



**PEACE**

**POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION**

**PROMOTING DEMOCRATIC PRINCIPLES**

**LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.**

## **PEACE VIEWS OF THE ISSUE OF LESOTHO CONQUERED TERRITORIES**

The issue of Lesotho conquered territories has been making rounds recently and creating different perceptions and sometimes raising emotions within the country. Policy Engagement Action for Civic Education (PEACE), has decided to put clearly its view on this debate (of conquered territories). As an Empowering NGO, our duty is to empower citizen about what we see as factual and correct position regarding this 1867 matter. This we will do by citing the Charter of the United Nations and other international instruments that have been used to shape the current Lesotho Multilateral foreign Policy.

### **CHARTER OF THE UNITED NATIONS**

The body that we call United Nations today was born out of the Charter of the UN on the 26 June 1945. The charter urged all members of the UN to practice tolerance and live together in peace with one another as good neighbours.

From 1945 onwards it was a period of decolonization. There was enormous pressure from the UN to persuade colonial authorities to decolonize countries, so that, they can attain their independence and therefore, joined the family of the United Nations.

In relation to Basutoland, in 1962, on 18 December, the UN General Assembly passed a resolution 1817 (XVII). This UN resolution” urged the **UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (UK)** which held colonial authority over Lesotho at the time, to take immediate steps to return all land that had been taken from Basotho people without justification”.

We all know about wars of conquest that Basotho thought with Boers. What was strange about this resolution was that, it did not mention the return of conquered territories by South Africa. The country was at this time ruled by the Boers who were actually the culprits’ in this matter. The UN had earlier recognized the Republic of South Africa as a sovereign state as far back as 1948 with all its borders.



## PEACE

### POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION PROMOTING DEMOCRATIC PRINCIPLES

LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.

In fact South Africa was a founding member of the United Nations during its inception. What was strange was that the resolution 1817 (XVII) placed the return of the conquered territories to UK not RSA. This resolution was therefore problematic. How do you give someone responsibility to do something that is peripheral from him? The resolution was weakest from its inception by empowering people who donot matter to execute responsibility that was beyond their jurisdiction.

It must also be remembered that, UN General Assembly resolutions are **NOT BINDING** but have a persuasive power. UN General Assembly Resolutions have no implementation mechanisms. In fact, many countries have had resolutions passed against them and there has been none compliance to all these resolution by those countries.

Israel is a classic example (though not the only one) of a country where UN General Assembly has passed numerous resolutions without implementation. Countries like South Africa during the apartheid and other countries have ignored UN resolutions.

### **BINDING DECISION OF THE UN SECURITY COUNCIL**

The UN Charter in its provisions says that, the General Assembly can only make Non-Binding recommendations to its member states. Binding decisions for member states according to Article 24 and 25 of the UN Charter are executed by **The Security Council**. **Article 24,(1)** reads as follows: **In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.**

**Article 25: The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.**

The above two articles of the UN Charter completely invalidates the UN Resolution 1817 (XVII) because it was not passed by the Security Council according to these Articles; 24 and 25.



## **PEACE**

### **POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION**

#### **PROMOTING DEMOCRATIC PRINCIPLES**

**LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.**

In the Security Council, the five permanent members; that is USA, UK, China Russia and France still have veto powers. Since The Security Council did not pass Resolution 1817 (XVII), it fall under those none-binding resolutions. This has been another complication of this resolution. It has never been presented or discussed by this body.

### **ORGANISATION OF AFRICAN UNION**

The OAU at its first ordinary session held in Cairo, Arab Republic of Egypt, from 17-21 July, 1964 passed a resolution that was drafted by President Julius Moalimu Nyerere and others. The resolution drafters have observed that, none acceptance of colonial borders will render African countries unstable indefinitely. Thus creating major security problem of these countries while the colonialists benefits from these conflicts and Africa continues to bleed.

They argued that most of these pieces of land have been developed by receiving states and their populations assimilated to them as citizens of those countries just like Basotho in the Free state in South Africa, Banyamulenge from Rwanda in the eastern DRC, Uganda and Burundi to name just the few cases. The permanent solution was that all African countries agree to the proposed resolution for the sake of permanent peace and stability.

The session passed resolution AHG/RES, 16 (1) which considered that the borders of all African States, on attaining their independence constitute tangible reality and be accepted as such.

The AOU reaffirmed strict adherence of all its Member States to the principle of respect of the sovereignty and territorial integrity of each state and for its **INALIENABLE RIGHT TO INDEPENDENCE AND EXISTANCE**. The resolution therefore, forced member states to accept the colonial borders as they found them during independence. In other words, each member state of the OAU accepted this reality and the resolution was adopted and ratified by all OAU member states.

### **LESOTHO INDEPENDENCE 4<sup>TH</sup> OCTOBER 1966**



## **PEACE**

### **POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION**

#### **PROMOTING DEMOCRATIC PRINCIPLES**

**LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.**

On attaining her independence and becoming a member of AOU, Lesotho never objected to the above OAU resolution. In fact, a newly independent Lesotho embraced, ratified and accepted resolution AHG/RES, 16 (1) above. By joining and attaining membership of the AOU, Lesotho committed itself irrevocably to the principle of respecting the borders that existed before 4<sup>th</sup> October 1966. This was the cases in point with Iswatini, Botswana, Tanzania and Namibia.

In 2001, Lesotho also ratified constitutive Act of the newly formed African Union (AU). This complicated the whole project of trying to secure land annexed by the Boers during the colonial period. This meant that, Lesotho reaffirmed its acceptance of the principle of respecting borders as they existed during independence. Article 4 (b) of AU mandated all its members to respect existing borders on achievement of independence. This article formed the corner stone of peaceful coexistence and stability and security of the continent.

According to the constitutive Act of the AU that Lesotho ratified, all member states are mandated not to deviate from these principles or jeopardize worm relations between member states. Since every state has fundamental right to protect its sovereignty and defend itself. Member states are discouraged from unilateral territorial reclamation that could escalate into threat or use of force.

## **INTERNATIONAL COURT OF JUSTICE**

The ICJ is a court established by the Security Council and based at The Hague in Netherlands. Where countries fail to resolve their disputes through diplomatic means, they are encouraged to approach ICJ or Permanent Court of Arbitration rather than embarking on the dangerous route of unilaterally reclaiming the territory in terms of section 1 (2) of the constitution of Lesotho.

Several countries have used this route to solve their territorial disputes on the African continent. Closer to Lesotho and recently, Botswana and Namibia in 1999 approached the permanent Court of Arbitration regarding Kasikili/Sedudu Islands.. It must be stated that boundaries awards have been far between



**PEACE**

**POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION**

**PROMOTING DEMOCRATIC PRINCIPLES**

**LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.**

## **LESOTHO AND THE REPUBLIC OF SOUTH AFRICA**

Lesotho and South Africa share similar vision of the Africa we want, AU vision of prosperous and peaceful Africa driven by its own citizens and the concrete realities and dynamics of geopolitics around them. They are forced to approach this matter in a diplomatic manner and ensuring that both of countries and their people live in peace and harmony by strengthening their friendly and good neighborliness relations.

Therefore, the claim of Lesotho territory in South Africa is misplace and the continued claiming of this land is tantamount to bring Lesotho and Basotho undesirable consequences. South Africa is a Military power on the African continent. This country is forged out of many countries like Botswana, Namibia, Lesotho, Iswatini, Zimbabwe and Mozambique. The consequences of these claims are too ghastly to contemplate.

Rather than making these internationally illegal claims to South Africa, Lesotho and the Republic of South Africa, have to settle their border disputes through peaceful means. They have to use diplomatic means and engage in efforts to strengthen their friendship based on the established principles of sovereignty over territory, treaties, recognized historical boundaries and evidence of effective control.

## **CONSTITUTIONAL DILINGUENT**

According to section 71 (1) of the Constitution of Lesotho, every Member of Parliament (MP) must take Oath of allegiance before parliament. It is our understanding that, every MP shall abide by the Lesotho Constitution and not arrogate or usurp the power of the other organ of state. Section 86 of the same constitution vest the executive Authority on the King who shall exercise this power through the authorities of the Government of Lesotho.

PEACE has learned that a Member of Parliament (MP) of Lesotho recently proceeded to USA to lobby the UN General Assembly about the conquered territories. It is our understanding that, he did not represent the Parliament of Lesotho and the Executive. This was shocking to us, since



## **PEACE**

### **POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION**

#### **PROMOTING DEMOCRATIC PRINCIPLES**

**LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.**

Lesotho has a Legitimate Government that is mandated to play this role. The foreign policy of Lesotho resides in the Executive. This role is not for an individual MP who was not fully mandated by the Executive.

Honourable Lipholo (MP) must have been fully mandated by a legitimate government to proceed to USA to lobby the UN General Assembly. He was neither mandated by Lesotho Government nor by Parliament. In fact Honourable Lipholo can be characterized as a Constitutional delinquent.

The Issue of Lesotho land is very emotive and serious to be dealt with by individuals without a full mandated of a Legitimate government. This foreign policy issue remains a domain of the Executive not a Constitutional delinquent who usurps its powers. It is unheard of, where an ordinary MP out of the blue, without being fully mandated by the Executive out of his own volition, performs the role of the Executive in blatant violation of section 86 of the Lesotho Constitution.

### **RECOMMENDATION**

It has been in this context that Lesotho and RSA should find creative means to manage their people's expectations regarding perceptions of territorial conquest in view of several previous treaties that both countries have signed and promotion of regional security, stability between themselves within the Southern African development Community (SADC) and the African continent as a whole.

Both countries should try by all means not to fall in the unfortunate trap of colonial borders which main intention is to render not only these two countries but the whole continent unstable.

Rather than the two countries engaged on artificial and unfortunate colonial boundaries, they should persevere to promote and strengthen economic integration since they both share similar economy and rip similar profits from the trends of economic downturns both regionally and globally.



## **PEACE**

### **POLICY ENGAGEMENT ACTION FOR CIVIC EDUCATION**

#### **PROMOTING DEMOCRATIC PRINCIPLES**

**LESOTHO TIMES, MAY 8-14, 2025. PAGE 9 VOL.18, ISSUE 6.**

South Africa and Lesotho should explore SPECIAL RELATIONS Framework, that, was established between UK and the USA and examine its viability between them. In this framework, a citizen can work, purchase a house in each country but not vote. That is a UK citizen can work in the USA and secure permanent home and establish a business but not vote. This is the case in point with a USA citizen in the UK.

Frameworks like Southern African Customs Union (SACU) currently in existence between, Botswana, Namibia, Lesotho, Iswatini and South Africa and the common monetary area between Iswatini, Lesotho, Namibia and South Africa must be strengthened. Lastly, the 2007 agreement on the facilitation of cross border movement of citizens between Lesotho and RSA are crucial in fostering economic integration.

Lastly, we strongly recommend that any individual who engage in issues of foreign policy must be held accountable, otherwise there would be no reason why we have a legitimate government.

## **CONCLUSION**

The Lesotho border before independence cannot be returned as envisaged by the Resolution 1817 (XVII) according to both the Charter of the UN and Constitutive Acts of the AU. What can happen is diplomatic means to establish special relations between Lesotho and South Africa.

In relation to the Dr. Lipholo (MP) who violated the constitution of Lesotho by engaging in the area of the Executive, we feel that he must be held accountable by both the National Assembly and the Government of Lesotho. The consequences of his actions are too ghastly to contemplate.

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