

Dr. Fako Johnson Likoti
Fakolikoti@yahoo.co.uk

**Department of Politics and Administrative Studies
National University of Lesotho
P.O. Roma. 180.
Lesotho.**

**CHALLENGING ELECTORAL LEGITIMACY: IMPLICATIONS FOR
DEMOCRACY IN LESOTHO.**

CHALLENGING ELECTORAL LEGITIMACY: IMPLICATIONS FOR DEMOCRACY IN LESOTHO.

Abstract

Since Lesotho's independence in 1966, not a single major party has accepted elections results. This was despite acceptance of democratic process as a rule binding principle by all political parties. The culture of non-acceptance of elections results appears to be more alive than ever before, regardless of whether the elections were given a clean bill of health by both domestic and international observes. Since 1993, Lesotho has held four successive successful elections, which from 1998 election were managed by the independent Electoral Commission (IEC). Despite denials of electoral outcomes especially from 1993 till the 2007 elections, elected representatives remained in their seats. The military, which used to be a major problem in Lesotho politics, has been professionalised, the Judiciary is increasingly becoming independent and people believe more in electing their leaders through the ballot rather than bullets. In reinforcing this democratic culture, the Afro-barometer has identified strong believe by Basotho in multiparty democracy. The paper argues that regardless of the culture of challenging electoral legitimacy, Lesotho democracy appears to be stronger by the day. Democratic framework, that is, all democratic credentials and processes have been solidly put in place.

Introduction

The government that took power from the British in 1966 was led by the Basotho National Party (BNP) under the leadership of Leabua Jonathan as Prime Minister. The BNP had won the pre-independence election in 1965 with a slim majority. The main opposition Basutoland Congress Party (BCP) alleged various acts of coercion, cheating and other malfeasance in the conduct of the poll (Sekatle1995). Despite this, the party did take its position in Parliament as the official opposition (Sekatle1995).

In 1970, Lesotho's only post independence general election took place on Tuesday, 27 January 1970. As date for election near, the then prime Ministers eloquently urged the nation to support any party that will win the elections, "so long as it serves the nation. We must realise that our first loyalty is to Lesotho and not to political parties".¹ As results started trickling in, it became clear that the Prime Minister was losing ground to the Opposition BCP. By Thursday evening, the BCP had clearly won by a comfortable margin. The BNP government instead of accepting defeat, it swiftly arrested opposition parties

¹ Chief Leabua, New Year Message, December 31, 1969.

without charge for months, others harassed and the culture of human rights were eroded over night. The Constitution was suspended without any allegation of violation from any political party other than the ruling party its self. This was also done after the nation was assured of good conduct of elections across the country. The full results were never released officially, but reliable estimates gave BCP 36 seats, the BNP 23, and the MFP 1(Khaketla 1971).

Most Newspapers, which denounce the coup and the PM's arrogance, were banished. Prime Minister Leabua Jonathan even went to inform the media and declared that "I have seized power and I am not ashamed of It" (Khaketla 1971; p.226). This lavish display of non-acceptance of election results was done against the wishes of the majority of Basotho voters. By deploying both the police and paramilitary force, the PM was able to enforce his arrogance politics among electorates who refused to vote for his party. This was a defeat of the democratic will of the people. Leabua Jonathans' government ruled without elections until toppled by the army led by Major General Lekhanya in 1986 who was also later removed from power by Major General Ramaema who later relinquished power to an elected government in 1993.

Conceptual issues of democracy

Diamond (1995 and 1999) defines democracy as the best form of government; better than any imagined option. He views it as the only business in town. According to the Churchillian approach, it is a more rational, egalitarian and representative system than a dictatorship or its various species. For Adam Przeworski (1999) democracy is a set of rules that provide solution of conflicts without bloodshed. Popper (1962) concurs that it only in a democracy whereby citizens can be able to dismiss government from office without war. Similarly, Schumpeter (1942), defined democracy as a system whereby leaders are elected through competitive elections. Numerous conditions have been suggested that affect the likelihood of successful democratisation (Huntington 1991). Conducive conditions for Democratisation include low levels of violence, the development of political contestation before

the expansion of political participation, acceptance of the rules governing participative democracy and the electoral outcome, cooperation that cut across subcultures, political trust and beliefs in compromises and the legitimacy of democratic institutions (Dahl 1971).

Central to representative or participative democracy is the act of voting. This does not mean that voters make decisions but “what gives voting its democratic character, however, is that, provided that the election is competitive, it empowers the public to ‘kick the rascals out’, and it thus makes politicians publicly accountable”(Heywood 1997,p.67-68). The act of voting is very important in a democracy because is a right that the citizens have. It is this right that John Lock observes as follows: “ the right to vote was based on the existence of natural rights and, in particular the right to property”(Heywood 1997,p.69). It is the people who have the supreme power to elect and remove government. They have “a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them”(Lock 1998’p. 367). The process of granting this trust must be accepted by all more so when the process has been arrived at democratically.

In essence, by accepting democracy, we have chosen to govern ourselves as a collective and agreed to entrenched democratic principles in our Constitution. As members of democratic association we must obey collective democratic laws that are binding on all members of the association. We agreed that democracy among other regimes is the best way human beings can govern themselves (Mill 1962). This means that all requirements of the outcomes of democratic process will be binding on all of us, such as the outcome of elections that have been conducted in a free, fair and transparent manner.

It is through the acceptance of this democratic outcome that will lead to the formation of the government by consent as John Lock (1988) argued that the government cannot be based on consent unless is elected democratically. For Rousseau (1991), the vote of majority always obliges all the others.

Therefore, the results of majority must be respected. This is because we all have participated in the democratic process of choosing the government. In other words, to live under laws of ones choosing, we must participate in the election of our government that will protect our rights, interests and concerns. It is therefore, inconceivable to refuse to accept elections results conducted democratically. It is clear therefore, that democracy needs democrats and if leaders are democrats they are bound to embrace democratic values and if they are not they will not accept democratic outcomes (Matlosa 2007). We cannot expect undemocratic leaders to practice democracy. Lesotho has gone through several elections, but since 1993 elections, the country has gone through systematic elections unlike in 1970 when the ruling party refused to give way to a party that have won elections.

1993 Elections

The elections came in March 1993. Twelve political parties contested, including some newly-formed and splinter organizations. However, the contest, as in the past, was mainly between the BCP and BNP. The poll was well administered with only the usual hurdles of late opening of polling stations or limited supplies of material. Observed and monitored by international and local organizations, it was declared free and fair, and a reflection of the will of the people of Lesotho. In fact, "democratic elections, often marred with irregularities and/or partial under-representativeness, reflect popular choices, even if they do not conform with the interests and wishes of ruling elites. Those elections however, tend to express an expanded role of the public sphere, which has been limited-if not eliminated" (Abukhalil 1997: p149), since the end of authoritarian rule in Lesotho in 1993. The viability of elections is crucial in choosing government, "if elections are valuable and if they do not cause X the absence of X is not sufficient to reject elections as a definitional feature of democracy. To bemoan perhaps yes, but to reject not" (Przeworski 1999; p.24)

The outcome was a landslide victory for the BCP under Ntsu Mokhehle, which won all the sixty-five seats up for contestation in the National Assembly. The

BNP challenged the result and alleged that numerous instances of electoral fraud have occurred. These challenges were dismissed in court, and thus the BCP established a *de facto* one party state democratically elected in a national poll (Eisa 2007).

What shocked most political pundits was the dissolution of the BCP government, parliament and the suspension of parts of the Constitution and appointment of transitional government of national unity (Saunders 2002:p.525, Institute of Security Studies 2003, Lodge et al 2002;p.94) by the King on the 17th August 1994. This palace coup was condemned both internationally and locally. The King soon recapitulated as the international community was in unison against his unconstitutional act of removing a democratically elected government (Eisa 2007). The government and parliament was reinstated together with all the suspended Constitutional sections (Lesotho Government Undated, Saunders 2002;p.525, Encyclopaedia of the Nations 2005).

1998 Elections

Shortly before 1998 elections, a new party, Lesotho Congress for Democracy (LCD) emerged from within the BCP. A second round of election took place in May 1998. The LCD emerged victorious in this election. LCD won 79 of the 80 constituencies leaving one seat to the main opposition party the BNP. The LCD won 60 percent of the popular vote while the opposition collectively polled 40 percent of the vote (Molomo 1998). The 1998 elections were well administered with only a few problems identified, although this was the first time that Lesotho used an Independent Electoral Commission (IEC). International observers and local monitors declared the poll free, fair and a reflection of the will of the people of Lesotho.

This time around the opposition that alleged fraud was made up of the BCP, BNP, and other smaller parties. They mounted a sustained protest campaign that saw hundreds of their supporters camped outside the Royal gates in Maseru, demanding the dissolution of the government by the King. As the

protest intensified, the government agreed to establish a commission to investigate the allegations of impropriety in the conduct of the poll. The results of the Langa Commission found that the outcome reflected the will of the people (Likoti 2007).

The atmosphere was characterized by serious political conflict, and a serious breakdown in public order following the General Election of 1998. This poisonous situation was addressed by external diplomatic intervention by South Africa and military interventions by Botswana and South Africa. The Interim Political Authority was established (IPA) (Likoti 2007). This body introduced a new electoral model, the Mixed Member Proportional (MMP) representation to entrenched democracy even further. The model provided 80 First past (FPTP) the post seats and 40 proportional representation (PR)seats

2002 Elections

The 2002 elections returned the LCD to power with almost the same majority. The party won 79 of the 80 FPTP seats, with the Lesotho People Congress (LPC) taking the remaining one. The remaining 40 PR seats were allocated among nine opposition parties. Olaleye (2003) argued that the fragility of Lesotho polity continued despite the 1998 instituted political reforms. This scenario was succinctly painted by a recent report by the Electoral Institute for Southern Africa (EISA). The report, titled 'The Road to Democratic Consolidation in Lesotho' argues that, "while the last general election in 2002 was relatively calm, the losing party still contested the results in court" (Lesotho 2006) Political parties still refuse to acknowledge defeat despite elections conducted in a free, fair and transparent Manner. Although opposition parties have continued to challenge both the credibility of the IEC and the result of the election, it appears that structures and institutions have been put in place to address these concerns. This was exemplified by the successful holding of Local government elections in 2005, which were also declared as free and fair despite the continuing culture of non-acceptance by opposition parties (Matlosa 2007). These elections like those above were

observed by both international and domestic observes who endorsed their outcome.

2007 Elections

Lesotho 17th February 2007 elections was undoubtedly one of the most extraordinary in recent Lesotho history for two reasons; First, for the first time in the political history of Lesotho, the country was faced with snap elections as a direct consequence of fragmentation of the ruling party in parliament. Following this fragmentation in October 2006, the Prime Minister of Lesotho was forced to call snap elections. The breakaway party, the All Basotho Convention (ABC), left the government of Pakalitha Mosisili with the slimmest of majorities in the 120-member chamber. The ABC was formed with 18 members of all former LCD parliamentarians who had gain access to parliament through FPTP. This crossing of the floor by the ABC motivated the governing party, which was left with 62 members of parliament to call for snap election.

Second, the ABC was led by former communications Minister Thomas Thabane who was popularly known as Mr delivery within the LCD government and in some quarters. Thabane was able to generate unprecedeted interest among prospective voters and injected 'issues' into the campaign, a new feature in Lesotho politics. Third, this was an election that provided a rare competitive challenge to the party that has ruled the country for a decade with no credible challenger around. The LCD hegemony appeared to be facing a determined onslaught from its splinter party the ABC. Furthermore, out of 19 political parties registered with the independent Electoral Commission (IEC) only 12 of them contested elections.

To the consternation of the opinion pollsters, like 'work for Justice and the public eye newspapers,' whose findings throughout the campaign had predicted an ABC, victory over the LCD, these predictions were proved wrong. The final allocation declared by the Independent Electoral Commission was far different from the above predictions.

The LCD secured a conformable 61 First Past the Post seats, and its alliance partner the National Independent Party (NIP) got 21 proportional representation seats that accounted for 82 seats in parliament. ABC got away with 17 constituencies (FPTP) and its alliance partner, the Lesotho Workers Party got 10 proportional seats. Basotho National Party (BNP) a traditional rival of LCD emerged fifth with a poor showing of 3 proportional representation seats. LCD victory surprised many because of the then unfriendly circumstances that made this victory unfeasible as the above pollsters had predicted.

Following opening of the 7th parliament of Lesotho, some opposition parties raised strong objections to the outcomes of this election 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 All Basotho Convention requested the Speaker of 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 Lesotho Congress for Democracy 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.² 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 rule out of order; leaders of Marematlou Freedom Party (MFP) and BNP 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 army.

As part of the protest they staged a three-day stay-away in Maseru, the capital on the 18th to the 20th March 2007. Lesotho council of NGOs and

² Standing Orders of the Senate of Lesotho.

heads of churches in different fora sought hearing with the opposition. The LCN made a specific call to the opposition parties to call off the stay-away to facilitate opening dialogue with government. In consideration of the plea, meeting with heads of churches and the meeting with SADC Executive Secretary, the opposition called off the stay-away on the second day of its three-day plan.

Opposition parties also challenge the correctness of allocation of seats as prescribed by the constitution and the National Assembly Elections Act. This issue is still outstanding as the parties are awaiting elections experts, which have been called by the SADC-Imminent Person Sir Ketumile Masire. It is important to state that, these expect will only come to Lesotho after all elections related cases before the High court of Lesotho have been dispensed with.

The losing parties major claim has been that elections were rigged manipulated and therefore seen as undemocratic. These accessions have been made despite the fact that each of these elections has been given a clean bill of health by both domestic and international observers. Despite this culture of non-acceptance of elections results, Lesotho democracy appears to be holding and growing stronger by the day.

The strength of Lesotho Democracy

Before discussing the strength of Lesotho's democracy, it is important to highlight the environment where democracy is weak, elections manipulated, the IEC and judiciary not independent. Zimbabwe is a typical example of a weak democracy within the Southern African development Community Region (SADC) that comes to mind. Lack of democratic values within the ruling Mugabe regime can be traced to the 1983 period where unfair constitutional and electoral laws, which rendered the elections process meaningless were instituted. Among 150 Zimbabwean parliamentary seats for instance, 30 are selected by the President who also,

appoints the members of the Electoral supervisory
Commission-usually serving or retired Officials-who

are answerable to him. The Registrar General is a presidential appointee, responsible, for instance, for maintaining the voters roll, unfettered by any legal obligation that the list be open to scrutiny (Good 2002:pp.10-11).

In fact in 1995 over 100,000 voters had to be turned away because the voting was chaotic and the voter's roll was problematic. Most of these voters were unable to say whether their names were in the register or not.

Three days after loosing the 2000 referendum, Mugabe regime unleashed on the 16th February war veterans to occupy commercial farms. The campaign to confiscate farmland was "spear-headed by self-styled war veterans (of the liberation struggle), whom President Mugabe had promoted and mobilised behind himself and his interests" (Good 2002:p.14). In fact, around March 2000 more than 500 farms were occupied and by November the same year, 1700 were also confiscated. President Mugabe informed the nation that the government would not interfere; the era of anarchy had arrived. Farm workers were assaulted, and killed, property destroyed, the police remained inactive and "when High court and Supreme court declarations were obtained ordering the removal of the occupiers, the executive and police took no steps to implement the orders" (Good 2002:p.15). The whole campaign was geared towards frustrating opposition supporters. Land expropriation went ahead regardless of court rulings.

Zimbabwean government refusal to abide by judicial rulings appears to have forced some senior Justices to resign their posts. The resignation of a High Court Judge James Robertson Devittie after making a ruling nullifying results of Zimbabwe's June 2000 parliamentary elections in three constituencies, reflected lack of democratic values by the Mugabe regime. The resignation of Devittie

comes in the wake of the resignation of the Chief Justice, Justice Anthony Gubbay who was pressured

into taking an early retirement by the government after passing a series of ruling, which were deemed to be against the country's land redistribution policy(Renaissance 2000;p.10, Melber2002).

This has made the existence of an independent and impartial Judiciary impossible and independent prosecution authority and impartial and competent police service difficult to flourish (Sisulu2005). The Department of Justice in Zimbabwe by January 2005 was still as yet to hear the 18 petitions of the Official opposition regarding the 2000 elections just two months before the March 2005 elections (Mail & Guardian 2005). These petitions were supposed to have been heard four years ago. In relation to the above events, The Commonwealth Secretariat reported that there was violence and intimidation in both rural and urban areas against voters supporting the opposition as part of government strategy to diminish the opposition. He indicated that

systematic intimidation was supplemented by electoral manipulation on a large scale. Constitution was gerrymandered, the electoral role is out of date, and ZANU hack is in charge of the count. A local human rights group found that 25 per cent of the names on the voters roll were either fictitious, listed repeatedly, or those of the dead (Good 2002:p.25).

Several international bodies confirmed that the roll was manipulated and full of errors. The United Nations Team also confirmed these findings. Towards the end of 2001 and before the 2002 Presidential elections, Mugabe introduced laws, which banned several international elections observer groups such as the European Union, The Carter Centre, American observer group and the International foundation for elections systems. All these

Draconian laws were being pushed through parliament...all but banned political gatherings, free speech and the right to strike. Parliament had banned

Zimbabweans overseas from voting, removing about 500,000 people—one in ten potential voters—from the rolls...other new laws made it harder for young people to register to vote (Good 2002:p.26).

There was even more evidence that indicated that government supporters could vote many times. Members of the opposition Movement for Democratic Change (MDC) were assaulted and 13 killed by ZANU-PF militia popularly known as terror Teens(Good 2002).

Despite having held regular elections, Zimbabwe represents a worst scenario in terms of democratisation index and political rights assessment. According to Freedom House, “political rights in Zimbabwe dropped to six in 2002, a score normally associated with autocracies. Its civil liberties are also scored at six. The electoral democracy in this country had clearly not prevented the erosion of civil and political liberties during this period, dropping to the level of dictaduras.”(Breytenbach 2002:p.100).

Within the whole of Southern African region, Zimbabwe has excelled in human rights violations among its citizens. On commenting of this pattern of gross violation of human rights, Kotz'e and Steyn argued that; “in Zimbabwe, war veterans and youth militia of President Mugabe’s ZANU-PF have been granted free reign in intimidating, torturing and attacking supporters of the opposition MDC” (Kotz'e et al, 2003:p. 78).

The South African human rights lawyer George Bizos (2005), argues that Mugabe was the 53 signatory of the Constitutive Acts (CA) establishing the AU which promises the rule of law and the implementation of the African Charter of Human Rights. He is also the party to the principles for free and fair elections (Mail&Guardian 2005). Notwithstanding, these undertakings, Mugabe’s regime consistently violated the CA. For instance, most newspapers, which did not support the Mugabe regime, have been shutdown and journalists have been deprived of their trade.

In 2002 the AU established a Fact-Finding Mission on Zimbabwe, by the African Commission, to investigate the above human rights excesses. The Commission came up with several recommendations of which Zimbabwe has still not yet adhered to their report recommendation, neither has the AU taken any action to punish or compel Zimbabwe to implement its Commission findings³.

Even though 2002 Zimbabwean elections which created a lot of controversy by undermining “civil and political rights of millions of Zimbabweans”(Raftopoulos 2002:p.25), the role of AU of promoting democracy in the continent never came to prominence. The same pattern of events was to be replicated by the 2005 Zimbabwean elections.

In support of Zimbabwe, South Africa and other AU members dismissed early warnings of simmering dangerous conflict as speculative. As the international Community suspended aid to Zimbabwe, in a SADC Summit in Namibia, the South African “Deputy President Jacob Zuma declared that the Zimbabwean President had convincingly explained that supposed redistribution of land would not affect commercial farming.” (Raftopoulos 2002:p.27), Member states were in support of this Zimbabwean view.

For Mozambican President, Chair of SADC Organ on Politics, Defence and Security, described Mugabe as a comrade and as “master and champion of the rule of law (Taylor 2002:p.70). Mismanagement in land redistribution, for him (Chissano) and Mbeki agreed was the fault, not only of colonialism and racism, but also of foreign donors.” (Good 2002:p.28). Similarly, President Chissano in accentuating what he called the root causes of Zimbabwean crisis even went further to inform the BBC television that “Mugabe was defending his people’s democratic rights, accusations that Mugabe had enriched himself at the expense of his people were untrue.”(Good 2002:p.28).

³The African Commission report recommended series of reviews in the following areas,

1. On freedom of expression
2. On the youth militia
3. On the rule of law
4. On the work of NGOs..
5. Legislation was required to reinforce all these democratic institutions.

In order to investigate the above accusations of Mugabe, SADC appointed a six men delegation to look at these claims. They however, “reiterated support for Mugabe’s land policies, in December 2001, and declared their opposition to sanctions because, the Malawian Foreign Minister claimed, they would ‘hurt’-not save-‘the whole region” (Good 2002:p.28).

The African Union (AU) and SADC delegates who were observing 2002 Zimbabwe’s Presidential elections were evasive in their account. In most cases they did not even recognise that these elections were conducted under environment of violence and intimidation. The South African Mission in their press conference argued that their “mission did not witness instances of violence” (Nkiwane2002: p.55). The Namibian delegation together with SADC Ministerial Forum in their press statements on March 9th 2002 “argued that the violence had been exaggerated by the international media and that they were satisfied with the elections at that point” (Nkiwane2002: p.55).

The SADC parliamentary Forum⁴ press conference created a furore. Their conference was postponed three times. It was clear that the team had fundamental differences. The delegates from Tanzania, Angola and Namibia were arguing for a less critical report while majority members were arguing for a more critical reporting of events as a whole. The SADC Forum eventually convened their press conference in which they argued that “because of the climate of insecurity in Zimbabwe since 2000 parliamentary elections, the electoral process could not be said adequately comply with the norms and standards for elections in the region” (Nkiwane2002: p.56). Conversely, South African delegation called them legitimate. These different versions were made despite the alarming violence and intimidation that characterised the elections and also despite the fact that Zimbabwe lacks an independent electoral body, which administer and control electoral process and conflict management. This situation reflected a poor democracy as compared to that of Lesotho.

Lesotho Democracy

⁴ This is the SADC body send to Zimbabwe to observe elections.

It is clear that Lesotho democracy is more consolidated than that of Zimbabwe. The recent elections in Lesotho indicated that Lesotho political events like those of the Arab world could no longer be reduced to violent overthrow of governments and the palace coups d'etat of 1994 (Abukhalil 1997). Lesotho democracy has been strengthened by various events particularly those of 1994, 1998, 2002 and 2007. In Lesotho, unlike in other countries where dictators have held elections to confirm their rule such as in Pakistan in 1984, some countries in Latin America (Mexico, Argentina), Gabon, Uganda and Zimbabwe, where one dominant party has used bribery and coercion to retain power or "they have taken the form of contests where competition was permitted but only between candidates standing on the same party ticket (Kenya)"(Hague et al1993: p.190), the country has enjoyed competitive pluralistic politics. Elections have offered genuine choice among voters. This has been exemplified by an unusually large numbers of parties for a small population such as that of Lesotho. Civil liberties have not been eroded and the country continues to boast a clean human rights record.

The military in Lesotho for the first time came under civilian leadership unlike before when it was highly influential and infiltrated by party politics. The establishment of the Ministry of Defence, with the Prime Minister as the Minister of Defence while existed before 1995 under a democratically elected government, ensured that the army was completely subordinated to civilian control. What was new after 1998 elections was the vesting of the day-to-day administration on the Principal Secretary (PS) who formulated and executed defence policy and provided superintendence over the organisation of the army. This process represented efforts towards the institutionalisation of the army to civilian control.

The military went through several faces of training, which was geared towards instilling professionalism, de-politicisation and discipline (Nkoho2001). The first Lesotho Defence Force (LDF) training after 1998 conflict took place in May 1999. The training was led by the combined taskforce from Botswana, South Africa and Zimbabwe Defence Forces. These foreign forces laid down guidelines for this operation.

One of the pioneering courses that was undertaken by the Lesotho army was the promotion of awareness among the LDF members of the role of Non-governmental Organisations (NGO'S), and civil society groups in conflict management within the society and improving good relations between the army and these groups (Masoetsa 2001:p.10). In officiating in one of these training sessions, the Minister to the Prime Minister Sephiri Motanyane argues that it was not through the use of arms that the military can be able to secure the nation but, by first understanding their military role. The USA Ambassador Damier P. Bellgarde on the other hand, argued that the military must be trained in order to protect democracy (Masoetsa 2001).

In order to strengthen the training of the LDF, the government of Lesotho approached the government of India for training assistance. Therefore, in June 2001, Lesotho army received Indian Military Training Officers whose mission was to further intensify training efforts and to professionalize Lesotho army (Ntoi 2001:p.19). Apart from this training, the budget of the army was also reviewed to reflect national priorities.

In the past, the military budget in Lesotho always tops all government Ministries. For the first time after 1998, this practice was abandoned by the government. For instance the 2002/3 national budget put the Defence budget in the fifth position in terms of resource redistribution and national prioritization. The other four top Ministries were Education with 22 percent of the budget, Public Works 9.2 percent, Health 8.2 percent, Finance 7.8 percent and Defence at 5 percent (Matlosa 2005). This trend continued in 2004/5 to 2005/6. Another further development included the LDF participation in international operations such as operation Blue Hungwe in 1998, operation Blue Crane in 1999, operation Ex-Tanzanite 2002 Recamp-3 and Darfour, African Union Observer Mission in 2005/6.

Significant developments have been put in place to ensure that the army is no more a factor in party politics. This process has enhanced Lesotho's democracy. Similarly, the judiciary has become increasingly independent. It

follows that lack of judicial independence is a first indication of a weak democracy, such as that of Zimbabwe.

The Independence of the Judiciary

The judiciary is beginning to show a considerable measure of democratic independence, as the democratic government is presenting strong signs of democratic maturity. In most strong democracies whether in North America or Western Europe, the majority citizens are proud of their legal system. They normally take pride of the fact that their judiciary is above politics. In such democratic environment, where "it is very difficult for politicians, be they members of the legislature or of the executive, to influence the outcome of particular legal cases"(Gallagher et al1992, p22) democracy is known to be strong. Lesotho appears to be on the way towards strengthening her democracy if not already there.

Recently, Lesotho government has lost a series of high profile cases. This has been a clear testimony of the independence of Lesotho Judiciary. Among some of these cases were the following; first it was the case of Anthony Clovis Manyeli, president of National Independent Party (NIP) against the Attorney general and others. He was challenging the decision by the Independent Electoral Commission (IEC) acceptance of the submission of Proportional representation list by the NIP Secretary General, which included the names of members of the ruling party (LCD). In this case, the High Court in CIV/APN/45/07 found against the IEC and the Attorney General on the 5th February 2007 and on the 8th February 2007.

Secondly, in another matter against the government on the 9th June 2007, Judge Semapo Peete ruled that the government acted improperly in denying the religious radio station, Harvest FM, the use of the National Convention Centre (NCC) for the station's birthday concert. The feast was scheduled for the same evening. The case cited the Minister of Tourism as first respondent, the commissioner of police as second respondent, the manager of NCC and the Attorney General as the fourth. The judge ruled that the permit issued to

applicant on June 4 2007 should persist subject to the conditions that, the commissioner of police was ordered to mount maximum surveillance of the operation of the festival from the time of Judgment until the closure of the festival at 6am the following Sunday morning; the petitioner undertook to ensure that all activities were gospel related, and exclude politics; and in case of violation of the law, the commissioner of Police or her subordinates were given powers to stop the festival (Public eye Friday June 15 2007).

Adam Lekhoaba, a controversial Harvest FM presenter, who was recently deported to South Africa by the government of Lesotho was granted by the Constitutional Court an order to attend court proceedings in which he challenges his deportation from Lesotho. The order allowed him to enter Lesotho and present himself to Assistant Commissioner Mphatsoane or to a police designated member at an agreed time to be conveyed by such member to the High Court. In granting the application, Constitutional Court Judge Semapo Peete said the grant of an order would allow Lekhoaba to be present in court for a fair hearing. In addition, he observed, his presence would enable him to brief his lawyer (Public eye Friday June 15 2007).

In another development, the retired army Warrant Officer and four others were arrested by the military for allegedly having stolen army weapons. The state also alleged that they were plotting a coups d'etat. Due to lack of evidence, their barrister made an urgent application before Justice Mahase who ordered their release on July 2nd 2007 after brief appearance (CIV/APN/270/07).

On the other hand the Law society of Lesotho appeared before Justice Hlajoane on the 16th of July 2007 on allegation that the above applicants were tortured, assaulted, humiliated and their human rights violated. They appealed to the High court to restrain the Prime Minister, Commander of Lesotho Defence Force, Commissioner of Police and the Attorney General or their subordinated from committing the above acts and appealed to the Court to order Commissioner of Police to investigate and arrest any one continuing to

commit the above violations of Human rights. The Court granted the applicant, the Law Society of Lesotho an interim order CIV/APN/290/07.

Since 1993, democracy in Lesotho has experienced a bumpy right and went through severe hardship. All these cases reflect a highly strengthened democracy as opposed to a weaker one in Zimbabwe. While democracy, like most political systems in the world is not without flaws, it is important, because apart from its inclusiveness, degree of legitimacy, flexibility and constant adaptation, it has a strong quality of building norms and values among political actors (Bloomfield et al 1998). Some of these values existed in Lesotho since 1993. It must be recalled that this was the fourth consecutive election since 1993. In fact, Larry Diamond (1994), a notable political scientist argued that if a country is able to hold more than two successful elections in succession, its democracy could be regarded as consolidated.

People now believe in changing leaders through ballots not bullets and in holding regular elections not government overstaying in power. The 2006 October snap election in Lesotho was a case in point. Immediately, when the government realised that its mandate was shaken by party fragmentation in parliament almost a year before end of its term it found it democratic to call for snap elections. Basotho in recent years have increasingly favoured democracy than any other regime. They have come to accept democratic institution more than any time in their political history. According to June 2006 Afro-barometer survey conducted in 2000, 2003 and 2005 there is a strong support in parliamentary democracy as the following table illustrate;

Table 1. Acceptance of democratic Institutions 2000-2005

	2000		2003		2005	
	Yes	DK	Yes	DK	Yes	DK
Reject Military rule	70%	7%	85	3%	83%	2%
Democracy Preferable	24%	25%	50%	16%	51%	7%
Keep Multi-party rule	51%	12%	61%	2%	70%	2%
Choose leaders by elections	36%	10%	66%	3%	76%	0%
Parliament Make laws	69%	8%	56%	7%	60%	2%

Source: AFRO-BAROMETER Briefing paper No.37 June 2006.

By increasingly rejecting military rule and accepting democracy and multiparty rule, Basotho accept democracy more than ever before in 2005. This study reflects the fact that democracy in Lesotho is at all time strong. From table 1 above is clear that no other type of rule is accepted rather than one which allows people to freely choose their leaders.

Since most citizens regard elections as the only means of their active participation in politics, they have a “feeling that they are exercising choices on who should represent them in the national parliament and on who should form the next government, even though the vote of any individual elector is unlikely to have much impact on either matter”(Gallagher et, 1992:p.145).

Conclusion

It must be recalled that, democracy is a process that can safely be evaluated after a minimum of systematic two successful elections according to some scholars such as Larry Diamond, these elections according to him reflected a consolidated democracy because they were all successful despite some discontent in some quarters.

Lesotho democracy is in far better standing than that of her regional partner Zimbabwe. All these events reflect that Lesotho democracy has been fully tested, therefore strengthened. In an environment of weak democracy, the government does not abide by the court decisions neither does it loose cases as reflected by the Zimbabwean case.

In all these cases, Lesotho democracy appears to have been fully tested since 1993, 1998, 2002 and 2007 elections and accordingly past the test as Larry Diamond argued above. Most voters in Lesotho, even those against the ruling party for one reason or the other believes in the use of ballots to elect leaders democratically. Voters’ donot believe in military rule anymore but on democratically elected governments where they are able to enjoy their democratic rights.

The strength of Lesotho's' democracy is not only exemplified by the independence of the Judiciary, professionalised military, but the fact that, at the height of the culture of non-acceptance of elections outcome, elected officials stayed at their posts both in parliament and in the Executive. Indeed the resilience of this democracy is not doubt anymore.

References

Abukhalil As'sad (1997). Change and Democratisation in the Arab world: the role of political parties. *Third World Quarterly*, Vol.18, No.1. Pp149-163.

Bloomfield Davis, Reilly Ben (1998). Characteristics of Deep-Rooted Conflict. In *Democracy and Deep-Rooted Conflict: Options for Negotiations*. Peter Harris and Ben Reilly ed. (Stockholm, International IDEA).

Breytenbach Willie. (2002). "Democracy in the SADC Region: A Comparative Overview" in *African Security Review* Vol.11, No4. PP. 80-105.

Diamond, Larry. (1995). *Developing Democracy: Toward Consolidation*. Baltimore: Johns Hopkins University Press.

..... (1999). *Developing Democracy: Toward Consolidation*. Baltimore: Johns Hopkins University Press.

..... (1992). "Economic Development and Democracy Reconsidered", *American Behavioral Scientists* 35:450-99.

Eisa, Lesotho:Democracy and Instability (1993-1998)
<http://www.eisa.org.za/WEP/lesooverview7.htm> 2007/07/06.

ENCYCLOPEDIA OF THE NATIONS (2005)."Lesotho History", Thomson Gale, [www] <http://www.nationsencyclopedia.com/Africa/Lesotho-HISTORY.html> [12February].

Gallagher Michael, Laver Michael and Mair Peter (1992). *Representative Government in Western Europe*. (New York, McGraw-Hill, Inc).

Good Kenneth," Dealing with Despotism: The People and the Presidents, Zimbabwe's Presidential Elections 2002 Evidence, Lessons and Implications, in Henning Melber ed, (Nordiska Afrikainstitute, Discussion Paper 14, Sweden by University Printers: 2002), 10-11.

Heywood Andrew (1997). *Politics*. London, (Macmillan Foundation).

INSTITUTE OF SECURITY STUDIES(2003), "Lesotho: History and Politics", [www] <http://www.iss.co.za/af/profile/Lesotho/Politics.html> [opens new window].

Khaketla B.M. (1971) Lesotho 1970; An African Coup under the Microscope. London; C. Hust & Company.

LESOTHO GOVERNMENT UNDATED, "History of the Basotho", Lesotho Tourism Development Corporation, [www] <http://www.ltdc.org.ls/About%20Lesotho/history.html> [11/04/2006]. Lesotho: Focus on challenges to multiparty democracy: In http://www.irinnews.org/report.asp?ReportID=38953&SelectRegion=Southern_Africa (11/04/2006).

Likoti Fako Johnson (2007). The 1998 Military Intervention in Lesotho: SADC Peace Mission or resource War?. International PeaceKeeping, Vol.14, No.2 (Apriel), pp.251-263.

Lock John (2nd ed),(1998). Two Treatises of Government. In Cambridge Text in the History of Political Thought. Peter Laslett ed. (Great Britain, Cambridge University Press).

Lodge T, Kadima D &Pottie D (eds), (2002) Compedium of Elections in Southern Africa, EISA.

Mail & Guardian (2005). Free and Fair , Zimbabwe Elections 2005: 25th March.

Matlosa Khabele, Shale Victor (eds), (2007). The Impact of Floor Crossing on Party Systems and Representative Democracy: A regional Perspective: The case of Lesotho pp.31-46. Seminar Report Johannesburg RSA March. Konrad-Adenauer-Stiftung.

.....(2007). Managing post-election conflict in Lesotho. Global Insight: A focus on current Issues. Issue 70/July, pp1-8.

..... (2005)'From a destabilizing factor to a de-politicised and professional force: The Military in Lesotho, in Evolutions & Revolutions: A Contemporary History of Militaries in Southern Africa, South Africa; Institute for Security Studies.

Kotz'e Hennie, Carly Steyn. (2003). African Elite Perspectives: AU and NEPAD; A Comparative study across seven African countries. Konrad-Adenauer-Stiftung Occasional Papers Johannesburg RSA Dec.

Melber Henning. (2002). Zimbabwe and "The Pitfalls of National Consciousness". In The People and the Presidents, Zimbabwe's Presidential Elections 2002 Evidence, Lessons and Implications, in Henning Melber ed, (Nordiska Afrikainstitute, Discussion Paper 14, Sweden by University Printers.

Mill John Stuart (ed), (1962). Utilitarianism. (Great Britain, HarperCollins Manufacturing Glasgow)

Masoetsa Ntele. (2001). 'Is not only Through Arms that the Army can Secure the Nation', Mara, Volume, 01 Issue No.3 September.

Molomo, M. (1998). "External Military Intervention in Lesotho's Recent Political Crisis" Lesotho Social Science Review Vol.5.1 (June). Pp133-162.

Nkiwane Tandeka C.(2002). "Observing the Observers": In The People and the Presidents, Zimbabwe's Presidential Elections 2002 Evidence, Lessons and Implications, in Henning Melber ed. Nordiska Afrikainstitute, Discussion Paper 14, Sweden by University Printers.:

Nkoho Tankiso,(200). 'Operation Maluti to Transform the Army', Mara, Volume, 01 Issue No.1 January-March.

Ntoi Ntlele. (2001). 'General Mosakeng Welcomes Indian Military Officers', Mara, Volume, 01 Issue No.2, May-June 2001.

Popper Karl. (1962). The Open Society and Its Enemies. London: Routledge and Kegal Paul.

Przeworski Adam, (1999). "Minimalist conception of democracy: a defense," in Ian Shapiro and Casiano Hacker-Cordon, Democracy's Value/: 23-55.

Public eye, Friday May 11, 2007.

Public eye Friday June 15 2007.

Public eye Friday July 06 2007.

Public eye Friday June 15 2007.

Raftopoulos Brian. (2002), Climbing out from the Rubble: In The People and the Presidents, Zimbabwe's Presidential Elections 2002 Evidence, Lessons

and Implications, in Henning Melber ed. Nordiska Afrikainstitute, Discussion Paper 14, Sweden by University Printers.

Renaissance, (2000). A Review of Democracy and Governance in Southern Africa Vol.2 No7 (August).

Rousseau Jean-Jacques (1991). The Social Contract and Discourses. (London, J.M. & Sons Ltd).

Saunders (2002). "Lesotho: Recent History" In Murison K (ed) Africa South of the Sahara 2002, Europa Publication.

Schumpeter Joseph A. (1942). Capitalism, Socialism, and Democracy. New York: Harper & Brothers.

Sekatle, P. (1995). "Disputing Electoral Legitimacy: The BNP's Challenge to the Result". In R. Southall and T. Petlane, eds., *Democratisation and Demilitarisation in Lesotho: The General Election of 1993 and its Aftermath*. Pretoria: Africa Institute.

Shale Sofonea (2007). The Post 2007 General Election Discontent: Which Way Out? Scenario Perspective.

Sisulu, Elinor (2005). Mugabe's Electoral Manipulation will not go Unchallenged: In Free and Fair, Zimbabwe Elections 2005: Mail & Guardian (25th March).

Taylor Ian. (2002). Zimbabwe's Debacle, Africa's Response and the Implications for the New Partnership for Africa's Development (NEPAD): In The People and the Presidents, Zimbabwe's Presidential Elections 2002 Evidence, Lessons and Implications, in Henning Melber ed, (Nordiska Afrikainstitute, Discussion Paper 14, Sweden by University Printers.