict was already manifested even before the polling day. This became visible when the opposition parties namely the BNP, BCP and MFP contested elections 'under protest'. The parties were aggrieved by a High Court ruling just days before polling day. The parties had taken the IEC to court over the commission's failure to provide them with provisional electoral lists for the 80 Lesotho constituencies. In the same application, the three parties had asked the court to postpone elections to give them enough time to study the lists. While the High Court ruled that the IEC was at fault for not providing the parties with the lists, it said it had no powers to

postpone elections as that was the prerogative of the king. Thus the elections went ahead in spite of an obvious conflict. How this conflict intensified and graduated to violent proportions has been dealt with in detail in the previous sections of this work and as such deserves no repetition.

The second example of a pre-polling day grievance that parties took to the concerned authorities, but were allegedly given a raw deal relates to the 2007 general election, also discussed in detail earlier. One respondent stated that he took it upon himself to alert the relevant authorities of the subversion of the MMP model and the dangers the subversion was going to bring to the country. The respondent argued he approached not only the IEC, but also SADC and the Commonwealth. Lesotho is a member of both organisations and the two have been actively involved in the country's political conflict in the past. It is a well documented fact that in spite of a warning sent to these bodies, particularly the IEC, nothing was done to deal with the matter and the model was eventually distorted, leaving the country with the persistent conflict that characterises Lesotho's politics today.



Furthermore, failure to accept election results by losers was attributed by the respondents to a role played by the use of abusive and inciting language in Lesotho politics, particularly by the political leadership. The respondents noted that the use of abusive language in contemporary times plays a significant role in the conflicts. The argument is that the abusive language exacerbates the naturally painful experience of defeat. While former leaders such as the late Chief Leabua Jonathan took their share of blame for use of abusive language, the leader of the ruling party, Pakalitha Mosisili was pointed as the main culprit in contemporary politics. Some respondents claimed Mosisili statements were responsible for inciting opposition parties to refuse to accept defeat in contemporary times. One respondent, who looked literally shaken, pointed out how he was 'saddened by the Prime Minister's use of language, his arrogance, and his failure to bring the losers on board'.

Few examples of these incidences of use of provocative language were given by respondents. The most memorable statement the Prime Minister is accused of is one he is alleged to have made when he answered a question posed to him as to why the opposing ABC had been able to attract youth, something other parties, including his own have failed to do in the past. In response, the Prime Minister is on record saying in Sesotho that, “*Masepa a macha a ratoa ke lit’sint’si; haholo ha a le masehla*’. (Literally translated, the statement means that, ‘freshly defecated faeces always attract flies, especially when such faeces is yellow in colour’). The points to be noted here are that the “freshly defecated faeces” here refers to the newly formed ABC. It is also important to note that yellow is the official colour of the ABC hence the mention of the “yellow faeces”. Furthermore, the “flies” refer to the youth that have joined the ABC in numbers. The respondents reported to be disturbed that a leader of Mosisili’s calibre would compare his opponents to faeces. One respondent accused the Prime Minister of once ‘arrogantly boasting’ to the opposition that, “*Moriana o nooa o baba*” (the medicine is taken even when it is bitter in taste). By this he was implying that he would continue to rule the opposition despite their claims that his party continued winning the elections unfairly. While the both statements may sound “harmless” when translated into English, they are very undermining in Sesotho, especially under the circumstances in which they were said.

Prime Minister Mosisili was further accused by one respondent of ‘playing a greater role in turning what was otherwise a peaceful sit-in by the opposition supporters at the palace gates in 1998 into a violent chaos that it came to be’. This respondent maintained it was only after Mosisili had made his now famous ‘*ba ntekane*’ (I will match them (opposition protesters) “physically”) statement in parliament that the demonstrators resorted to violent behaviour. Mosisili had in parliament castigated what he termed an unruly militant behaviour by demonstrators. He went on to proclaim he was ready to match their militant actions pound for pound. The respondent recalled ‘it was subsequent to the

proclamation that the demonstrators invaded the parliament grounds and Mosisili had to be sneaked into the palace through an opening made by his bodyguards in the palace fence'. However, according to the respondents, the prime minister 'remains unrepentant and continues to use the inciting language in most of his speeches'.

The continued reckless use of language as demonstrated above, particularly during the electoral process, widens the animosity gap existing between ruling and opposition parties. This unacceptable type of behaviour, some of the respondents noted, results from a lack of a legally binding code of conduct for political parties. It will be recalled at this juncture that this paper has already shown that, unlike in South Africa, parties in Lesotho do not sign any legally binding code of conduct. The behaviour of political parties and politicians is guided by an Electoral Code of Conduct as provided in the National Assembly Elections Order No. 10 of 1992. This code is silent on a number of issues, hence can hardly be binding. For instance, it does not stipulate any penalty for violation of the code, nor does it show who is eligible to file complaints pertaining to any violations. This "loophole" in the electoral law allows situations in which some politicians 'play man and not the ball', one respondent observed. The seriousness of the lack of a legally binding code of conduct became visible when, at a rally held in Maputsoe in May 2009, the supporters of the ruling LCD burnt the merchandise belonging to the opposing ABC. This rally was covered by TV Lesotho and was aired on the national TV a few days later where the irresponsible and inciting actions were seen by viewers.

One of the principles of free and fair elections is the protection of civil and political rights. These include among others, freedom from violence and abusive language (Green & Luehrmann 2003: 304). The reported use of abusive and intimidating language by the Lesotho political leadership violates that principle. Lack of a legally binding code of conduct also does not help efforts in trying to eradicate illegitimate conflict from the Lesotho elections. Clearly specified laws of

a code of conduct, with clearly stipulated sentences are required as a way of deterring unacceptable acts such as those specified above. Laws are required as the situation in Lesotho is differs from those in advanced democracies where 'norms and standards for elections have become integral part of the democratic practice and do not need to be codified' (Memang 2006: 61). The findings discussed in this section affirm there is a causal relationship between elections not free and unfair, and conflict. The next section focuses on the role of the IEC in election-related conflicts.

3.3 The role of the IEC in fanning the conflict

Contrary to the spirit in which it was established, the IEC has been identified by some interviewees as the most serious of the roots of elections-related conflict in Lesotho. According to its mission statement, the IEC aims 'to ensure that every election and referendum held is free and fair, and to manage any conflict related to electoral issues' (1997). The general feeling among respondents was, however, the IEC actions are the direct opposite of its mission statement. Explaining how the IEC fans the conflict, one respondent gave an example of the latest dispute related to the allocation of seats in parliament. According to the respondent, the IEC has alienated the stakeholders from the problem by subjecting it entirely to the legal experts. The respondent stressed that the IEC 'has treated the model as a legal arrangement subject to the interpretation **only** by the legal experts and not the stakeholders (political parties). During violations of the model, the IEC hides behind the argument that it cannot intervene, but the courts of law can'. The respondent was basing his argument on the interview The Public Eye newspaper had with the IEC's legal officer Moteka Mohale earlier. Part of the interview reads:

Public Eye (PE): Do you ordinarily share the conversation with the IEC chairman Leshele Thoahlane?

Moteka Mohale (MM): Yes, quite frequently.

PE: Do you agree with his publicly expressed view that the main parties adulterated the Mixed Member Proportional (MMP) electoral model by contesting the February 2007 general election in the manner they did?

MM: Yes, I do. I am aware of the pronouncement and agree with it.

PE: And you still think nothing was wrong in the running of the elections?

MM: Not in terms of the law.

PE: What do you mean?

MM: Exactly what he said. That the model was adulterated, but you see it was not violated, and there is a tremendous difference between the two.

PE: Does the law allow what happened in the elections, the contestation of elections only on one ballot by any party which so wishes?

MM: It is silent; both the National Assembly Elections Act and the national Constitution are silent on that. (Public Eye; Friday April 11, 2008)

That the IEC became aware of the possible adulteration of the model well in advance, and went on to “midwife” such an adulteration under the claim that the law is silent on the issue was reported by the respondent as a sign of how the IEC subjected political issues to law unnecessarily, in the process fanning the conflict.

Explaining the relationship between the IEC and political parties, one respondent said it is based on ‘mistrust as a result of self-deception’. According to the respondent, the situation is such ‘there exists among the two sides inability to appreciate one’s weaknesses; there is too much of superiority complex; things are correct (in the eyes of each side) only to the extent that they are in favour of that particular side’. Some respondents were of the opinion that the commission is there to serve and protect the interests of the ruling party. On the other hand, some indicated the IEC is doing its job correctly and is only ‘used as a scapegoat by those who want to pursue their own undemocratic agendas’. The respondents who came to the defence of the IEC argued that it is “childish” to say the IEC is biased because, according to one respondent, ‘in all stages of the electoral

process the IEC works hand-in-hand with the political parties'. One respondent added: 'the stakeholders (in elections) are incredible; they work hand-in-hand with the IEC only to portray a different picture when they come to the media'. One example in which the IEC works hand in hand with the political parties given by one respondent was the recent electoral law review. The respondent pointed out that in concert with all registered political parties, the IEC, through the Law Review Committee, had just completed a comprehensive revamp of the election law, with a view of plugging loopholes that have led to the latest disputes.

For those respondents who saw the IEC as a cause of conflict, the commission remains trapped with the same problems its predecessor, the Electoral Office. The Electoral Office had been accused by opposition parties of failing to adequately perform its functions adequately; advancing the interests of the government at the expense of the opposition parties (Moeletsi oa Basotho January, 10 1993). The respondents argued the ruling party does as it pleases to promote its interests through the IEC. For instance, one respondent argued that the IEC does not treat the leader of the ruling LCD as all other competitors. The LCD leader is reported to be accorded preferential treatment by the commission and whatever he 'suggests' is usually adopted by the commission. The respondents argue that it is difficult to separate the LCD from the IEC. As a way of strengthening the argument about the difficulty of separating the ruling party from the IEC, one respondent provided cases in which he felt the role of the LCD in cases involving the IEC was questionable. Firstly he observed that in the MFP case, the LCD, and not the IEC, raised the technical legal points that led to the dismissal of the case. The case was dismissed on the technical grounds that the MFP lacked *locus standi*. Secondly, the respondent argued that 'the SADC mediation (headed by Sir Ketumile Masire) came to Lesotho to review the work of the IEC (and not of the LCD), yet it was the ruling party - not the IEC, that impeded the review'. One respondent emphasised that the above 'is not strange because the ruling party is the sole beneficiary of the IEC's "corrupt" practices'.

Some respondents went even further to question the inclusion of the term “independent” in the naming of the commission. One respondent suggested the word “independent” be replaced by “national”; another suggested that the commission be named a “referee”. The change of name, the respondents believed could go a long way to helping the commission better understand its role.

An alleged lack of independence by the IEC was also attributed by respondents to the staffing policy of the commission. All respondents (even those who came to its defence) are in agreed when it comes to staffing, the commission is independent only to the level of commissioners. The recruitment procedure for commissioners is such that political parties jointly short-list and recommend prospective candidates for appointment by the king (Makoa, 2002). This, however, does not imply that the King has full appointive powers. According to the constitution, the king appoints commissioners on the advice of the state council. Other than commissioners, the rest of the IEC staff are civil servants who sign employment contracts with the Public Service Commission (PSC). However, much as they are independently recruited, the *‘independence’* of the commissioners themselves remained a highly contested issue to the interviewees. Defending the independence of the commissioners, one respondent pointed out people who question the independence of commissioners are unreliable politicians. The respondent continued to show that during the recruitment process ‘the political parties have their own preferred candidates. Surprisingly, when these preferred candidates come to office and act according to the rules and the regulations of the commission, the very same parties that favoured them begin to accuse them of being biased towards the ruling party’.

Showing a lack of confidence in the entire process of commissioners’ recruitment, one respondent claimed, ‘much as the process for the recruitment of commissioners looks transparent, in the final analysis the commissioners are selected by the ruling party because it wields more power in the State Council’.

As an example, one respondent raised concerns about the recruitment of the latest commissioner Faku Likoti. According to the respondent, Likoti was appointed to the position because of the “passion” he had developed for the ruling party shortly before his appointment. The respondent argued that Likoti was frequently seen on national television, and heard on national radio legitimising everything made by the ruling party. Still on Likoti’s case, another respondent claimed he acquired his position as a reward for his defence of the ruling party, particularly the presentation he is alleged to have made on Public Service day in 2008, just before his appointment. In this talk, Likoti is alleged to have lambasted civil servants, to the joy of the ruling party, alleging they were agents of opposition party’s intent on sabotaging the LCD government. It remains unclear if it is by coincidence or not, but presently Likoti, together with the IEC chairman Limakatso Mokhothu, are now reported to be dismissing the call for redistribution of seats in the parliament following Masire’s report. The position held by the two is in line with the stance of the ruling party in regard to the matter. The third commissioner Malefetsane Nkhahle is on the other hand understood to be in support of the redistribution – the move the opposition parties have been calling for (Public Eye online. August 7, 2009).

Several arguments were made by various respondents in support of a claim that IEC commissioners do not act independently. One respondent boldly argued the biased tendencies of the IEC, in favour of the ruling LCD, ‘are not a result of ignorance, but of vested interests’. Airing what they perceived to be a testimony that the IEC commissioners promote the interests of the ruling party, some respondents pointed out the emerging trend in which the commissioners ‘retire’ into top civil service jobs. This, the respondents viewed as a sort of a “golden handshake for the work well done”. Such commissioners include Sekara Mafisa, Leshele Thoahlane (both former chairmen), and Mokhele Likate. Upon retirement, the trio have taken jobs as the Ombudsman, Director of Anti-Corruption Unit, and the Ambassador of the Kingdom of Lesotho to Japan respectively. Another example related to the controversial extension of

Thoahlane's contract prior to 2007 general election. One respondent observed that the government had earlier surprised everyone when it decided not to follow the usual procedure for recruiting commissioners, but to arbitrarily extend Thoahlane's contract. The prime minister had indicated that government extended Thoahlane's contract as they needed his experience gathered in running elections in the past, to run the 2007 elections.

Furthermore, an absence of commissioner independence according to the respondents emanates from the fact that the commissioners have in the past become beneficiaries of the controversial government enrichment schemes. For instance, one respondent pointed out the commissioners benefited from a scheme in which government ministers acquired Mercedes Benz C Class sedans for M4 000 (Four thousand Maloti/Rand) while lower officers who hold statutory positions (including the commissioners) took home Toyota Camry 2.4 XLI sedans for M2 500 (two thousand and five hundred Maloti/Rand). The cars have come to be popularly known as *likhapha tsa Basotho* (Basotho's tears) in the country.

The general feeling among the respondents was that this problem of "lack of independence" of the commission staff can be minimised if the commissioners can be recruited through autonomous recruitment bodies. One respondent recommended such bodies consist of retired academics and other senior statesmen. With regard to junior staff the recommendation was that they be recruited and paid directly by the commission, without any involvement of the Public Service Commission.

The analysis of these responses disclosed that most stakeholders in the elections had very little, or no confidence at all on the commission. This implies that the commission cannot be able to enforce rules and assure fairness and the cooperation of all stakeholders. Under such circumstances it is inevitable that conflicts will persist. The perception of the respondents, that the IEC is not independent did not come as a complete surprise to the au. During my brief stay

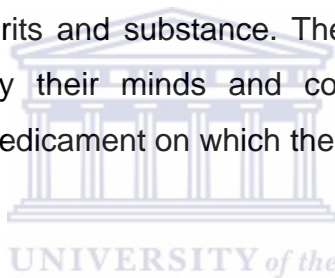
in the employment of the commission as a District Electoral Officer for Mohale's Hoek district between 2003 and 2004, I, together with my colleagues, had raised the issue – that people hardly regard the IEC as independent, with the commission senior administration. As a District Electoral Officer, I regularly visited the villages to conduct the commission's business such as voter registration. Like it is a procedure in Lesotho, the chiefs were responsible for facilitating my meetings with the people in their respective areas. It was during these interactions that the chiefs and the villagers would always refer to me and my colleagues as *bahlanka ba 'muso* (government servants). Attempts to convince these villagers that we came from an 'independent' commission usually fell on death ears. This confusion, we observed, resulted from among others, the fact the commission used, and still uses, vehicles with red registration numbers, the colour reserved for government vehicles. In Lesotho privately owned cars bear blue registration numbers. The commission needs to conduct a serious introspection if it hopes to win the confidence of stakeholders and ensure conflict-free elections. The following section discusses the views of the respondents about the role of the courts of law in election-related conflicts.

3.4 The courts of law

There were mixed views among respondents in regard to the role of the country's courts in election-related conflict. On one hand some respondents argued the courts should not be blamed in any way for the conflict. On the other hand others felt the courts play a significant role in fanning the conflict. The general feeling among respondents who believed the courts were blameless was that people blame the courts because they do not understand how the courts operate. This concern was raised by one respondent according to whom, 'people, due to their lack of understanding of the operations of courts, expect the courts to overstep their jurisdictions'. The respondent made an example of the people who complained when the High Court declared that it did not have jurisdiction over the MFP case that concerned the allocation of PR parliamentary seats by the IEC. This respondent emphasised if the court had ruled on the matter – as some

opposition parties wanted, it would have overstepped its jurisdiction and that would have been illegal.

Concurring with the assertion that some people fail to understand how courts operate, another respondent, a lawyer, reminded the researcher that judges on the bench are legally allowed to ‘apply their minds’ and consider the implications of their judgments in order to avert crises. The respondent insisted this practice is universal and not unique to Lesotho’s courts. The respondent gave an example of the court cases involving President Jacob Zuma of South Africa shortly before he became president of the Republic. According to the respondent, the judgment given by Judge Nicholson was more influenced by Zuma’s position as the president of the African National Congress (ANC), and the president-in waiting (of the country) than by merits and substance. The respondent added that the provision that judges apply their minds and consider implications of their judgments constituted the predicament on which the courts find themselves when dealing with political cases.



In this way, the respondent made it clear it is not always appropriate that political cases are heard by the normal courts. Unlike criminal cases for instance, political cases cannot be treated as ‘winner-takes-all’ situations. In its own nature, politics involves compromises, a situation that courts rarely offer. The respondent furthermore, made an example by referring to the case lodged by the MFP over the allocation of seats in parliament after the 2007 general elections. As mentioned earlier in this paper, this case was dismissed on technicalities, not on merits and substance. This respondent argued ‘in spite of the court not ruling on the matter, it was clear to all, including the defendant – the IEC that the manner in which it allocated the seats was wrong. The respondent went further to argue that if the judge had not ‘applied’ his mind the IEC could have lost the case and the implications would have been very serious for the country. The respondent further argued that ‘the judge had to act as he did because acting otherwise would have constituted a crisis that would have probably led to the dissolution of

the cabinet as some of the ministers would have been affected by the judgment and forced to leave the parliament, and subsequently the cabinet’.

Limitations of the Lesotho Courts in resolving political disputes have also been observed by Sir Ketumile Masire. Commenting on how in his view the judgment passed by the High Court has failed to provide a solution to a political case, Sir Ketumile said: ‘Although the government of Lesotho does not agree, I am of the firm view that the High Court *decided not to decide* the petition before them by Marematlou Freedom Party in which some of the issues giving rise to the dispute were raised. As a result, *the judgement of the Court was unhelpful*’ (my italics) (Intelserv Lesotho. July, 15 2009).

The respondents who felt the courts can be held accountable for the conflict were in agreement the autonomy of the judiciary from the executive is blur, that is, if it ever existed. The respondents were concerned judges were part of the beneficiaries of the government’s *likhapha tsa Basotho* scheme discussed earlier in the paper. It is worth noting that the acquiring of the cars by the judges was condemned, even by the Lesotho Law Society. Giving an opinion on the courts, one respondent argued the courts are ‘weak and completely lack the capacity to decide on the cases of the magnitude of the political cases brought before them’. Stating his opinion on the right of judges to ‘apply’ their minds and consider the implications of their judgments, the respondent felt ‘it was wrong for judges to deliver ‘biased’ judgments in the name of ‘considering implications’. The respondent felt the courts have to interpret the law as it is and be less concerned about ‘implications’. The respondent made an example of a case brought before a South African High Court judge involving the right to go on strike by workers employed on construction of the 2010 World Cup stadiums. The respondent observed a strike by the workers would have serious implications not only for South Africa, but for the entire world as the 2010 soccer World Cup tournament is a global event. The respondent indicated how he was impressed by the judge who heard the case as he was undeterred by ‘implications’ from delivering

justice. The judge ruled in favour of the workers and said in his judgment that they had a constitutional right to strike. The respondent felt this example should be copied in Lesotho's courts.

Airing his view on the role of the courts in the conflict, one respondent described them as 'mischievous in presiding over election-related disputes'. On the same note, another respondent claimed the courts consist of 'frightened judges who cannot stand on their own'. As a result, the respondent continued, 'it is almost impossible to win a 'serious' case against the government, or any case that the government has interests in'. Two cases were mentioned by respondents as to support their argument. The first example relates to Anthony Manyeli's case in which the Appeal Court was convened during the process of hearing the case in the High Court. The leader of the NIP, Anthony Manyeli had made an application to the High Court to declare the electoral pact his deputy Motikoe had signed with the LCD (allegedly behind Manyeli's back) null and void. Aware that its ally was likely to lose the case, the ruling LCD used its influence to convene the Appeal Court while the case was still being heard in the lower court. In delivering the ruling, Acting Judge Mrs 'Maseforo Mahase commented: '...Regrettably this court knows, and this is a matter of common cause that the respondents have already pre-empted the ruling herein as they have already filed an application to the court of Appeal long before this matter has been disposed off and this ruling delivered' (Lesotho High Court CIV/APN/45/07).

The judge subsequently ruled in favour of Manyeli only for her judgment to be overturned by the Appeal Court. Another strange thing about the case was the controversial involvement of Justice Nthomeng Majara in the case. Commenting on the role of the judge, Advocate Molefi Ntlhoki stated: 'Among others, I was shocked to find Justice Nthomeng Matete recusing herself from that case, citing the friendship of her father, Majara Matete, with Manyeli – and then suddenly surfacing as the judge in the appeal of the same case, refusing to recuse herself' (Public Eye September 04 2009). While it is not clear if Justice Majara had any

direct influence in the overturning of the High Court ruling by the Court of Appeal, it is worth noting her lack of consistency raised doubts to the people involved in this high stakes case.

A second example relates to the now infamous case lodged by the MFP about the allocation of seats. The respondents felt during the case, the court, in concert with the ruling LCD deliberately played delaying tactics aimed at benefiting the latter. Summarising the episode of the case, Kapa notes that:

Initially, the MFP lodged a court case challenging the allocation of PR seats, but was persuaded to withdraw this to allow negotiations mediated by SADC's mediator, the retired President of Botswana Sir Ketumile Masire. The ruling LCD was adamant that it could not get into any talks while the matter was before the High Court. When the MFP attempted to withdraw the case as requested, the LCD somersaulted and became resolute that it wanted the case to continue. It was clear that the solution would be a matter of either politics or law (2009: 9)

It is now history that the MFP lost the case on technicalities - that the party did not have *locus standi* and that the court did not have jurisdiction over the case.

Interestingly, the judgment given by the court on that case has become a new centre around which conflict looms. On the one hand the ruling party insists it cannot discuss the matter as that would be tantamount to undermining the courts of law. The LCD's position is that the court has made a ruling that the allocation of seats was legitimate. On another hand the opposition parties are seeking other out-of-court avenues for resolving the issue of the allocation of seats, maintaining the court had never really pronounced itself on the matter. The whole confusion was brought about by the fact that before declaring that the court did not have jurisdiction over the case, the judge had made certain comments during his ruling. Firstly, he maintained 'alliance-formation tends to 'distort' or 'subvert' the principle of 'compensation' under the PR system" but this "does not render

alliance-formation illegal *per se*” and that aspect “ought to be corrected by law’. Because the phenomenon of alliance-formation is not forbidden in law, the Court “cannot declare as illegal something not prohibited under the law’ (The High Court of Lesotho Judgement, 2008 read in Kapa, 2009: 11). Secondly, the judge stated that “the IEC was not enjoined to treat – for the purposes of PR allocation – any alliance as a single entity unless such alliance contested constituency seats as a single entity” (ibid).

The convening of the Court of Appeal and the delaying tactics as seen in the first and second cases were reported by one respondent to be “examples of how the ruling party can frustrate the opposition by contingently resorting to mechanisms favouring its position, even if such mechanisms are illegal”. In emphasising how the LCD ‘abuses’ its privilege of being having a majority in parliament, one informant referred to a proposed amendment of the constitution made by the party in March 2008. If passed, the amendment would have allowed election-related cases to be appealed. Nyaka writes that ‘the Sixth amendment, which had been given thumbs up in the Lower House, was seeking a leeway to appeal against an election petition by MFP’ (Public Eye, April 8 2009). At this point the MFP case was pending in the High Court. The amendment, however, could not be passed as the majority of the senators, made up of 22 principal chiefs and 11 nominees at the king’s discretion, voted against it. The rejection of the bill led to a heated debate between ruling party MPs and senators. The senators made it clear ‘they were not against the amendment of the bill but were against the timing as it was proposed pending the MFP case in court’ (ibid).

The debate over the role of the courts in political conflicts continues to deepen as stunning revelations are made in regard to some judges. One respondent mentioned that ‘at one birthday-party ceremony, the judge who presided on the MFP case confessed that if he had (judge) ruled according to the evidence, and not according to the technicalities, “Basotho would be telling a different story” (meaning the parliament would have been dissolved)’. The same judge made

headlines late in 2009, with newspapers reporting that he regretted his verdict. The judge is reported to have confessed to the lawyer who represented the MFP in the case, Advocate Molefi Ntlhoki about his feelings. Selinyane reports that Ntlhoki told the Lesotho Law Society meeting that ‘the said judge in the case later asked him (Ntlhoki) if he could still count him among his friends, and then blurted, ‘Man, do you know I made that judgement against my conscience?’. Another stunning revelation made by Ntlhoki was that ‘the verdict of the court (in the MFP case) came out of a casual remark by Chief Justice Mahapela Lehohla before he selected the members of the bench who would hear the case’. Ntlhoki reports that ‘when the parties went to see the chief justice to discuss whether costs would be awarded at the end of the case, Lehohla said that the first thing to consider was whether a party had *locus standi* to bring an election petition to court’. It is now history the court ruled on the technicality that the MFP did not have the *locus standi* to bring the petition to court (ibid).

What makes Ntlhoki’s revelations about the chief justice more interesting is the observation Chief Justice Lehohla is a brother to the Deputy Prime Minister and Deputy leader of the LCD, Lesao Lehohla who had signed the contested NIP-LCD alliance. Ntlhoki further disclosed that he objected to Lehohla appointing the bench by virtue of he (Lehohla) being a brother to the man who had signed the disputed alliance and on the grounds he was already insinuating the MFP *did not* have *locus standi*. His objection was however, dismissed (ibid). Revelations such as these can only help to diminish the already limited trust the parties outside government are having in the Lesotho’s.

Responses from these two sections have affirmed the listing of Lesotho as an illiberal democracy (Mair 2008: 117). As read earlier, this relates to a political system in which ‘an acceptance of popular democracy and of government ‘by’ the people is combined with the persistence or even re-introduction of restrictions and limits on individual freedoms and rights’ (Mair 2008: 115). To the contrary, liberal democracies are based on a deeper institutional structure offering

extensive protections for civil and political rights, individual and group liberties such as freedom of thought and expression, freedom of the Press, and a right to form and join assemblies or organizations, including political parties and interest groups (Green & Luehrmann 2003). In liberal democracies there exist functional mechanisms which effectively redress the infringements of individual liberties. The responses indicated this is not the case in Lesotho. Both the courts of law and the IEC have been reported respondents as having been unable to redress the infringements concerning opposition parties adequately, hence escalating conflict. Much as the IEC satisfies most requirements of the efficient and credible EMBs listed by Menang (2006), its independence remains questionable as it was not easy for the respondents to argue that the IEC was not part of the formal government bureaucracy. The responses furthermore, indicated the country's failure to establish relevant courts to arbitrate electoral disputes was a blow to the country's efforts to resolve election-related conflict. It is worth noting that as part of SADC, Lesotho has committed itself to establishing such a court at a meeting of SADC heads of states and governments held in Mauritius in 2004 (Menang 2006: 62). The next section examines the link between the conflicts and the electoral models.

3.5 Electoral models

Electoral models used by the country since its first general election in 1965 were identified as having a role, albeit minor, in the emergence of election-related conflict by some respondents. For instance, one informant argued that the failure of the FPTP model to accommodate the opposition parties in parliament was the reason why the political elite resorted to violent behaviour before the model was abandoned in 2002. However, the respondents' general view was that the problem lies not with the electoral models, but with the mistrust in political leadership, and their lack of political will to resolve differences amicably. The respondents, however, conceded each model has its own strengths and limitations. Most respondents felt the adoption of the MMP in 2002 was a positive step in that the model is more inclusive than its predecessor, the FPTP. After the

adoption of the MMP, a majority of the parties obtained representation in parliament, a feat never enjoyed before. Respondents emphasised that as long as there is no political will by either the victors to accommodate the losers, or by the losers to accept defeat, every model would face manipulation in one way or another.

Explaining how for instance, the MMP failed to effect the desired stability in spite of being a result of negotiations between numerous parties, one respondent emphasised the parties were 'not only interested in being included in the parliament but were more interested in number of seats they have'. The respondent went on to argue 'now that they are included in the parliament, the opposition parties want to have more and more seats'. While the one respondent blamed opposition parties for the collapse of the MMP, another was quick to place the blame on what he called the 'cunning' character of the ruling LCD. The respondent indicated that the parties in the IPA had, as a part of the compromise, agreed that the model would be used at the formula of 80 FPTP seats: 40 PR seats for 2002 elections, and then 80: 50 for subsequent elections. The respondent went further to show that 'when the bill was passed in parliament to enact an act that would allow the arrangement, the LCD somersaulted and prevented the bill from being made a law'. The bill had to be voted on and the LCD 'used its majority to vote against the amendment'.

As seen earlier in this paper, adoption of the MMP model brought some relative stability after 2002 elections. It therefore came as a surprise to many people when the two big parties, the LCD and ABC formed alliances with smaller partners to subvert the model. However, to some observers this was not unexpected. Explaining how the model was subverted, one respondent stressed the inclusion of smaller parties in parliament was never seen as progress by the ruling party. The respondent argued presence of an opposition posed a threat to the ruling party dominance because of its well documented internal fights that usually lead to splits'. It should be remembered that the ruling party – LCD, itself

broke away from the then ruling BCP in 1997 and relegated the BCP into an opposition. In 2001 the LCD split when 27 MPs severed ties with the party to form the LPC. The threat posed to the ruling party by the significant opposition in parliament became evident when the party split and the ABC was formed in 2006. This placed the ruling party in a precarious position that eventually led to its leader urging the King to call for a snap election. As discussed earlier, the formation of the ABC left the ruling party with the majority of only two seats. According to this respondent, the LCD went into this alliance to amass sufficient seats to guard against future crises in case the party experienced some more of what have become its traditional splits. The respondent went further to show it was not surprising to see the ABC follow the ruling party's example. This was, explained the respondent, 'because Thabane (ABC's leader) had always been the mastermind behind the LCD's Machiavellian tendencies; he was part of the initial phases of the LCD plan to go into this alliance, he knew its dangers very well, therefore, he had to counter his former party's acts'. One respondent warned that as much as attention about political parties' manipulative practices was concentrated on the LCD/NIP and ABC/LWP alliances, it was worth noting that even smaller PFD was a culprit in the subversion of the model. This respondent argued the PFD was awarded a PR seat in spite of having not contested FPTP seats. This, according to the respondent was wrong as PR seats were supposed to be compensatory seats, for disproportionalities in the FPTP.

The distortion of the models for certain-party interests has been explained by respondents as a result of a lack of political will, particularly from the ruling party, to work closely with other parties. On many occasions mediators from within and without the country have brought the disagreeing ruling and opposition parties together. At all mediations memoranda of agreement were signed. The sad reality, however, is that the mediations have never brought a lasting solution for sooner or later some parties reneged from the agreements. Showing how the ruling party lacked the political will, one respondent referenced to deliberations at one of the LCD leadership conferences prior to the February 2007 elections. This

was the conference at which the party resolved to form the now infamous alliance with the NIP. According to the respondent, the formation of the alliance was described by the ruling party leadership as: 'A strategy of **reclaiming our seats** (lost through PR to smaller parties in 2002)'. The next section focuses on the role of election observers in fanning the conflicts.

3.6 Election observers

The research also demonstrated some sectors of the society place part of the blame for election-related conflict on election observers. It is however worth noting that unlike with other factors, respondents were almost evenly divided about the role of observers in the conflict. Those who felt the observers do not have a role in the conflict basically argued that 'the presence observers gives the elections credibility and minimises the probability of the conflicts by bringing objectivity while minimising subjectivity', in the running of elections. Commenting on the accusation that the observers usually arrive only on the eve of polling, one respondent urged politicians to be 'realistic'. He suggested that it would not be possible to have the observers throughout the entire electoral process for cost reasons. The respondent continued that local politicians should 'take responsibility and prevent any wrongdoings in the electoral process and not just hope the presence of the observers would be a panacea for such ills'.

Other respondents were of the view observers normally make general pronouncements on elections although they never observe all phases of the electoral process. One respondent argued it was unfair for observers to at any time to pronounce the elections 'free and fair'. According to this respondent, observers only qualify to talk of the 'freeness', that they observe on the polling day, and not fairness as that is manifested in the earlier stages, long before they show up. With anger written all over his face, one respondent referred to election observers as 'holiday-makers'. The respondent mentioned how disappointed he was that in 2007 observers, particularly from the SADC and the Commonwealth, failed to ask about 'the rumour that the model was going to be subverted'. The

two organisations had allegedly been warned beforehand about a planned subversion of the model through LCD/NIP and ABC/LWP alliances.

Furthermore election observers were accused of 'returning reports pointing to violations of electoral standards, at the same time endorsing the winners. One respondent argued such pronouncements lead to conflict in that they strengthen the conflicting positions of both winners and losers. With the elections being endorsed the winners' disregard the stated violations, while the losers see the violations as proof enough to declare elections not free and fair. The next section examines how the country's weak economy is associated with conflict.

3.7 Weak economy and neo-patrimonial practices

Just as with other factors, respondents were divided on the role Lesotho's weak economy plays in the eruption and intensification of the election-related conflict. However, the majority of respondents agreed a weak economy is a contributory factor in the conflict. Arguing that weak economy was not necessarily a cause of conflict, one respondent said it would be wrong to generalise on the theory as according to him, a prominent politician himself, he was not in politics for money, but to impart knowledge to the younger generation. This argument was supported by another respondent who said, 'much as the theory may hold for the political party's destitute grassroots membership, it would be improper to make a general conclusion with regard to the matter'. The respondent noted that those who have spoilt national politics were the elites who had lots of economic opportunities'. The respondent made an example of the Prime Minister Mosisili and Advocate Kelebone Maope. Both politicians are former university lecturers and have at one time or another been involved in decisions that fanned conflict.

Generally other respondents agreed Lesotho's politics represent what Chabal and Daloz (1999) have called the 'politics of the belly'. One respondent argued conflicts will persist for as long as the economy remains untransformed. One respondent compared elections in Lesotho to the road to economic survival. In

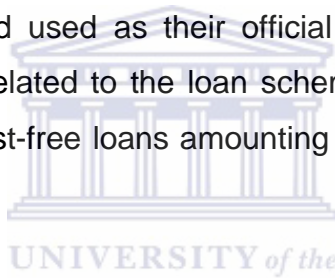
this case capturing the state (through winning elections) equals capturing economic resources'. In support of the argument equating capturing of state power to economic accumulation, one respondent jokingly challenged me to adjourn the interview for 30 minutes and drive into town to make a survey of the most luxurious cars on the city roads. According to the respondent, the most luxurious vehicles on Lesotho bear the registration letter H. The letter H is the registration letter for Qacha's Neck, the home district of the prime minister. With this, the respondent implied that capturing of state power by Mosisili has translated to economic gain for people close to him. The respondent went further to argue that government tenders have of late come to be awarded to the few selected local companies. The respondent gave an example of a certain construction company involved in a number of major projects involving millions of Maloti. The projects mentioned included the renovation of the national stadium and construction of urban roads just to mention the two. The respondent went further to say that 'the company belonged to one of the closest relatives of the prime minister and it continues to be awarded tenders despite an unimpressive record of low quality work'.



Having shown how the capture of state power has translated into economic gain for those close to the prime minister, this informant was, however, quick to state it was not a new phenomenon in Lesotho. He gave an example of what he called a common joke during the BNP rule. He said, it was then joked that if one boarded a plane at the then Jan Smuts Airport (Johannesburg) carrying a Lesotho passport, attendants would normally address him as "Mr Molapo". Molapo is the family name for the then Prime Minister Leabua Jonathan. The explanation was that with Jonathan in power, all the travel opportunities were reserved for his family members and cronies.

The equation of state power to economic accumulation was seen by one respondent as perpetuating poverty for losers and ensuring wealth for winners of the elections. The informant observed that 'Poverty to the losers is perpetuated

among others by the fact that politics is a stigmatising practice and people who engage in politics hardly get employment opportunities in the almost non-existent private sector of Lesotho'. As they have no other option of making ends meet, opposition politicians try every trick in the book to capture state power while the ruling ones do likewise to retain it. Another respondent emphasised that because of limited economic opportunities, even people in stable jobs such as university lecturers, quit to join politics as 'the trend has shown that it is mostly in government where people make money easily'. Supporting the argument, the respondent used two cases in which politicians have looted national resources. The first involved a scheme in which government ministers "bought" Mercedes Benz C Class sedans for M4 000 while the permanent secretaries and heads of statutory bodies acquired Toyota Camry sedans for M2 500. These were some of the many vehicles they had used as their official cars for the previous three years. A second example related to the loan scheme in which MPs, ruling and opposition alike, took interest-free loans amounting to M400 000 from the public purse.



A closer analysis of the situation in Lesotho, based on the findings above, affirms that Lesotho remains trapped in the problem of neopatrimonialism – a system consisting of an exterior modern, formal, rational-legal state like apparatus (the "neo") and on the other hand, a patrimonial spoils network in which centralized elites mobilize political support by using their public position to distribute jobs, rent-seeking opportunities, and resources as personal favours" Bratton & Van de Walle (quoted in deGrassi, 2008: 1). It is for this reason that conflict persists as rent-seeking behaviours and mobilization of political support through the use of state resources violate the citizens' fundamental rights. This situation affirms Sekatle's argument that, 'because of a weak economic base the state in Lesotho is not able to accumulate enough resources to redistribute among the citizenry in the form of employment, welfare benefits etc. This results in a situation where the majority of the people live in poverty and squalor while few clamour for the control of political parties and government so as to be in the position to influence

the division of the spoils' (1997: 84). A closer understanding of formation of election alliances prior to 2007 elections showed it to be motivated to a greater extent by economic gains. The alliances were formed to ensure politicians won parliamentary seats and gained economic benefits attached to being a MP. It was also as a result of these neo-patrimonial tendencies that parties have been splitting from time to time. For instance, the formation of the ABC resulted from similar concerns - of loss economic gains. Most of the MPs who formed the ABC were faced with uncertain parliamentary futures following the amendment of the LCD constitution which gave powers to the NEC to approve constituencies' nominees. Among others, the LCD leadership had emphasized that the nominees should be university graduates. Most of the LCD MPs do not have tertiary education. It was for this reason the MPs felt threatened by the amendment to the party constitution. Apart from MPs, their cronies in the form of constituency secretaries would be financially affected by loss of the parliamentary seats by the MPs. All FPTP MPs have constituency allowances and are allowed to arbitrarily employ their own secretaries who man the constituency offices. This privilege has reportedly been abused as the MPs have on several occasions been accused of employing only people who are members of the ruling party or cronies.

With the factors regarded as responsible for the eruption and intensification of election-related conflict identified, the next part of the interview concerns itself with the possible remedies to the conflicts.

3.8 What needs to be done to minimise the conflict.

To end interviews each informant was asked to provide a personal opinion on what the country needs to do solve the problem of election-related conflict. As seen in the last section, much blame for the emergence of the conflict was placed on the IEC's failure to execute its duties independently of the ruling party. It thus followed, according to most respondents, the first step to ensuring eradication, or at least minimising conflict would be to transform the IEC.

Respondents, however, conceded that transforming the commission would not be an easy task. This, according to respondents, posed a dilemma as the very beneficiary of the biased operations of the commission, the ruling party, would have to be a pioneer of the proposed transformation. The proposed transformation is according to one respondent, 'almost impossible as the current situation is 'not accidental, but a well orchestrated arrangement by the ruling party to promote its own interests'.

A number of specific points was pointed by respondent. Although secondary and mostly dependent on the attaining independence by the IEC, these were factors which could on their own, minimise conflicts drastically. These include the intensification of civic education, adoption of a legally binding electoral code of conduct, transformation of the economy, engagement of mediators to promote dialogue, and strengthening the Basotho culture of community. One respondent warned that the country needs to work towards ensuring tolerance. The respondent however, admitted that this would be a costly exercise both in terms of time and finances, therefore, it would require much patience.

Some informants felt that if civic education is intensified and the citizens know their rights, the conflict would de-escalate. Supporting this view, one interviewee suggested conflict 'escalates because the politicians take advantage of the ignorance of the citizens and use them (sic) to pursue their self-centred agendas'. The respondents therefore called for civil society organisations such as churches to play a part in releasing the country from the shackles of conflict by explaining to members their rights. Another step respondents felt would be positive in minimising conflict was the adoption of a legally binding code of conduct for all stake holders at elections. The respondents felt the presence of such conduct would deter stakeholders from acting in an inciting manner that usually leads to confrontations. The respondent, however, observed the success of such a code of conduct would depend entirely on the presence of autonomous and unbiased courts of law.

Another way to minimise conflict according respondents, was to transform the country's weak economy. As one respondent warned, the transformation of the economy would require great willingness and patience. One respondent argued that important as it might appear, the transformation of the economy was unlikely to be achieved soon as it remains the prerogative of the ruling party. Ironically, the respondent observed, the ruling party to some extent contributes to keeping the economy weak. The respondent went further to argue that "through its policies, the ruling party keeps the economy weak to generate poverty as it (poverty) helps keep the masses submissive". However, the respondent admitted that if by chance, the economy could be transformed, conflict would be minimised as political power would cease to be the only sustainable means of making money. Politicians would no longer see elections as a matter of life and death as there would be alternatives to ensure economic survival.

To ensure tranquillity, the country was advised by some of the respondents persist in seeking a solution through dialogue. One respondent advised that the country continues engaging external mediators, thinking they are more likely to be objective than local counterparts. Laughing slightly, the respondent observed some problems to which external mediators have been exposed in the past. The respondent emphasised, "we really need external mediators, although we tend to resort to sovereignty and call them foreigners when their mediation does not go in our favour". The respondent however, warned that to be successful, such mediators needed to appreciate the uniqueness of Lesotho's situation and not propose a one-size-fits-all approach.

From the responses discussed above, it is clear the election-related conflict in Lesotho is deeply rooted and will therefore be difficult to minimise, let alone eradicate. This poses a dilemma because as the respondents claim, some people benefit from the very existence of the factors that constitute conflict. The situation is even more complex because the alleged beneficiaries of the conflict

are those who have power to make reforms necessary to minimise the conflict. As argued earlier in the paper, most, if not all factors perpetuating election-related conflict are just means to an end – attaining political power as a way of ensuring economic survival for stakeholders. It thus remains the eradication of conflicts will depend to a greater extent on the development of political will by those who hold power. Under existing circumstances, that does not seem likely, at least in the near future. It is, therefore, based on the analysis of the interviews, not an exaggeration to suggest elections-related conflict is likely to form part of the electoral process in Lesotho for years to come. The next chapter provides a conclusion to this research project.



CHAPTER 4: CONCLUSIONS

4.1. Introduction

This chapter provides a brief summary of the study. It begins by providing the summary of the evolution of election-related conflicts in Lesotho. It then proceeds to examine initiatives the country's leadership have taken as an attempt to arrest the conflict. It further provides the objective of the study and re-examines its methodology. Furthermore, the chapter re-visits the meaning of conflict, and lastly and more importantly it summarises the research findings before it highlights some of the recommendations made by the respondents on how to deal with the problem of elections-related conflicts

4.2. The evolution of elections-related conflict

The Kingdom of Lesotho has never seen a conflict-free general election in its entire history. All general elections, right from pre-independence in 1965 to the most recent in 2007 have been disputed, some times violently. The 1970 and 1998 elections were the most violently disputed, with the latter marking the apex of Lesotho's political conflict. In 1965 the BCP and the MFP refused to acknowledge a BNP victory, claiming the elections were rigged in favour of the latter (Pule 2002: 173). In 1970 the election results were not announced as the then ruling BNP, through its leader Chief Leabua Jonathan, annulled the poll and suspended the constitution when it became obvious his party was losing to the BCP. The BNP engaged in one-party rule until 1993 when Chief Leabua's government was overthrown by the army in a bloodless coup (Mahao, 1997). The country returned to democracy when a democratic general election was held in 1993, the election was won overwhelmingly by the BCP. While the MFP congratulated the BCP on its historic win, the BNP refused to accept the results claiming the election was rigged in favour of the BCP. The skirmishes that followed the BNP's refusal to accept defeat resulted in the King dissolving the

BCP government in August 1994. The BCP government was restored through the intervention of the SADC states and this was to mark the beginning of a seemingly unending involvement of foreign countries in Lesotho's political conflict, particularly election-related. In 1998 the elections' disputes turned violent when opposition parties namely the BCP, BNP and MFP, refused to accept the newly formed LCD's victory also claiming that the elections were rigged in favour of the latter. The subsequent clashes culminated into unprecedented violence, diffused only after military intervention by South Africa and later Botswana. The next election was organised in 2002. The outcome was relatively accepted with only the BNP pointing out some alleged irregularities in the electoral process (Southall, 2003: 290). However, in spite of alleged irregularities, the BNP took its seats in parliament alongside other opposition parties, but indicated it was not going to participate in by-elections that might arise, as a way of protest. The opposition parties had won representation in parliament through the PR wing of the MMP electoral model adopted by the country prior to the elections; 2007 then saw the country hold a snap general election after the split of the ruling LCD and the resultant formation of the ABC. The election became historic in that for the first time in the country's electoral history, the ruling party lost all constituencies in the capital and few urban others to a newcomer, the ABC. The election was characterised by formation of electoral alliances aimed at ensuring aligning parties enjoyed larger representation in parliament. The legality of these alliances and the allocation of the parliamentary seats that resulted as a direct existence of these alliances became the centre of post-election disputes that remain unresolved even today, more than two years after the election.

4.3. Initiatives aimed at arresting elections-related conflict

A number of initiatives were taken by the Lesotho political elite as an attempt to reduce election-related conflict. These included most importantly, the replacing of the Electoral Office by the Independent Electoral Commission in 1997; the discarding of the FPTP the adoption of MMP in 2002; the enlargement of the

National Assembly from 80 to 120 seats in 2002; engagement of local and foreign mediators during conflicts. However, all efforts have failed to yield positive results as the conflict remains.

4.4. The objective of the study and research methodology

The main objective of this study was to seek a thorough understanding of election-related conflict as it manifests itself in Lesotho. The study attempted to answer such questions as: What political conflict is; how electoral institutions have related to conflict in the past; what the country needs to do to reduce elections-related conflicts. As part of the primary data, intense interviews were held with knowledgeable purposely selected respondents who understand the country's election-related conflict. All interviews were conducted in Maseru in July 2009. Secondary data was collected through a continuous intensive review of various documented literature. A number of events related to the conflict have taken place since July when the interviews were held. For instance, the SADC pioneered mediation has collapsed and the political parties have recently agreed to a local mediation under Bishop Phillip Mokuku. Some of these events are covered in this work.

4.5. The meaning of conflict

Various definitions of conflict, as provided by different authors, were discussed in the study. The definitions have much in common and all define conflict in terms of relations between two parties or more. Furthermore, most of the definitions define conflict along the assumptions of liberal democratic theory. It was on this basis that for the purpose of this study, Piper's definition of conflict was adopted and conflict defined as illegitimate politics (2005). In this manner conflict is defined in a general way to imply 'specific behaviours deemed unacceptable in a liberal democracy' (ibid). The study showed electoral institutions, from the Electoral Office abolished in 1997, right to the today's IEC, have all been at the centre of election-related conflict in Lesotho. For instance, throughout history,

opposition parties never seemed to have confidence in either institution. Both institutions have at different times been accused by opposition of being biased in favour of the incumbent party. In spite of numerous attempts to involve the opposition parties in their affairs, neither institution managed to do enough to win their confidence. Relations remain acrimonious between the IEC and the opposition parties and the future appears bleak.

4.6. Summary of research findings

Data gathered through interviews and documented literature has disclosed that election-related conflict in Lesotho manifests within a generally polluted political and economic environment. This implies that what turns out to be election-related conflict is in most cases rooted in other spheres not necessarily related to elections. For instance, most conflict has its roots in the political polarity that characterises Lesotho politics. A close investigation of the conflict reveals that on numerous occasions the conflicts have spared the national and congress extremes of the country's political polarity against each other. The animosity between the two extremes has been in existence from as early as 1959 when the BNP was formed as a breakaway from the BCP; long before the first general election was held in 1965. The polarity was then based mostly on policy issues such as the working relations with the then apartheid government of South Africa, the parties' positions on the monarchy and chieftainship, and relations with specific rival churches. The BNP maintained that based on its position, Lesotho had no option but to work closely with the apartheid government in South Africa without necessarily condoning the practices. This position came to shift later when the BNP government began to work closely with South African liberation movements and gave their members political asylum (Pule, 2002). The party further supported the monarchy and chieftainship, and enjoined close relationship with the Catholic Church (ibid). The BCP, on the other hand was against any relationship with the then South African government, was anti-monarchy and chieftainship, and enjoyed close relations with the Lesotho Evangelist Church. This polarity remains part of Lesotho politics even today,

although now less intense. This has in many cases fuelled tensions at elections with either side finding it painful to accept defeat by its rival.

Weak and unsustainable economic environment in Lesotho has been shown by the study as another factor that intensifying election-related conflict. All other factors are in one way or another related to it. Under prevailing economic conditions in the country, being part of the government, or at least being associated with the ruling elite becomes a step to economic survival. It, therefore, follows elections become a matter of life and death and as a result losing becomes a non-option for political leadership. This results in political parties refusing to accept defeat and in most cases resorting to complaining about somehow irrelevant issues with too little or nothing at all to do with election results. A weak economy has further polluted the political environment in that it has led to numerous party splits. Close examination of all splits to have occurred does not reveal any ideological differences, rather personal clashes mostly premised around the positions of leadership, attached benefits, and control of party resources and those of government for the party winning elections. The split factions have in many cases come to spare against one another at the end of electoral processes.

Two major examples lending support to a claim that splits within Lesotho are mainly a result of a scramble for resources are discussed below. Some splits have not been that significant as the parties were out of government and as a result had few resources over which to fight. Pule (1999) notes that the BCP's split that led to the establishment of the LCD was mainly a result of the factions' desire to control the party's National Executive Committee (NEC). The BCP's NEC has constitutional powers to determine the final list of candidates who stand for elections under the party's umbrella (ibid). It, therefore, followed being in the party's leadership obviously translated to having influence on who was to be nominated for elections and enjoy the subsequent financial awards that go with being an MP.

In a similar manner, the LCD's split that gave birth to the ABC has its roots in members' fear of financial loss. One ABC high ranking official Clement Machakela, is quoted by Public Eye Newspaper (November 15, 2006) stating a major cause of their breakaway from the LCD was 'the amendment to the LCD constitution which granted the LCD NEC the powers to accept or reject party's nominees for 2007'. It is important to note among others the amendment had recommended that nominees should hold high academic qualifications. It is also interesting to observe most MPs who left the LCD to form the ABC did not possess any high academic qualifications and were likely not to make it to parliament with the LCD in 2007. As with other splits not discussed in the paper, the factions to emerge from these splits were at the centre of conflict after the 1998 and 2007 general elections.

The findings of the study have further indicated a failure of national institutions to run conflict-free elections and to amicably resolve electoral conflicts by others can be traced to the level of economic dependence the institutions have on the ruling party. This has intensified the occurrence of the neo-patrimonial tendencies in which the elites ensure support of the relevant institutions through provision of financial favours. For instance, the findings have shown that the respondents believe that the IEC commissioners have worked closely with the government in exchange for financial favours. As indicated in previous sections, IEC's commissioners were among those officials who benefited from government scheme that cheaply sold the cars to the officials. Earlier sections have also shown respondents' displeasure about an emerging trend that sees IEC commissioners posted to glamorous government positions after completing their allegedly controversy-riddled terms with the commission.

Furthermore, the study proved questionable decisions made by the courts are spurred by some judges' economic gains from government in reciprocation for their rulings. For instance, it is common knowledge that judges are appointed by

the government of the day. On top of that, the judges have also been beneficiaries of controversial government vehicle scheme alongside politicians and other officials. Based on resultant bad publicity, the scheme attracted within the country, one can simply conclude the judges accepted the luxurious cars simply because they could hardly afford them because of their low salaries. After 2009 salary increases, the highest paid judge, Chief Justice Mahapela Lehohla earns M374 748 annually (Public Eye, August 21 2009). It is, therefore, not difficult to understand his alleged involvement in judgments that fanned elections-related conflicts.

It would be difficult for judges to consider ethics ahead of financial gains under the Lesotho's salary structures. It becomes illogical to think of a judge making decisions against the wishes of a government that sells him a Mercedes Benz worth hundreds of thousands for a paltry M4 500. In 2006 the Minister of Tourism Lebohang Nt'sinyi sold her M4 500 'worth' Mercedes Benz in Bloemfontein for more around M300 000 (Public Eye November 15 2006). This is more than 75% of the Chief Justice's salary.



All other factors identified as causes of elections-related conflicts are secondary in nature and are mostly rooted in either of the main factors discussed above. Firstly, the use of abusive language by political leadership is in one way or another related to the congress / national polarity discussed earlier. Although gradually narrowing, the polarity remains wide differing party members view each other as enemies not be trusted under any circumstance. An example of this can be learnt from some statements made by the leader of the ruling party soon after the split that resulted in the birth of the ABC. The LCD leader always reminded his audiences the newly formed party would not last because it consisted of congress and nationalist orientated members who, according to him 'were strange bedfellows' who would never work together'. Whenever he used abusive language of which he was accused by the interviews of the study, the LCD leader never ceased to mention that the opposition are products of the nationalist

thinking, which to him was an anathema. The same could be said about former Prime Minister Jonathan who would regularly use derogatory language whenever he referred to BCP members. How this polarity breeds into conflict is captured by Makoa when he observes that: 'the feeling among the Lesotho population is that going to the voting booths means going to defeat or vanquish political opponents' (1997: 22)

While some respondents blamed election observers for playing a role in election-related conflict, it has been difficult for me to draw a direct link between eruption of conflicts and the election observers. I found the problem lie not with observers but with political parties that failing to tackle domestic problems hoping election observers will do it on their behalf. Blame can also be placed on governments failing to implement observers' recommendations from time to time.

No direct relationship could also be drawn between conflicts and electoral models. Electoral models have in many cases been used as a smokescreen for eruption of the conflict. In reality, this conflict had been caused not by the electoral models *per se*, but by manipulation of electoral models by the political elite who use any trick to ensure parliamentary dominance. The conflict is also attributable to a failure of losers to access economic benefits that come with being in parliament. It is logical to believe if they were on the winning side, those who blame the electoral models would be defending them.

4.7. Recommendations on how to arrest the elections-related conflicts

Generally, the respondents have unanimously agreed election-related conflict can be eradicated, or at least minimised. This, they said, can be achieved through the introduction of reforms in two different yet highly dependent directions – economy and political culture. The general feeling is that if economy could be transformed, politics would cease to be the only viable means of economic survival and elections would no longer be a matter of life and death as

it is today. People who fail to make the grade in politics would still find alternatives in the private sector. The transformation of the economy would also have a direct impact on the nation's political culture. The present culture of non-tolerance between political rivals is to a greater extent a result of limited economic resources. Because of scarce resources, those in power do all they can to exclude rivals while those outside the structures of power try every trick to have access to these resources.

It is important, however, to note that, important as it is, the transformation of the economy cannot become an automatic panacea for the country's election-related conflict. Experience has shown that even poor countries can manage to avoid election-related conflict. For instance, when it gained independence in 1966, Botswana was almost in the same poverty bracket as Lesotho. However, even during those years of weak economy, Botswana never suffered any serious election-related conflict such as the one rocking Lesotho. It would therefore be important to bear in mind that as efforts are being made to transform the economy – which is of vital importance, mechanisms are devised to complement such transformation by positive changes in political cultures.

Based on the findings of the study, it is clear that even minor electoral grievances graduate into serious conflict because of lack of speedy resolutions. This mainly results from the backlog of cases in the High court of Lesotho where election-related cases are heard. This necessitates the establishment of conflict mechanisms that will specifically be concerned with electoral matters. It is on the basis of this that I recommend that the country establishes an electoral court. This should not be difficult as the country has recently established a similar institution – the Commercial Court. If such an electoral court is finally established, the country should, however, involve all the stakeholders to make the court acceptable to all. The court should be established in a transparent manner inclusive to all stakeholders. This would help avoid controversy similar to one surrounding the establishment of the commercial court. Some sectors within the

legal fraternity, particularly legal practitioners are against the appointment of Justice John David Lyons of South Africa as the head of the court. Airing his view about the appointment of Justice Lyons, Advocate Thabang Khauoe stated that 'the idea of a foreign judge manning the commercial court is an insult to the Law Society of Lesotho, which was never included in his identification and appointment' (Public Eye, February 5 – 11, 2010). It is therefore imperative that any efforts aimed at resolving conflicts be inclusive in order to have the required legitimacy.

4.8 Closing Word

Under normal circumstances elections are a peaceful means of changing or retaining a government. In these cases all citizens become concerned about during an electoral process is to make an influence through their votes. This, however, is not the case in Lesotho. Elections in Lesotho bring bad memories to those who are victims of election-related conflict, either physically or emotionally. What goes through the minds of many is how to stay out of the trouble usually following elections. Instead of generating excitement, in Lesotho, elections create fear and uncertainty. It is for this reason that political elite have to swallow whatever pride they may have and try to work together to make elections what they are supposed to be – a peaceful process of changing or retaining governments.

This research has highlighted the country has to go through rapid transformation to eradicate, or at least minimise illegitimate conflict during elections. A transformation area, according to the findings of the research, includes transformation of the economy and development of political will by the political elite to put the interests of the country ahead of their own. While one does not think they are impossible to achieve, the transformation of the economy and the development of political will by the political elite in Lesotho poses a serious challenge. To be sure, this is not a new challenge, it has been obvious since independence the country needs economic development. It is, however, sad to

note the country has been regressing economically in recent years and it seems unlikely there will be any change soon. The country's political elite are more interested in capturing or retaining political positions, ensuring access to state resources. To political elite, economic development of the country lies secondary to personal own economic interests and those of their cronies. This has led to elections being a conflict-riddled scramble for national resources often characterised by violent conflict.

Apart from the loss of life during the electoral process in Lesotho, the country has suffered drastic economic losses to what was already a weak economy in 1998. More than a decade after 1998, the country has not recovered; most towns remain shells. The challenge remains with the country's political leadership, to extract Lesotho from the economic and political rubble the country finds itself in. Transformation of the economy, establishment of an electoral court, and assurance of autonomy to political institutions such as the IEC will surely go a long way into stabilising the political environment and election-related conflict can be drastically reduced.



APPENDICES

Appendix A: Electoral code of conduct: Lesotho



So help me God [To be omitted in affirmation.]

SCHEDULE 4 - ELECTORAL CODE OF CONDUCT

(Section 112M)

1. *The objection of this Code shall be to promote conditions conducive to the conduct of free and fair elections and a climate of democratic tolerance, in which political activity may take place without fear or coercion, intimidation or reprisals.*
2. *All political parties and other persons bound by this code shall endeavour to promote its object in order to enable free political campaigning and open public debate to take place in all parts of Lesotho throughout the election period.*
3. *Political parties and candidates further commit themselves -*
 - (a) to give wide publicity to this Code;*
 - (b) to promote voter education campaigns;*
 - (c) to condemn violence and intimidation;*
 - (d) to instruct their candidates, office-bearers, members and supporters accordingly; and*
 - (e) generally, to affirm the rights of all participants in the election -*
 - (i) to express divergent political opinions;*
 - (ii) to debate and contest the policies and programmes of other political parties;*
 - (iii) to canvass freely for membership and support from voters;*
 - (iv) to hold public meetings;*
 - (v) to attend public meetings convened by others;*
 - (vi) to distribute electoral literature and campaign materials;*
 - (vii) to publish and distribute notices and advertisements;*
 - (viii) to promote free electoral campaigns by all lawful means.*
4. *All those bound by this Code in terms of sections 112 M shall, throughout the election period, give effect to the following undertakings and stipulations -*
 - (a) to publicly and repeatedly condemn violence and intimidation, and to avoid the use of language or any kind of action which may lead to violence or intimidation, whether to demonstrate party strength, gain any kind of political advantage, or for any other reason;*

- (b) *to refrain from any action involving or intimidation;*
- (c) *to ensure that no arms or weapons of any kind are carried or displayed at political meetings or in the course of any march, demonstration or other event of a political nature;*
- (d) *to refrain from publishing or repeating false, defamatory or allegations concerning any person or political party in connection with the election;*
- (e) *to co-operate and liaise in good faith with other political parties to avoid, in so far as possible, arrangements involving public meetings, demonstrations, rallies or marches taking place at the same time and venue as similar political events organized by other political parties;*
- (f) *to do nothing to impede the democratic right of any political party, through its candidates, canvassers and representatives, to have reasonable access to voter for the purposes of conducting voter education, fund raisings, canvassing membership and soliciting support;*
- (g) *to avoid plagiarizing the symbols, colours or acronyms of other political parties and to discourage and, if possible, prevent the removal, disfigurement or destruction of political campaign materials of any political party;*
- (h) *to refrain from offering any inducement or reward to any person in consideration of such person either joining or not joining any political party; attending or not attending any political event; voting or not voting (either at all, or any particular manner); or accepting, accepting refusing or withdrawing such person's nomination as a candidate in the election;*
- (i) *to refrain from abusing a position of power, privilege or influence for political purposes, including-*
- (a) *incumbent governmental power such as state facilities and transport and*
 - (b) *parental, patriarchal or traditional authority;*
- (j) *to avoid any discrimination based on race, sex, ethnicity, class, gender or religion, in connection with the election and political activity.*

- (k) *in relation to the role of women -*
- (i) *to facilitate full participation by women to all public political activities on the basis of equality;*
 - (ii) *to ensure free access by women to all public political meetings, facilities and venues;*
 - (iii) *to respect the right of women to communicate freely with political parties and; and*
 - (vi) *generally, to refrain from forcing women to adopt a particular political position or to engage in, or to refrain from engaging in, any political activity otherwise than in accordance with their free choice;*
- (l) *in relation to the Commission -*
- (i) *to acknowledge its authority in the conduct of the election;*
 - (ii) *to ensure the attendance and participation of representatives at meetings by or on behalf of the Commission;*
 - (iii) *to implement its orders and directions;*
 - (iv) *to facilitate its rights of access through official monitors or other representatives to all public political meetings or other electoral activities;*
 - (v) *to co-operate in the official investigation of issues and allegations arising during the election period; and*
 - (vi) *to take all reasonable steps to ensure the safety of monitors and other representative of the Commission from exposure to insult, hazard or threat in the course of their official duties;*
- (m) *to reassure voters with regard to the impartiality of the Commissions, the secrecy and integrity of the ballot, and furthermore, that no one will know how any other person has voted;*
- (n) *to take reasonable steps to discipline and restrain their party office-bearers, employed, candidates members and supporters from -*
- (i) *infringing this Code;*
 - (ii) *committing any offence in terms of his Act of any other law;*
 - (iii) *committing any prescribed electoral irregularity; and*
 - (iv) *contravening or falling to comply with any provision of this Act.*

- (o) *to establish and maintain effective lines of communication with the Commission, and with other political parties, at national, provincial and local level, including the exchange of names, addresses and contact telephone and facsimile numbers of party election agents and of other relevant office-bearers and representatives; and*
- (p) *to accept the final outcome of the election, and the Commission's declaration and certification of the results thereof.*

Given under my hand at Maseru this 15th day of May, 1992.

E. P. Ramaema,

Chairman of the Military Council and Council of Ministers.



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Appendix B: Interviewee consent form

Consent Form

Dear Sir/ Madam,

With your signature at the bottom of this page, this form has the power to protect your autonomy. Please read it in full, and if you understand and agree, sign below.

The purpose of this research is to establish what the real causes of elections-related conflicts in Lesotho are, and what needs to be done to bring the conflicts to an end. Individually, you have been identified as a potential subject for this research because of your involvement/observation/mediation (delete whichever is inappropriate) in elections-related conflicts, and may have valuable insights for this study. All that is required from you is participation in this interview which should not last longer than sixty minutes.

Please be advised that participation is voluntary and that all responses will be treated confidentially and only used for reference purposes; anonymity will be ensured where appropriate and there are no limits to confidentiality, unless you are willing to be named. This research will serve as a partial fulfilment of the requirements for the MA Degree in Political Studies at the University of the Western Cape in Bellville, South Africa. The findings of the research will also be reported back to the participants. You are at liberty to withdraw from the research at any time without any negative or undesirable consequences to yourself.

Yours faithfully

Tlohang W Letsie

Cell: 58722710 / 078 126 3403

E-mail: 2963731@uwc.ac.za

I.....(full names of the participant) hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project.

I understand that I am at liberty to withdraw from the project at any, should I desire.

SIGNATURE OF PARTICIPANT.....

DATE.....



Appendix C: Names and occupations of the respondents who asked not to be anonymous, listed in order of alphabet

1. Major General Justin Metsing Lekhanya: A former Head of Military government from 1986 to 1991. Currently leader of the BNP and an MP of the same party.
2. Dr Faku Johnson Likoti: Formerly a mediator in Lesotho political conflicts, lecturer at the National University of Lesotho, and currently a commissioner at the Lesotho Independent Electoral Commission.
3. Hon. Sello Clement Machakela: Former Minister in the Prime Minister's Office and currently ABC MP.
4. Hon. Moeketse Vincent Malebo: A veteran politician. Former member of the IPA, and currently a leader and MP of the MFP.
5. Rev. Rapelang Mokhahlane: Head of the Lesotho Evangelical Church (LEC), and long time mediator under the auspices of the Christian Council of Lesotho.
6. Hon. Sephiri Enoch Motanyane: Former Minister of Justice, Secretary General of the LCD and currently LCD MP and a Deputy Speaker of the National Assembly.
7. Dr Tefetso Henry Mothibe: Former Vice Chancellor of the National University of Lesotho (NUL), and now a Senior lecturer in the department of History.
8. Mr. Nthakeng Pheello Selinyane: A senior lecturer in the department of Political and Administrative Studies at NUL, and a Politics and Development editor of the Public Eye newspaper.
9. Mr. Mafole Sematlane: A former Commissioner of the IEC, a consultant working with IPA, and currently an independent consultant based in Maseru.

Appendix D: Interview schedule

Major General Justin Metsing Lekhanya: July, 07 2009. BNP Centre

Dr Faku Johnson Likoti: July, 14 2009. IEC

Hon. Sello Clement Machakela. July, 09 2009. Khubetsoana

Hon. Moeketse Vincent Malebo: July, 08 2009. Maseru West

Rev. Rapelang Mokhahlane: July, 14 2009. Sefika LEC.

Hon. Sephiri Enoch Motanyane: July, 06 2009. National Assembly

Dr Tefetso Henry Mothibe: July, 08 2009. His Majesty's Office grounds.

Mr. Nthakeng Pheello Selinyane: July, 03 2009. Sea-point

Mr. Mafole Sematlane: July, 02 2009. Sea-point



Appendix E: Interview questionnaire

Why, in your opinion are Lesotho's elections usually characterised by conflicts?

What is the role of each of the following, if any, in the brewing and sustaining of election-related conflicts?

Political parties, both ruling and opposition?

Electoral models?

IEC?

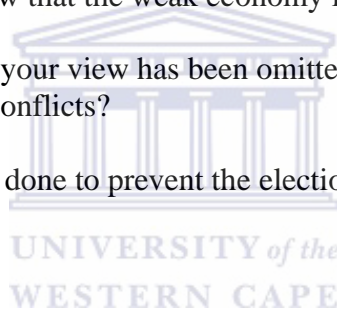
Election observers?

Courts of law?

What's your opinion on the view that the weak economy is a factor in the conflicts?

Is there any other factor that in your view has been omitted which contributes to the emergence of election-related conflicts?

What, in your view needs to be done to prevent the election-related conflict



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