

STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO LESOTHO'S 2007 ELECTIONS

Maseru, January 25, 2007

This statement is offered by an international pre-election delegation to Lesotho, organized by the National Democratic Institute (NDI). From January 22 through 25, 2007, the delegation assessed the political environment in Lesotho in advance of the February 17 parliamentary elections. The delegation met with a broad spectrum of Basotho political and civic leaders, government officials, electoral authorities and representatives of the international community in Maseru. In addition, the delegation traveled outside Maseru to observe political rallies and was informed by in-country staff members.

I. EXECUTIVE SUMMARY

Parliamentary elections scheduled for February 17, 2007, offer the people of Lesotho an opportunity to further overcome a history of controversial and sometimes violent, elections. The continued consolidation of democratic governance offers the best hope for attaining sustained peace and economic and social development in the country. The upcoming elections can be an important step in that direction. However, exceptional efforts must be made to assure the people and political contestants of Lesotho that the electoral process is transparent, credible and inclusive.

On October 13, 2006, 18 members of the ruling party crossed the floor and announced the creation of a new political party, leaving the government with a narrow majority in Parliament. On November 14, the government exercised its legal authority and asked the King to dissolve parliament, setting in motion an election timetable that required new parliamentary elections be held within 90 days.

Although “snap” elections are a possibility in parliamentary systems throughout the world, the 2007 elections are the first such elections to be called in Lesotho’s political history, resulting in an atmosphere of rushed political campaigns, a scramble for resources and a lingering lack of trust about the rules of the game.

Although there is general agreement that these steps were taken according to the law and constitution, it is clear that many were caught off guard by the short timeframe to prepare for elections as many political parties, aspiring candidates and potential voters had been planning for an election expected in mid-2007. Coupled with important electoral changes that failed to be adopted before Parliament was dismissed, this timeframe has given rise to a sense among many of discouragement, frustration and suspicion.

In short, this “extraordinary election” calls for extraordinary efforts on behalf of the electoral authorities, government, political parties, media and civil society to ensure that laws and rules of the electoral framework are followed in a spirit of maximum flexibility and with enhanced efforts to ensure equity and fairness in the process. For some, doubts remain as to whether this has taken place.

At the same time, the electoral environment is marked by several positive factors, including efforts by the IEC and political party leaders to work directly together to discuss key challenges in the electoral process in a spirit of cooperation and openness. The presence of a code of conduct enshrined in the electoral law; and an electorate that has demonstrated a high level of interest in participating in the process – particularly among young people is also encouraging.

The delegation noted the commitment of many Basotho government officials, political and civic leaders to developing and strengthening the democratic election framework. In recognition of this, and, in the spirit of international cooperation, the delegation respectfully offers the following major recommendations.

- **Voter Registration:** The snap elections have created intense pressure on electoral officials to update and correct the voter registration list. The short timeframe provided for electoral preparations; the brief period allowed for new registration; technical problems and capacity constraints; and unclear instructions about verifying and challenging the voter registry, resulted in a provisional voters list with significant errors causing concern and anxiety among parties and citizens. The delegation acknowledges that several constructive steps were taken to remedy this including dialogues between the IEC and key stakeholders, the creation of an updated provisional list and additional technical assistance to the IEC. Despite these positive steps, doubts continue to exist among citizens and parties regarding the accuracy of the voter registration list. Concerted efforts should be made to inform political parties and the general public about the current state of the voter registry. The IEC can engage in a proactive communication campaign for example through media and traditional mechanisms like *pitso* to assure the people of Lesotho and its political contestants of the integrity of the list and address any outstanding concerns in order to foster confidence in the system.
- **Access to the Media:** The delegation acknowledges that the free media opportunities provided to each political party affords them an opportunity to highlight their programs to a wide audience. However, concentrating this time in one-hour increments may limit citizens' exposure to the variety of parties and platforms competing in the elections. The government of Lesotho, the IEC and the media could consider providing extra time to political parties in 5-10 minute increments over the coming weeks in order to ensure that voters have the greatest access to information possible. Newspapers, television and more importantly, radio, provide nationwide coverage and information to potential voters in Lesotho. To build public confidence in the impartiality of the electoral process, and to level the playing field among political contestants, the IEC should work with relevant authorities to ensure that all parties have increased and equal access to state media. According to the Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections, which was adopted in August of 2004 during a summit in Mauritius, political parties must have an equal opportunity to access state media.
- **Use of Taxpayer Resources:** The delegation heard complaints from several groups who were concerned about the use of state resources during the campaign period. Incumbent governments in any democratic system may have a natural advantage in electoral campaigns due to the availability of state resources financed by taxpayers.

These resources include official staff, access to state media, cars and government-administered social programs. The delegation notes that governments, therefore, must be extra cautious to ensure their use of these public resources in the normal conduct of their business does not directly subsidize or be seen to subsidize their re-election efforts. Public funds should be used to the maximum benefit of the public and not favor any one political party. This principle also reflects the “Norms and Standards for Elections in the SADC Region” that were adopted by the Southern African Development Community – Parliamentary Forum (SADC-PF) in March 2001.

Electoral Framework: The delegation is encouraged by the commitment displayed by Basotho political parties and civil society organizations to further strengthen the democratic framework governing elections. Key amendments to the existing legal framework prepared before elections should be prioritized for consideration, debate and adoption once the new parliament takes its place. Despite these concerns, there was a sense of acceptance that the current elections are being held within the framework of the country’s constitutional and electoral framework.

Conclusion

The members of the pre-election assessment delegation believe that the conditions exist for credible, peaceful, and legitimate elections in Lesotho which reflect the will of its citizens. The delegation encourages all those involved in the electoral process to demonstrate leadership, tolerance, flexibility and respect to ensure that this happens.

II. THE DELEGATION AND ITS WORK

The purposes of this assessment are to demonstrate the interest of the international community in the development of a democratic political process and democratic governance in Lesotho, and to present an accurate and impartial assessment of the political environment and its implications for democratic development.

The assessment has been conducted according to international standards for non-partisan election observation in particular the Declaration of Principles for International Observers, the SADC Principles and Guidelines Governing Democratic Elections, the SADC-PF Norms and Standards, and in conformity with Lesotho law and without interference in the election process. It is not the intention of the delegation to render a complete or definitive assessment of the election process, given that the elections are yet to occur.

Indeed, it is the people of Lesotho who, as citizens and voters, will determine the credibility of their elections and the country's democratic development. At the same time, NDI notes that the international community shares responsibility in ensuring that the people of Lesotho are able to exercise their electoral rights in their upcoming elections.

The delegation included: the Honorable Samuel Kivuitu, Chairman of the Kenyan Election Commission and former Member of Kenya's parliament; the Honorable Audrey McLaughlin, former leader of Canada's New Democratic Party and former Member of Canada's Parliament; the Honorable Alexander Longolius, former Speaker of the Berlin Parliament (State House of Representatives); Shari Bryan, Senior Associate and Regional Director for Southern and East Africa at NDI in Washington, DC; and Tom Cormier, NDI Resident Representative in Southern Africa.

Team members met with a cross-section of Basotho political party leaders, election authorities, representatives of civil society, government, media and the international community. The team expresses its appreciation to everyone with whom it met for freely sharing their views on the electoral process.

III. THE ELECTORAL CONTEXT

The pre-election period is critical to understanding and evaluating the degree to which elections are democratic. A full and complete assessment of any election must take into account all aspects of the election process: the legal framework; the political context before and during the campaign; voting and ballot counting processes; the tabulation of results; the investigation and resolution of complaints; and the conditions surrounding the implementation of the election results.

Since gaining independence in 1966, Lesotho has held four consecutive elections: the first being annulled in 1970 followed by a state of emergency, suspension of the constitution, and ultimately a military coup. More recently, the 1998 elections were rejected by the opposition, leading to SADC military intervention led by South Africa and Botswana. These turbulent and complicated elections led to political and electoral reform and an attempt to shift the historic political divides to focus more on the pertinent issues facing the country such as public services, poverty, HIV/AIDS and the economy. In 2002 a mixed-member proportional system combining 80 first-past-the-post system single member constituencies and 40 proportional representation party list seats was introduced. This system sought to reduce

tensions and provided a more equitable distribution of political seats based on overall performance.

As mentioned, the upcoming elections can help to strengthen Lesotho's democratic institutions. Unfortunately, doubts remain among some about the integrity of the electoral process which could undermine this opportunity. Despite this, there is still time to address these issues before voting takes place.

IV. OBSERVATIONS AND RECOMMENDATIONS

Voter Registration

A variety of concerns were raised by most political parties and civil society representatives regarding the voter registration process and the current state of the voter registration list, including: 1) the timeframe for registration of new voters; 2) instances of few or no staff at registration centers; 3) workers and students living in South Africa were unaware or had limited time to return to Lesotho to register; and 4) unclear instructions from the IEC and/or a lack of information about the verification and challenge process related to the new list. These concerns raised the level of skepticism about the legitimacy of the voter registration list. However, despite the challenges, the delegation was informed that over 80,000 voters were added to the voter registration list since December 6.

Recommendation: To dispel ongoing criticism and confusion of the registration process and to build confidence, the IEC should make additional efforts to communicate clearly to political parties, civic organizations and the media about the progress made towards increasing the integrity of the voter registry. Further, the IEC should develop a proactive communication strategy to keep citizens informed about important issues relating to the upcoming elections. The IEC is also encouraged to continue its dialogue forums with key electoral stakeholders. In the post-election period, the IEC should implement measures to improve the process of continuous voter registration in order to ensure the maximum participation of citizens in the electoral process.

Access to the Media

Newspaper, television, and radio, are some of the most important tools used to inform citizens about the political process and to communicate political messages to the general public. In countries such as Lesotho, where large segments of the population live in remote rural areas, the reach of radio is paramount. To effectively compete in politics and to provide the greatest choice to voters, political parties must have fair and equitable access to the media.

Under current Lesotho law, all parties are entitled to one hour of state television or radio, for the entire election period. A one-time appearance, even of an hour's duration, is not likely to be sufficient for voters to understand the positions of the candidates and the differences among them. In addition there are perceptions that the ruling party has unfettered access to the state media, leaving the impression that rules of electoral competition are unfair, favoring the incumbent and his or her political party. The delegation also spoke to journalists who indicated that parties often fail to proactively provide them with timely information on their activities and platforms. This results in limited media coverage which constrains the general public's ability to make an informed choice about parties and their candidates. The SADC-

PF sees the allocation of state media as a test of the government's commitment to pluralism and multi-party democracy and recommends that all parties be given equal access and agreed upon time and space.

The delegation views the appointment of a 3-member independent media monitoring panel as a positive development which reflects the IEC's duty to "monitor new broadcasts and ensure news coverage of the campaigning by all political parties" as stipulated in the National Assembly Elections Act (1992). This panel should use its mandate to contribute to address the concerns noted above.

Recommendation: The delegation recommends that extraordinary efforts by state media be undertaken to provide fair, equitable and balanced coverage of the activities of all political parties. The delegation also recommends relevant authorities explore the possibility of providing extra time to political parties on state television and radio to enable them to reach out to potential voters. For example, parties could be given four fifteen-minute slots per week (or smaller segments adding to one hour) for the remainder of the campaign assigned on a rotating basis at times of maximum viewer/listenership. In addition, media could consider soliciting the help of NGOs to facilitate broadcast dialogues featuring parties and/or candidates discussing issues of importance to Basotho. This would provide the electorate with the opportunity to learn about the parties' positions, would encourage them to recognize fairness in the process and demonstrate that the election process is inclusive.

Use of Taxpayers' Resources: During election periods, governments must continue to operate the machinery of state and ensure that public services assist their intended recipients. In carrying out their official duties, however, incumbent governments must be careful to ensure that state resources do not offer them an unfair advantage or the perception of an unfair advantage. The delegation heard concerns from academics, parties and civil society about the perceived misuse of state resources such as the use of government vehicles at campaign rallies and the possibility that government announcements and the distribution of food aid may be used to influence voters during campaign activities.

Recommendation: Although Lesotho's Electoral Code of Conduct advises against "abusing a position of power, privilege or influence for political purposes", the delegation recommends considering the development of clear guidelines on the use of state resources and that these be communicated widely. The delegation believes that the government must take extra care to ensure that the use of these resources does not in any way add to the perception of an unfair electoral advantage. The delegation recommends that the government, IEC, political parties, civil society and the media be vigilant in monitoring the use of state resources and that concerns raised are by government and electoral authorities are addressed with maximum concern for a level-playing field and in respect of taxpayers' resources.

Voter and Civic Education: Information concerning where, when and how to vote should reach the electorate in a variety of forms and civic education should include emphasis on secrecy of the vote and the importance of an electoral process free from violence. The delegation acknowledges the crucial role of the IEC in providing this important education. In addition, the delegation believes that Basotho NGOs can play a valuable role in complementing the work of the IEC in this regard.

The delegation also notes that elections are unique opportunities for political parties and candidates to engage with citizens in direct discussion about local priorities and how they

relate to specific party and candidate platforms. Political rallies can be opportunities for candidates to gather their supporters and motivate them to seek the support of others. However, they do not often offer average citizens the chance to ask questions of candidates or leaders and they can sometimes inflame passions among the speakers and the crowd which can result in rhetoric or actions that do not promote tolerance and peaceful campaigning. The creation of forums where candidates from different parties present their views in front of local residents will increase citizen participation and enhance positive interactions between electoral candidates.

Recommendation: The IEC should consider partnering with Basotho NGOs in order to take advantage of their organizational skills and networks throughout the country to maximize the impact of their voter education plans. Efforts should be made by candidates to better communicate their messages to citizens in forums that promote dialogue among candidates and opportunities for citizens to take an active role. The delegation encourages all parties and candidates to also provide general voter education in the course of their campaigns.

Political Parties

The delegation often heard the view that many of Lesotho's political parties have developed around the personalities of key leaders rather than on the basis of policies, issues and party platforms. Party organization is centralized within Maseru and very few parties have sufficient resources or organizational structures to campaign at the grassroots level. Inaccessibility issues further hamper the ability of local party members to communicate with party leaders and vice-versa.

The delegation notes that some public funds are provided to political parties and candidates to assist in their campaigns, however there appears to be no accountability framework for the use of these resources. Some political parties acknowledged that they depended on these nominal public campaign funds to pay their campaign registration fees.

While acknowledging the difficult economic circumstances facing Lesotho, nevertheless, the delegation is concerned that political parties should demonstrate a minimum level of organizational and financial capacity before entering the electoral contest. With so many registered political parties participating in the elections and a centralized system with limited resources to disseminate messages, many voters are confused as to the differences among the parties. Further, it was unclear to the delegation whether some parties would have sufficient numbers of trained party poll watchers to safeguard the electoral process on their behalf. This opportunity for parties to deploy their representatives to witness all aspects of the polling station process is key to instilling confidence in the tabulation and announcement of the results.

The delegation notes that all political party leaders have a responsibility in the election and post-election period to ensure their supporters adhere to the Electoral Code of Conduct to promote a culture of political tolerance and refrain from intimidation and violence. The delegation was concerned to learn that the national code has not been well-publicized during this campaign.

Recommendations: The delegation recommends that all parties in the election publicly reaffirm their commitment to the principles outlined in the Electoral Code of Conduct and take concrete measures to publicize the code widely among their party members and

supporters. In the long-term, the delegation recommends the development of guidelines to regulate the use of public funds for campaigning purposes. Further, the delegation also recommends that further capacity building work be undertaken with political parties to address their organizational limitations.

The Independent Electoral Commission (IEC)

The Independent Electoral Commission (IEC) faces considerable pressure to deliver a credible and legitimate electoral process. The timeframe is extremely limited for the IEC to organize a voter registration effort, promote an environment for peaceful campaigning, initiate a voter education program, plan training for election officials and produce election materials such as ballots and guidebooks among other tasks. The delegation has noted that it is encouraged by the attempts of the IEC to overcome these challenges and carry out elections within the existing legal framework.

Despite the efforts of the IEC to respond to concerns regarding key aspects of electoral preparation, there remains confusion and skepticism among some in political parties, civil society and the general public. The delegation believes that the IEC can enhance its efforts to communicate clearly and directly in various formats with electoral stakeholders to ensure that they are aware of the status of preparations and that they understand the remedial efforts that have been undertaken to deal with identified problems.

Recommendations: The IEC would benefit from a comprehensive professional communication strategy which provides accurate and timely information and emphasizes the use of a variety of media to reach all citizens. This communication should be clear, in formats that are easy to understand and be provided in Sesotho as well to extend its reach. This can help to build public confidence in the impartiality of the electoral process and the professionalism of the IEC itself. The delegation recommends that the dialogues with political parties and electoral stakeholders continue on a regular basis in a spirit of cooperation.

Conclusion

The members of the pre-election assessment delegation believe that the conditions exist for credible, peaceful, and legitimate elections in Lesotho which reflect the will of its citizens. The delegation encourages all those involved in the electoral process to demonstrate leadership, tolerance, flexibility and respect to ensure that this happens.

IV. CONTACT INFORMATION

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