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THE CHALLENGES OF PARLIAMENTARY DEMOCRACY IN LESOTHO 1993-2007

While Lesotho is a Constitutional Democracy, and adopted the Westminster system since independence in 1966, the National parliament appears to have been confronted with myriad challenges in relation to the operationalisation of these norms and values of the British system. For instance, since the dawn of democratisation in 1993, the country has witnessed the birth of three parties in parliament. The parliament has become famous for unparliamentary practices. This came to the fore during the Seventh parliament in 2007 when a defeated candidate was appointed as a Member of Parliament erroneously. Furthermore, the Speaker of the National assembly disallowed the formation of coalition of five opposition parties. She ruled that these parties “must merge rather than coalesce. It was this refusal by the Speaker to allow opposition parties to form their coalition and thus declining to grant their candidate the status of the leader of Official opposition that has alarmed most political scientists in the Southern African region. These unparliamentary practices have been made despite the Constitution providing for formation of such a structure within Lesotho political system. In fact, the Lesotho parliament has become notorious in making catalogue of errors, a feature which has challenged Lesotho’s democratic credential both domestically and internationally.

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Introduction

Lesotho is a Constitutional democracy. This means that the country subscribes to constitutional rule. The concept of constitutionalism limits the arbitrariness of political power. While the concept recognises the necessity of government, it also insists upon limitations placed upon its powers. In essence, constitutionalism is an antithesis of arbitrary rule. Its opposite is dictatorial government, the government of will instead of law or rather undemocratic government, which is not accountable to its constituents. Constitution, therefore, is “a formal document having the force of law, by which a society organises a government for itself, defines and limits its powers, and prescribes the relations of its various organs inter se, and with the citizens” (Nwabueze 1973: 2). Conversely, the Constitution can also be used for other purposes rather than as a restraint to governmental powers. It is also in this perspective that the paper will evaluate the constitutionality of some parliamentary procedures within the parliament of Lesotho and how this important body has fared since 1993 election and to what extent has it been able to consolidate democracy. It is for this

purpose that the paper will discuss the Westminster model in order to assess its proper operationalisation in Lesotho.

The Westminster Model and the Party Unity in Parliament

This model has been able to provide measures to address parliamentary process in many countries. The British politics has developed a unique tradition as a result of the Westminster model. The system pays much attention to the crown, the parliament, executive and the political parties. The system also emphasises much significance to the doctrine of parliamentary sovereignty and accountability. It was the nature of this complexion of British political system, which gave rise to what was then called the Westminster Model (Mackintosh1982). What is central to this model is parliament. To enter parliament one must be elected. Therefore, “the voters elected the parliament, and from the parliament were chosen the ministers of the crown, who were accountable to parliament for their actions” (Dunleavy1992:340). The elected government under this model is the ultimate source of authority. The exercise of executive powers depends on retaining the support of parliament, which was elected by the people (Dunleavy 1992).

According to this model, parties compete for the right to form government. They sell their party programme to the electorates so that they can have the opportunity to oversee, direct the formulation and implementation of government policy within rules and procedures and under conventions of an elected parliamentary system. Therefore, “the leader of the party with the largest number of elected members in the House of Commons is assumed to have had his policies approved and therefore has a mandate to carry them through in government”(Read1993:70). The Westminster model posit that, “British governments are formed by the party which wins most seats in the House of Commons.....Usually, this is the party which also controls the majority of seats”(Read1993:66). Furthermore, the Westminster system, advocates for an ideal of a sovereignty body elected by the votes of all the citizens in a country. This body is empowered to make and unmake governments, to pass and amend legislation. The body is also empowered with the power to make the Ministers accountable to protect the rights of all citizens (Dunleavy 1992).

Lesotho like former British colonies, such as Canada, New Zealand, Botswana and Australia to name just a few inherited this system from Great Britain. All these countries are liberal democracies. In this system as discussed above, the party in each case that wins a majority of seats in the national assembly forms the government and thus has a mandate to

put its manifesto into legislative effect (Dearlove 2000, Hague 1993). This Westminster system is a constituency focus model which implies that representatives must secure benefits of his or her party and assume a party focus which also “ implies that the legislator’s main allegiance is to the party to which he or she belongs”(Hague1993;293). This also means that there should be accountability. The electors must have maximum control over their representatives/delegates. For that reason, “the process of governance must not only be accountable and participative but also transparent. The process of governing needs to be visible and understandable to the population. As such, it will reassure them that it is trustworthy, and encourage their support and co-operation, rather than risking their alienation” (Harris1998;349). This is vital in young democracies like Lesotho. All political parties in this process must change their behaviour in order to ensure that there is transparency in the policy-making process and that public participation is sustained. In this way the government will be accountable to the governed. This is an essential ingredient to any transitional democracy like Lesotho.

Accountability figures most clearly in elections, because if voters, donot like the government record in power or their political party they can vote it out of office. Democratic governance in Lesotho has been experiencing major challenges. In most cases, one party has changed seats in parliament more than once. What is even more interesting is the emerging pattern of the formation of parties in parliament and the consistent breach of parliamentary norms and values as espoused by the Westminster model. This phenomenon has posed interesting questions in different quarters. For constitutional lawyers the explanation of this trend could be justified by legal positivist view, which argues that every issue or event must derive its source from the due process of the law. If the formation of the party was constitutional then, there is no legal impediment for that action. After all the constitution is very clear, a party with the majority members in the legislature can form government and therefore, has fulfilled its mandate to govern. To political scientists, however, the question is the manner in which the party is formed and most importantly where it was formed but on the main not in parliament. Parliamentarians are duly elected by the national mandate to represent the views of the electorates. If it so occurs that they need to renew their mandate, they must go back to the electorates. So the question of the majority of parliamentarians to cross the floor is not necessarily challenged as long as they do not undermine the public mandate. We can by the same analogy argue that, parliamentarians

have been sent to parliament by electorates to represent their views and certainly one of those views is not to form a political party because they went there under the party label, which they represented.

Formation of the Three political Parties in Lesotho Parliament

On Monday 9th July 1997, the Prime Minister, convened a press conference on the grounds of the National Assembly and announced that he has formed a new party to be known as Lesotho Congress for Democracy (LCD). He further argued, “because we have support of the majority of parliamentarians, there will be no change of government” (Pule: 1997; p22). The formation of LCD, by Dr. Ntsu Mokhehle, the then Prime Minister of Lesotho in parliament, sent shock waves across the Basotho voters (Sekatle1997). It was the manner, which this party was formed, which surprised many voters. This party, let alone the location of its formation, did not have or in fact it lacked the mandate from the electorates. Its formation was not only unparliamentary, it was fake because voters were defrauded into electing a BCP but ultimately without knowing that their votes were going to be used to advance some individual MPs interests and their unparliamentary escapades. They believed (voters) that their government was that of BCP not LCD.

Dr. Mokhehle was elected to parliament by electorates under Basotholand Congress Party (BCP) ticket in 1993. He carried to parliament the BCP mandate not on the contrary. The BCP voters trusted him to put before parliament their manifesto as their legislative programme of government. In this manner, he was the BCP representative. In fact, in any democracy, representation forms the root core of what parliaments are all about. While in most cases, the legislators today are expected to vote in a particular way, those who have voted for them, still expect them to work for their constituencies. It is in this context that “a constituency focus implies that the main aim of assembly members is to secure benefits, or provide services for the area that elected them” (Hague: 1993P293). Certainly, the formation of LCD in parliament was not securing benefits for BCP constituents. The MPs can vote either way in parliament but not to form a political party. In fact, there is a clear distinction between voting for parliamentary business and the formation of a political party in parliament. This issue has actually confused a lot of people who perceived that because an MP can vote either way, therefore, a majority of dissenters can cross the floor and form their own party, forgetting that they were MPs because they are obliged to represent the voters’

interests not on the contrary. More especially when they knew very well that the electorates could only withdraw or grant them support once in five years.

For a party to be elected into parliament in Lesotho there are a host of procedures that must first be followed; these include the registration of the same party with the Independent Electoral Commission (IEC), it must compete fairly in an open contest with other parties and ultimately be declared an overall or partial winner of some constituencies by the IEC. An Independent Electoral Commission did not register the LCD in 1993, it did not compete for 1993 elections, and it was not declared a winner by this body. In fact, it could not even feature anywhere. The party which won the 1993 elections was BCP not LCD. The LCD action was politically incorrect and at best a betrayal of the Lesotho electorate. This pattern of illegitimate formation of parties in Lesotho parliament appears to pose serious challenges for political scientists. For Professor Wessels (1997), the above political events in Lesotho were tantamount to a parliamentary coup de etat. He argued further that,

in a parliamentary system, only one election takes place to elect a Legislature. The elected members of the Legislature, can “cross the floor” from one party to another. But I have never heard a situation in a parliamentary system where an elected party “crosses the floor”-dissolves and “re-elects itself without facing the electorate on a programme of principles (The election Manifesto). This is from my point of view not only an undemocratic act, but as near as can be to a coup de etat (Wessels: 1997;p1).

In fact in any democratic dispensation, a party govern only on attaining consent of the governed majority. That is, a party is elected by people to parliament under specific program of principle (memorandum), which was subjected to test by electorate at the general elections. This scenario did not take place in Lesotho in 1997, 2001 and 2006. This action sparked a flurry of protestation among political parties in Lesotho. Political parties such as the Basotho National Party (BNP), Marematlou Freedom Party (MFP) together with BCP held several protests and petition the King to dismiss LCD government because it did not have the mandate of the electorate to form a new party. It cannot dissolve itself as government and then re-appoint itself again without the voters’ participation and denying the electorate their right to hold it to account. After all, the whole process of party formation was

done in a very untransparent manner. This whole episode was done undemocratically to say the least.

The unfortunate precedence created by LCD (a party formed in parliament) was to hound it in September 14th 2001. The fragmentation of this party came without any surprise to political spectators. A breakaway group, from the ruling LCD, the Lesotho Peoples Congress (LPC), brought to an end an extraordinary marriage of convenience of the last three years duration among the incompatible role players in the party leadership (Public Eye Oct.12-Oct 18). This party (LPC), even though it did not constitute majority of MPs to unseat LCD, followed a similar pattern, which was led by its predecessor the LCD in 1997. Instead of joining the party in parliament, LPC MPs, constituted themselves as an official opposition. This was another unparliamentary act demonstrated in Lesotho parliament. What is strange is that while these people have subverted the electoral confidence they donot resign and instead continue to form the party in parliament without seeking their mandate from the voters.

What is even more striking is the similarity of events leading to the split. The main precipitant of the above LPC split was the disputed results of the January 2001 National Executive Committee elections at its annual conference. What is different in both 1997 and 2001 parties' splits is the manner in which the end results of the split transformed itself. In 1997, the LCD split from BCP created much uproar in political circle throughout the country. The members of LCD went on to form government. This move ushered a lot of protestation and disruption within the parliament itself. The police had to be called to intervene and remove members of BCP from the constituted government benches. It has been argued that a party, which forms the government in the National Assembly, has been mandated to do so by its electorate at the polls. Therefore, no party can form a government without first being elected and having electoral mandate to govern.

In a marked contrast with 2001, no police were called and even emotions were not as highly charge as in 1997. The police could not intervene because there was no disorder. There were no more furores within Lesotho political circles. What was different this time was that members of LPC did not form majority in parliament and could not form a government, instead they were confined to opposition benches. They styled themselves as members of the official opposition. In fact, the leader of the newly formed LPC is being addressed officially as leader of the opposition. There was no condemnation, from either political parties in

Lesotho or Non-government Organisations. There was not a single court case brought before the High court to challenge LPC decision unlike the case in 1997.

What is even more interesting, there has been lack of analysis from lawyers in relations to the split to justify or present a contrary view in the political debate about the formation of LPC in parliament. This split has failed to spark any national debate, unlike the 1997. But the similarity was that in both cases some of the party constituency representatives were called to discuss the split before the formation of the party from different constituencies and most importantly where the faction intending to split enjoys most support. In South Africa, what is happening which is somewhat similar is a situation whereby the ruling party is engaged in the process of facilitating the legislation for the New National Party to cross to its benches from the opposition to the government side. The rational for this action has been motivated by the electoral system of proportional representation, which forbids any party merger in this manner. Nevertheless, the Lesotho case is unique.

In October 2006, another party was formed in parliament yet again. The breakaway party, the All Basotho Convention (ABC), left the government of Prime Minister Pakalitha Mosisili with the slimmest of majorities in the 120-member chamber. The ABC was formed with 17 members of all former LCD parliamentarians who had gained access to parliament through First Past the Post (FPTP) electoral system. This crossing of the floor by the ABC motivated the governing party that was left with 62 members of parliament to call for snap election. The circumstances of this fragmentation were not different from the LCD and LPC above. In actual fact, Lesotho parliament since 1993 has seen three parties emerging in parliament contrary to the Westminster model.

In providing his reasons for leaving the LCD led government, Thomas Motsoahae Thabane, the leader of ABC asserted that he had to quit the LCD cabinet because he could no longer stomach government corruption. He claimed that, unemployment was rampant and stood at “45 percent, with high child labour, 50 percent of the population live below the poverty line and the United Nations has described 40 percent of the population as ultra poor, meaning that they cannot afford food” (ABC 2007:p.5). He claimed that the LCD government did nothing about addressing this situation.

The Role of the Legislature

What must be noted is that the legislature is a representative body of the citizenry (Birch 1993; Hague 1993; 292, Lijphart; 2000). The concept of representation is not a straightforward one, since it has four conceptual meanings of interests that a parliamentarian must strive to represent, namely:

- a) The group that forms his constituency, which may be a social class or religious group;
- b) The country as a whole, “whose broad interests might transcend those of any group or party; or the legislator’s own conscience which provides moral and intellectual judgement about appropriate political behaviour” (Danzinger 1998:133, Hague *et al*, 1993:292).
- c) the political party to which a parliamentarian owes loyalty; and
- d) The most important function of a legislator is to represent the interests of the governed.

In most states, it is possible for a legislator to represent these four conceptions without a deeper conflict in dealing with the problem of representation. However, in some cases legislatures seemed to lack choices, mostly in undemocratic states and democratic one-party dominant states, like Uganda, Namibia and Zimbabwe. The common characteristics of these states are their diminished independence of the legislators’ role. The legislators under these conditions, “where their actions are dictated by the political leadership, act as little more than ‘rubber stamps’. This position would probably characterise the behaviour of a legislator in Cuba or Zimbabwe”(Danzinger 1998:133).

At the heart of any political dispensation, there has been a running disagreement of the concept of representation. The dispute had revolved around the question of how elected representatives should conduct themselves. Should they conduct themselves in the national assembly or act in accordance with the mandate given to them by their constituents or should they renege their mandate and act as trustees for the public interests. It has been these debates, which continue to persist in contemporary democracies. However, what is important to be noted about members of parliament is that “what establishes their status as representatives is that they have been appointed by a certain process of election. This is their defining characteristic” (Birch1993;70).

The fact still remains however, that, representation is at the root of National Assemblies and what these parliaments are all about. These bodies stand for the people and act for them. For Edmund Burke an eighteenth-century statesman, in his celebrated speech in Briston, England to the electors, he expressed the trustee and delegate approach. Even though it was later rejected by them. Burke, argued that the delegate must ensure at all times for all intends and purposes that he or she reflect the aspirations and expectations of his or her constituents who elected him or her to represent them in parliament, while the trustee on the other hand uses independent judgement on behalf of his or her constituencies (Hague1993). He further, declared that “your representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion”(Schwarzmantel 1994;41).

In contemporary parliaments, legislators are neither pure trustees nor delegates. They rarely vote according to the wishes of those who elected them, even though they still represent them. They are not purely trustees because they rarely use mature judgement when voting in the legislature but consider other exigencies. They are representatives who are constrained by party mandate and discipline, because “party loyalties cut across the traditional distinction between the delegate and the trustee”(Hague1993;292). As a result, it is important to recognise that elected legislative members are representatives and this cannot be reduced to any different meaning of representative. Their representative status as explained above derived from a process of election, which gives them that role. Birch (1996) submitted that it was Hobbes who first argued that authorisation in parliament is acquired through the process of elected representation. Members of legislature have therefore, been authorised by the process of election to exercise certain powers. It is their defining characteristic, and they shall execute their party mandate because they are legal representatives until they step down, die or defeated, no matter how they behave in the national assembly they must defend their electoral mandate. In fact, it can also be argued that in practice, most elected representatives while pay some attention to values and interests of their constituents, they are also free to exercise their independent judgement about what is best for their party or country (Birch 1996).

Therefore, a representative is someone who speaks on behalf of the people he is representing, but not closely tied by restrictions imposed by the constituency when making decisions in the National assembly during the debates regarding legislative programme. This

mandate/independence controversy is likely to hound many democracies and remained alive for a very long time because each represents a viable view of how an elected person should behave. In a pluralist society like Lesotho as elsewhere, representatives are made up of plethora of interests such as political parties which form programmes that appeal to certain interests in society. These parties aggregate interests, putting them together in a relatively coherent manner or framework, some of the common needs of the people, which they have in common. They are crucial institutions, which represent people in politics (Schwarzmantel 1994). Therefore, a representative in this sense describe a political party or a person who has,

acknowledged duty of defending or advancing certain interests specified by his or her principal...but in all cases the function of this kind of representative is to achieve certain goals set by his or her principal, and the extent to which these goals are achieved is a criterion of successful representation (Birch:1996;71).

In this case, the programme of principle (manifesto) describes the above goals, which a representative singly or in majority must engage all his or her energies to achieve. It can be argued from this perspective that the formation of a different political party, in parliament, falls outside the above goals described in the programme of principle. If that was the case for instance, it would be very difficult to sell that principled programme to the voters, “that is, elect me and once I am in parliament I will form a new political party and abandon the current one”. This could be a mammoth task indeed.

Constitutionalism

For parliaments to function effectively and efficiently, they must operate within a constitutional framework because “constitutions are especially important in determining the territorial distribution of powers within the state” (Hague 1993:261). Similarly, John Locke(1991) argues that, “The first and fundamental positive law of all Commonwealth is the establishing of the legislative power; as the first and fundamental natural law, which is to govern even the legislative itself, is the preservation of the society, and of every person in it” (Locke1991: 355-6). The importance of constitutions in this regard cannot be overemphasised. This is because constitutions set the rules and powers of the governors and the rules of the political game (Watson1989:51-64, Lijphart1984). David Beetham opines that, for power to be legitimate, it should not only be based on the three Weberian principles of traditional, legal rational and charismatic authority, but “it must

conform to established rules”(Beetham 1991:16, Schwarzmantel 1994:16). Therefore, constitution forms the crucial aspect, in this case as a rule-binding instrument. This implies that MPS are bound to subscribe to their constitutions, whether they liked it or not. In exercising their MPS, states have to respect constitutional rules and, therefore, not act in an arbitrary manner. Holmes argues that constitution, as a higher law, “is a device for limiting the power of government...it disempowers short-sighted majorities in the name of binding norms” (Holmes 1995:135). Hague sees it as a “state code in which the powers of, and relationships between, institutions are specified in considerable detail” (Hague et al 1993:262). Like most democracies, Lesotho has a Constitution, which regulate the behaviour between public authorities and their citizens (Plotke2000:1-7). These notwithstanding the parliament of Lesotho has experienced major challenges apart from the formation of parties in parliament.

Discrimination against other MPS

Discrimination of PR parliamentarians in Lesotho parliament has been one of the above challenges. The LCD, as a dominant party in parliament, resorted to using its majority to pass unpopular legislation like the Members of parliament salaries Act of 2003 in its favour. In amending the 1998 Members of parliament Salaries Act in 2003, the government argued that, “Proportional representation MPs do not represent the electorate but their parties. So they cannot be given constituency allowances because they have no constituencies” (Makoa, 2005, 63). This 2003 Act polarised the Lesotho parliament to the extent that it was not easily feasible how democratic consolidation can be achieved under these circumstances.

While the national Constitution forbids discrimination (The Constitution of Lesotho, 1993), it comes short of providing remedies for judicial intervention in a parliamentary stalemate. This has made it impossible for the aggrieved MPs to seek recourse from the courts in relation to the current discrimination. Since these Proportional Representation MPs are not seen as genuine/legitimate MPs, this has soured relations between the ruling party and the opposition parties. The LCD with its majority has discriminated opposition parties in various ways. First, it refused to give due recognition to Proportional Representation MPs and thus exacerbated confidence building measures between itself as government and opposition parties. Second, these PR MPs have been denied constituency allowance and fulltime state funded secretariat services at the constituency level which were given to the FPTP MPs who are predominantly members of the ruling party. After the 2002 election, the

ruling party introduced constituency secretaries for all members of Parliament who won constituencies. This ensured that in all these 80 constituencies, there is a paid up secretary who serve members of Parliament including one opposition member who won one constituency. This made certain that the ruling party is able to function at the grassroots level unlike most opposition parties which were not extended this financial facility by the government.

Dramatic developments of the Seventh parliament

Following the February 18 snap election in Lesotho, the parliament was confronted by even more challenges. One of these related to parliament convening without the rest of the newly elected Members. On the 23rd February 2007 members of the opposition failed to turn up for the swearing in of the country's seventh parliament. They argued that they were not invited. The National Assembly clerk Rethabile Maluke maintained that these opposition parties were invited over the national radio and "this was the procedure that we used over the years. It is a surprise that those same MPs who are now complaining never complained in 2002" (Public eye March 02, 2007). This action was very unparliamentary to say the least. It shows the extent to which Lesotho parliament has degenerated into sloppy procedures more especially where public representatives were concerned. According to democratic conventions MPs have to be treated with respect as national representatives. They should not only be invited by a radio but be formerly and cordially written to.

The fact that some ruling party members and three other parties attended the proceedings this does not justify the above unparliamentary action. The consequences of this sloppy procedure, therefore, denied other parliamentarians their legitimate right to elect the Prime Minister of their Country, the Speaker of the National Assembly, the Leader of the official Opposition and the other party leader with the third largest party to the Council of State. While the Leader of the Official Opposition was not appointed, the leader of the third largest party was appointed to take a seat in the Council of State. The exclusion of opposition parties from this swearing in ceremony of a democratically elected government as legitimate representative of the people directly challenged Lesotho democracy. One MP even argued that he failed to understand why the speaker of the National Assembly did not invite them to the parliament and electing instead to breach the code of conduct of parliaments.

Following the opening of this 7th parliament, some opposition parties raised strong objections to the election outcome and engaged in a number of activities in support of their

discontent. Firstly they objected to what they termed a deliberate exclusion of the leader of National Independent Party (NIP) in parliament. For instance, the leader of ABC requested the Speaker of the National Assembly to facilitate that the house discuss the issue of Anthony Clovis Manyeli, leader of NIP who by circumstances surrounding his party's alliance with the LCD was left out among Lesotho parliamentarians being sworn in. The ABC request was raised in a form of point of order. This was contrary to parliamentary Standing order Number 12, which deals with the appointment of new members of parliament appearing on the gazette submitted to parliament by the IEC.¹ The Speaker argued that, the name of Manyeli did not appear in the list before the house. She submitted that only those in the gazette produced by the IEC could be sworn in as Members of Parliament and she subsequently ruled the request out of order. Leaders of Marematlou Freedom Party (MFP) and BNP who supported the ABC request were also ruled out of order on the same issue. Consequently, these leaders staged a sit-in in the National Assembly until late at night when they were forcefully removed by the police and the national army.

While there are many definitions of democracy, there is a consensus among scholars that "a democracy can almost be defined in terms of the existence of an effective opposition because without these opposition parties, democratic consolidation cannot be achieved" (Shrire, 2000:27). In most developing and develop countries, the media has been single out as an agency which has been in the forefront of popularising and stressing "the indispensable role of opposition parties in protecting the interests and rights of citizens, monitoring government, and consolidating democracy"(Habib and Taylor, 2000;52). There are several reasons why opposition parties are needed in democracies. Habib and Taylor quoted Jun and Ian Shapiro (1995) who argued that opposition parties,

...facilitated a peaceful alteration in government. Parliamentary parties are perceived as institutional sites where 'counter political elites... (can) organise and inform themselves so as to be able to contest for power'(Habib and Taylor: 2000; 272). Should such institutional sites not exist, 'crises for the government are correspondingly more likely to become crises for the democratic regime. (Habib and Taylor; 2000:52).

¹ Standing Orders of the Senate of Lesotho 2006..

The parliament has consistently refused to recognise and appoint the Leader of the Official Opposition. In the 2002 parliament for instance, the BNP had 21 MPs having acceded to the National Assembly via Proportional Representation just like NIP in 2007. The BNP struggled unsuccessfully for five years to be awarded the status of Official Opposition (Public eye March 02 2007). This practice was also extended to the 2007 parliament. During the 2007 parliament, the Speaker of the National Assembly refused to grant the leader of ABC the status of the Official Leader of Opposition despite having won 17 constituencies and gaining additional 10 PR seats from his coalition partner the Lesotho Workers party and also after the other parties namely, MFP, and BNP had written to the Speaker declaring that they had formed a coalition with ABC and altogether having 31 seats in parliament, BNP 3 PR seats and MFP 1 PR seat. According to the Independent Electoral Commission (IEC), the ABC was supposed to be the main opposition in parliament (Watchdog, February 26-March 05 2007). However, the parliamentary Speaker saw it differently.

Opposition parties provide a viable institutional outlet for people who are unhappy with the government performance. It is through these institutions that government will be kept in check. Therefore, opposition parties present a constant reminder to the government that if its performance is not up to standard they will be removed from power comes the next elections. Sustaining their attack on the ruling party enable them to be perceived by prospective voters as a viable alternative to the ruling party. Furthermore, it can be argued that, “a viable parliamentary opposition facilitates institutional arrangements that enable the performance of a variety of public interest functions”(Habib and Taylor; 2000:52). In most cases, the opposition has an interest in keeping the government on its toes because this will make prospective voters see them as a better alternative to the government. By consistently engaging the government, the opposition parties are able to monitor and hold the government to account in a way that an ordinary citizen could not because they ask awkward questions both inside and outside parliament. They are also able to expose corrupt practices and excesses of government.

The Speaker of the National Assembly was notified by the ABC, LWP, BNP and MFP of their resolution that they have formed a parliamentary coalition and thus have nominated the leader of ABC as their leader. This communique was submitted to the Speaker in May 2007. In her response on September 8th, 2007, the Speaker read her ruling and declared that the coalition was unacceptable. She based her decision on Section 3 (Interpretation

Section) of the Members of parliament Salaries Act No.18 of 1998, which requires that the Leader of Coalition shall be a person leading a party or coalition of parties commanding 25 percent of the total membership of the National Assembly seats. She further concluded that, whether the parties have 31 seats or not, “for all intends and purposes, there is no legal body called ‘coalition of political parties’. The request for coalition would therefore not be granted. The only circumstances under which the requested recognition would be lawfully due, would be by merging or bringing (the parties) together to form one entity”(Public eye, October 05 2007).

The above ruling by the Speaker of Lesotho National Assembly was not only unfair but also unparliamentary because the ruling party LCD was in an identical coalition with the National Independent Party (NIP) which was also supported by the National Constitution Sections 87 (2). This Section allows coalition of political parties and Section 95 (h) argues that the Speaker shall appoint the Leader of Opposition and the leader of the opposition party or coalition of parties having the next numerical strength to the Council of state. It has been difficult to know why the Speaker ignored the Constitution in her refusal to honour the Opposition coalition. The fact of the matter is the position of Official Leader of the Opposition is created by the Constitution, and not by the Members Salaries Law. The ruling was in effect based on the wrong law. That law she cited was simply meant to make it difficult for the leader of the opposition to get benefits that goes with the status. It was for this reason that the Speaker’s ruling send shock waves among political scientists in Lesotho.

In essence the role of the opposition is not only important for the consolidation of democracy but for the country as a whole. The Opposition’s main role is to question the government of the day and hold them accountable to the public. The Opposition represents an alternative government, and is responsible for challenging the policies of the government and producing different policies where appropriate. A Leader of the Opposition is responsible for representing the Opposition at state functions, meetings with dignitaries and other important events. The way opposition parties work together can influence the outcomes if they succeed in working together and in building the political numbers they increase their chances of changing the government. One of the most important jobs of the Opposition is to constantly question the Government. “Any Government has to remain answerable to the public at all times, and a good Opposition can put the spotlight on serious issues and have them resolved quickly” (Likoti: 2007; p9). An active Opposition will also debate legislation vigorously in

the House and during the Select Committee process to ensure the legislation receives careful consideration. Therefore, being in Opposition is not just about opposing the Government. "There are occasions when the Opposition agrees with the Government. If the solution proposed by the Government has wide support, and is soundly based, then it's only natural for the Opposition to agree"(Likoti: 2007; p9). It is conceivable for the Speaker of the National Assembly to refuse to bless this opposition which is needed by Lesotho polity as a whole.

On February 17 2006, a member of the ABC, Mr. Tsotang Mophethe, lost the Matlakeng constituency. What shocked most people was to see Mophethe being sworn in as a Member of Parliament for the area on Thursday 15th March 2007(Public eye; 30 March 2008). He was supposedly taking the place of the rightful winner of LCD Mothobi Nkhahle. Mophethe stunt came to an abrupt end five days later when the parliament realised the mistake. He was stripped off his status five days after the event. The Speaker of the 7th Parliament informed the house that Mophethe was not an MP. She went on to explain the procedure that must be followed for one to become an MP but came short to explain the circumstances that led to Mophethe being sworn in.

The Speaker when asked about this unparliamentary act refused to reply to opposition members why Mophethe was previously summoned to parliament for the swearing in ceremony by the Parliament Authorities on the 16th March to parliament since he had not won the Matlakeng constituency(Public eye; 30 March 2008). In fact a faxed document from the IEC listed MPs who were to be sworn in on March 15th. In the list Mophethe's name appeared on number 24. The list was read before for MPs and Mophethe's name was called. On the other hand, the Hanzard of the National Assembly report on March 15th 2008 pitted Mophethe at number 25. These were some of the irregular activities which were performed by the 7th parliament of Lesotho. It is in fact unparliamentary for any person who was unelected to be sworn in parliament (Public eye; 30 March 2008).

Conclusion

According to Westminster model, Members of parliament enter parliament only through the ballot. They can either gain access as independents or party representatives. It is therefore, improper for the above parties (LCD, LPC and ABC) to betray the voters mandate in this manner. It is safe to conclude that Lesotho electorate was betrayed in June 1997, October

2001 and in September 2006. These actions were not only unparliamentary but undermined the Westminster model and constitutional principles. The fact of the matter is, MPs enter parliament, because they have been elected on a clear programme of principles (mandate). It does not mean that when they are in majority in parliament they do not have the moral obligation to uphold the electorate mandate. Voters put their party representatives in parliament because they sincerely believed and trusted them to use their mandate to advance the country's development, not to form a political party of their own choosing. This phenomena of party formation in Lesotho parliament, does not help the young democracy like that of Lesotho to flourish and mature. It is bound to weaken the principles of democracy namely accountability, transparency, representation and participation.

It is clear that the voters were denied their right to hold their parliamentarians to account why they changed their party label from BCP to LCD, LCD to LPC and from LCD to ABC. Secondly, the whole question of transparency remains highly questionable. When political parties enter parliament without first notifying voters of their intention to change their mandate and they subsequently changed during the life of parliament when they are aware that the voters cannot do anything because the rules are silent in this case, this is not only denying them to hold their leaders to account but their participation in the political process become handicapped. This whole action does not assist Lesotho democracy as explained above to grow like those of Botswana, Australia, Britain and Canada.

The dramatic developments in the 7th parliament have become a major cause of concern. It is not only unacceptable to discriminate other MPs but is similarly unbecoming to refuse to leave the house on a point of order in parliament. Even more unparliamentary has been the swearing in of Mr. Mophethe who lost election and was not even supposed to have been invited by firstly establishing whether he qualifies or not before administering the oath. All these action reflect the extent with which Lesotho parliament has descended into the lowest level which challenged its responsibility. But is equally unparliamentary to sworn an individual in parliament who does not qualify to be in this respectively house.

Opposition parties don't have the same resources as the Government and the Executive, so they have to work twice as hard to get the same results. This means that the government has nothing to fear but do the right thing. For instance, The Government has access to government departments and advisers to form their policies, whereas the Opposition often

has to go down different avenues to source the same information. It is similarly important that the leader of the opposition keeps a close eye and ear on what the public is saying, needs and wants, because problems are often caused by the Government not delivering. Since no government is infallible, it is bound to make some mistake and it is the role of the opposition to raise these issues and correct government. It is clear that the Leader of the Opposition has an important role to play in raising issues such as this. In this case the Opposition's formal role in Parliament is to hold the government to account. This is because its other major role is to propose alternatives to what the government is doing so the public gets the benefit of political debate between different directions. At one end of the spectrum there are occasions on which oppositions agree with the Government. These tend to be where it is simply in the wider public interest that a problem is fixed, where the solution the government is proposing has wide support, and it is hard to disagree with it.

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