

**Pre-conditions for Elections Programme in Southern Africa
(PEPSA)
Baseline Analysis Questionnaire**

Country	Lesotho	Researcher	Dr Khabele Matlosa
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Please enter your answers in the space below each question.

[I] Country Political Context (Introduction Section of the SADC Principles)

General

1. *Has the country undergone a democratic transition? If so, when and how?*

Yes. After years of one-party rule spanning 1970-1986, Lesotho experienced military rule between 1986 and 1993. Both the one-party and military regimes did not allow space for democratic governance in the country. Only in 1993 did an epoch-making political transition from a military rule to a multi-party rule happened. The historic 1993 election laid the foundation for democratic transition and at present, Lesotho is a relatively stable democracy.

2. *Has the country's government signed and ratified major international human rights declarations and protocols? Which ones?*

Yes. Lesotho has signed/ratified all seven (7) major international human instruments listed in UNDP Human Development Report, pp240. These are as follows:

- **The 1965 International Convention on the Elimination of All Forms of Racial Discrimination;**
- **The 1966 International Covenant on Civil and Political Rights;**
- **The 1979 Convention on the Elimination of All forms of Discrimination against Women;**
- **The 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and**
- **The 1989 Convention on the Rights of the Child**
- **The 1948 International Convention on the Prevention and Punishment of the Crime of Genocide; and**
- **The 1966 International Covenant on Economic, Social and Cultural Rights.**

Political parties

3. *Is the country a multi-party democracy?*

Yes. Lesotho is a multiparty democracy.

4. *How many political parties are registered and active?*

There are nineteen (19) registered political Parties.

5. *How many parties are represented in the legislature?*

Ten (10) Political Parties. These are as follows:

- **Basutoland African Congress (BAC)**
- **Basutoland Congress Party (BCP)**
- **Basotho National Party (BNP)**
- **Lesotho Congress for Democracy (LCD)**
- **Lesotho People's Congress (LPC)**
- **National Independent Party (NIP)**

<ul style="list-style-type: none"> • National Progressive Party (NPP) • Lesotho Workers' Party (LWP) • Marematlou Freedom Party (MFP) • Popular Front for Democracy (PFD).
6. <i>Do political parties have programmes?</i>
Yes. Programmes of political parties are expressed and defined within their election manifestos; the latest being those developed for the 2002 general election.
7. <i>Which party is the ruling party?</i>
Lesotho Congress for Democracy (LCD).
8. <i>What is the total number of elected parliamentary seats and share of these seats for the ruling party?</i>
Elected parliamentary seats are hundred and twenty (120) in number and of these the ruling party has 79 (65.83% of the total).
9. <i>Which one is the main opposition party?</i>
Basotho National Party (BNP).
10. <i>What is its share of the parliamentary seats?</i>
BNP has 21 seats in parliament (17.5% of the total).
11. <i>How is the participation of parties in elections regulated and legislated?</i>
Party participation in elections is governed by the National Assembly Elections Act (2001 as amended), Local Government Act (1996 as amended).
12. <i>Are political parties generally aware of the SADC principles governing democratic elections?</i>
Yes. The Lesotho Prime Minister was the chair of the SADC Organ on Politics, Defence and Security and thus responsible for developing the Principles together with the Strategic Indicative Plan for the Organ (SIPO). He presented both documents during the 2004 SADC Summit in Mauritius. Opposition parties are also generally aware of the Principles.
13. <i>If so, what is their attitude towards the principles?</i>
Generally the attitude of the political parties to the Principles is a positive one as all are agreed that they would add value to the country's democracy.
14. <i>How have political parties promoted the implementation of the SADC principles?</i>
There is no specific initiative that political parties have embarked upon with a view to promote the SADC Principles.
Civil society
15. <i>What is state of civil society organisations?</i>
Civil society organisations in Lesotho are quite vibrant and actively engage with the democratic process, although they tend to operate in a fragmented and disjointed manner that undermines coordination and impact of their lobby and advocacy work. CSOs are organised through the Lesotho Council of Non-Governmental Organisations (LCN).
16. <i>Is the general legal and political environment conducive for civil society organisations to operate?</i>
Yes. The law does not prohibit free operations of the CSOs. However, CSOs confront political challenges in their lobby and advocacy work.
17. <i>What specific roles do CSOs play in the electoral process?</i>
<ul style="list-style-type: none"> • Voter information; • Voter education; • Conflict management; • Election monitoring;

<ul style="list-style-type: none"> • Civic education.
18. <i>What legal and/political constraints restrain the CSOs before and during elections?</i>
<ul style="list-style-type: none"> • Problems of coordination with the IEC; • Lack of adequate resources; • Lack of synergy with political party activities; • Lack of synergy with government activities.
19. <i>Are CSOs aware of the SADC Principles governing democratic elections?</i>
Yes. Generally, CSOs are aware of the SADC Principles.
20. <i>If so, what is their attitude towards the principles?</i>
There is no clear cut evidence suggesting that CSOs uphold a common position on the SADC Principles, but at least they engage with the Principles.
21. <i>How have CSOs promoted the implementation of the SADC principles?</i>
LCN organised a national dialogue conference in September 2004 to discuss Lesotho's electoral reform process within the regional context following the adoption of the SADC Principles and Guidelines in August 2004 in Mauritius.
22. <i>Are CSOs engaged in civic and voters education? Please specify who does what and who it reaches.</i>
Yes. LCN and its affiliates undertake voter and civic education targeting their members and the general public.
Media
23. <i>What are the three (3) main challenges for the media in general?</i>
<ul style="list-style-type: none"> • State use/abuse of the public media; • Relationships between churches and their media outlets on one hand and the government on the other; • Lack of code of conduct and ethics for the media.
24. <i>Is there an independent media council?</i>
No.
25. <i>Are the state media independent?</i>
No.
26. <i>Do the state media perform the role of a public service broadcaster?</i>
Yes. The state media does broadcast information addressing public concerns and not just government related information.
27. <i>Is there a self-regulatory body of the media?</i>
No.
28. <i>Is there a media monitoring project?</i>
Yes. MISA is involved in monitoring state of the media in Lesotho.
29. <i>Do the media have a general code of conduct and ethics?</i>
No.
30. <i>How is this enforced?</i>
N/A.
31. <i>What specific role do the media play in the electoral process?</i>
Voter Information; Political awareness campaign.
32. <i>Is there a specific code of conduct for election reporting?</i>
No.
33. <i>How is this enforced?</i>
N/A.
34. <i>What legal/or political constraints restrain the media during elections?</i>

<ul style="list-style-type: none"> • Lack of code of conduct; • Political influence; • Religious influence.
35. <i>Is the media generally aware of the SADC principles governing democratic elections?</i>
Yes. The media is generally aware of the SADC Principles.
36. <i>If so, what has been/is its role in promoting the principles?</i>
The media has featured snippets of information on the principles thereby widening their publicity and advancing public awareness campaign.
[II] Principles for Conducting Democratic Elections (Section 2 of the SADC Principles)
37. <i>What legislation provides for citizen participation in the political process, especially in elections?</i>
Constitution (1993 as amended), National Assembly Elections Act (2001 as amended) & Local Government Act (1996 as amended).
38. <i>In what concrete ways does citizen participation in the political process (especially before and during elections) take place?</i>
During pre-election stages, citizens engage with the electoral process through political campaign. During the election stage, they participate through voting.
39. <i>What legislation provide for political freedoms including freedom of association, political movement and freedom of speech?</i>
The 1993 Constitution (as amended) provides for a bill of rights including freedom of association, political movement and freedom of speech. Freedom House considers the human rights situation in Lesotho as good and accords the country a civil liberties rating of '3'. (1-Most Free; 7-Least Free)
40. <i>Are these freedoms and political tolerance allowed by political actors during electioneering?</i>
Yes.
41. <i>What is the frequency and regularity of elections in the country (consider both national and local government elections please)?</i>
National Assembly Elections are consistently held every five (5) years since 1993; Local Government Elections every five (5) years. But the first democratic local government elections were last held in 1960 and the next elections were held only 45 years later on the 31st April 2005.
42. <i>Are the dates of elections specifically predetermined by a relevant constitutional or legislative provision?</i>
No. The specific dates are the prerogative of the Head of Government (Prime Minister). Opposition parties are generally not comfortable with this arrangement.
43. <i>To what extent is access to public resources (i.e. funding for campaigning and access to the public media) by political parties during elections equitable?</i>
The ruling party enjoys the lion's share of public resources during elections. Thus, distribution of and access to public resources during elections are not equitable.
44. <i>What is the exact role of the Judiciary in the electoral process?</i>
The Judiciary interprets the Electoral Law & adjudicates election-related disputes.
45. <i>Does the Judiciary exhibit impartiality in handling electoral matters?</i>
Yes. The Judiciary does exhibit impartiality in handling election matters although often the opposition would suspect too close proximity of the Judiciary to the executive and possibilities of political bias.
46. <i>Which Electoral Management Bodies (EMBs) have the responsibility to run elections?</i>
Independent Electoral Commission (IEC).

47. <i>What is the exact role of these Electoral Management Bodies (EMBs) in the electoral process?</i>
<i>The exact role of the IEC is to manage and administer election-related activities during the pre-election, voting and post-election stages.</i>
48. <i>How independent and impartial are these EMBs in discharging their electoral mandates?</i>
<i>The IEC is independent and autonomous although dependence upon state funding tends to compromise this independence somewhat.</i>
49. <i>Which institutions are responsible for conducting voter education?</i>
<ul style="list-style-type: none"> • <i>IEC;</i> • <i>Political Parties;</i> • <i>CSOs.</i>
50. <i>In what ways do these institutions coordinate their efforts in undertaking voter education?</i>
<i>The coordination of voter education is the responsibility of the IEC.</i>
51. <i>Is there a political culture of acceptance and respect of election results by political parties? What explains this trend?</i>
<i>No. Throughout Lesotho's post-colonial existence, losing parties have never accepted election results and this tendency has had its distinctive impact on political stability and political polarisation in the otherwise socially homogeneous country.</i>
52. <i>If not, why do political parties contest election results?</i>
<i>This can be explained by a political culture of mutual mistrust and lack of cooperation between & among political parties as well as other influences on politics such as religious cleavages.</i>
53. <i>What the legal provisions exist for the management for election-related disputes?</i>
<i>The National Assembly Elections Act & Local Government Act.</i>
54. <i>What institutional and regulatory mechanisms are in place for the constructive resolution of election-related disputes?</i>
<ul style="list-style-type: none"> • <i>The IEC Liaison Committee on conflict & security;</i> • <i>Lesotho Network for Conflict Management (LNCM);</i> • <i>LCN Human Rights and Democracy Commission;</i> • <i>Transformation Resources Centre (TRC);</i> • <i>The Judiciary.</i>
[III] Guidelines for Observation of Elections (Section 4 of the SADC Principles)
55. <i>What legislation guarantees the rights and freedoms of the citizens?</i>
<i>The 1993 Constitution (as amended).</i>
56. <i>Does the political culture and practice protect and promote citizens' freedoms?</i>
<i>Yes. Freedom House considers Lesotho's political condition conducive to democracy and citizens freedoms and accords the country an excellent rating of '2'. (1-Most Free; 7-Least Free)</i>
57. <i>What possibilities do citizens have to complain (independent human rights commission/ombudsman?)</i>
<i>There is a very active Ombudsman Office. There is as yet no independent Human Rights Commission.</i>
58. <i>To what extent is the election environment free, fair and peaceful?</i>
<i>Election observers have found Lesotho elections free and peaceful, although the 1998 election was followed immediately by a period of political instability and violent conflict bordering ominously on the verge of civil war. Opposition parties have questioned the fairness of elections and contested election results.</i>
59. <i>How is voter registration conducted and by whom?</i>

<p><i>Voter registration is conducted by the IEC. The voters' register is continuously amended and revised to ensure that it contains accurate information about electors. The IEC amends the general register for the purpose of:</i></p> <ul style="list-style-type: none"> • <i>Correcting any mistakes;</i> • <i>Cancelling any particulars that should not have been included in the register;</i> • <i>Recording any change in the particulars of registration of an elector;</i> • <i>Cancelling the registration of any person who has died;</i> • <i>Cancelling the registration of a person who is no longer qualified to be, or is disqualified from being registered as an elector;</i> • <i>Cancelling the earlier registration of fictitious person;</i> • <i>Cancelling the earlier registration of a person whose name appears in the register more than once;</i> • <i>Restoring the particulars of an elector whose particulars were wrongly removed from the register; and</i> • <i>Including the particulars of an applicant for registration whose application for registration has been wrongly refused.</i>
<p>60. <i>Is voter registration conducted periodically around elections or continuously?</i></p>
<p><i>Continuously in between and around elections.</i></p>
<p>61. <i>Is the process of voter registration satisfactory and acceptable to all stakeholders?</i></p>
<p><i>Yes. Political parties have not raised serious concerns about voter registration per se. But they have raised concerns about delimitation of constituencies which has a direct bearing on registration.</i></p>
<p>62. <i>How is the voters' roll prepared and by whom?</i></p>
<p><i>Voters' roll is prepared by the IEC in the form of a compilation of useful data of eligible voters.</i></p>
<p>63. <i>How is the voters' roll maintained and regularly updated and by whom?</i></p>
<p><i>The Voters' roll is maintained by the IEC and regularly updated on the basis of new population census data.</i></p>
<p>64. <i>To what extent is the voter's roll easily accessible and non-discriminatory?</i></p>
<p><i>The Voters' roll is easily accessible and non-discriminatory.</i></p>
<p>65. <i>Is the process of preparation and maintenance of the voters' roll satisfactory and acceptable to all stakeholders?</i></p>
<p><i>Yes.</i></p>
<p>66. <i>Is there a culture of announcement of the date of elections timeously to allow all contestants to prepare for the contest?</i></p>
<p><i>Yes. However, as indicated earlier, opposition parties tend to raise concerns on this matter being left to the discretion of the Prime Minister.</i></p>
<p>67. <i>What legal provisions regulate private and public funding for political parties?</i></p>
<p><i>None. Public funding for political parties during election exists but is not subject to a specific regulation; private funding to political parties exists but is not legally regulated & controlled.</i></p>
<p>68. <i>How transparent are the mechanisms for private and public funding of political parties?</i></p>
<p><i>Mechanisms for public funding of political parties are transparent, while those for private funding are not.</i></p>
<p>69. <i>To what extent are the mechanisms for private and public funding to political parties satisfactory and acceptable to all stakeholders?</i></p>
<p><i>Mechanisms for public funding of political parties are satisfactory. There are no mechanisms for private funding.</i></p>
<p>70. <i>To what extent does the location of polling stations compromise the integrity of the electoral process and its outcome?</i></p>

<i>The location of polling stations does not compromise the integrity of the electoral process.</i>
71. <i>Where does counting of votes take place?</i>
<i>Counting of votes takes place at polling stations immediately after voting.</i>
72. <i>In what way(s) does the location of the counting of votes affect the integrity of the poll?</i>
<i>The Location of the counting of votes does not compromise the integrity of the poll.</i>
73. <i>What legal provisions regulate election monitoring and observation?</i>
<i>Monitors and observers operate within the framework of national law. Besides, there is a code of conduct for monitors and observers.</i>
74. <i>Which institutions are responsible for facilitating election monitoring and observation?</i>
<i>LCN coordinates election monitoring activities; UNDP coordinates international election observers.</i>
75. <i>Who is allowed to monitor and observe elections? Why?</i>
<i>Local NGOs monitor elections; International organisations observe elections; both monitoring and observation are meant to assist the IEC identify its effectiveness and address any existing deficiencies in the electoral process.</i>
76. <i>Do monitors and observers get accorded adequate time to be able to monitor and observe all the three stages of the electoral process?</i>
<i>Yes.</i>
77. <i>Do observers get deployed two (2) weeks before the voting day?</i>
<i>No. At least one (1) week. There are no legal impediments to deployment of observers.</i>
[IV] Responsibilities of Member States Holding Elections (Section 7 of the SADC Principles)
78. <i>What are the legislated qualifications for voting?</i>
<ul style="list-style-type: none"> • <i>Citizenship;</i> • <i>Possession of valid identity document;</i> • <i>Possession of a sworn affidavit if no passport or any other identity document; and</i> • <i>18 years of age.</i>
79. <i>What are the legislated disqualifications from voting?</i>
<ul style="list-style-type: none"> • <i>If the person, is by virtue of his/her own act, under any acknowledgement of allegiance, obedience or adherence to any foreign power;</i> • <i>If a person is under sentence of death imposed by a court in Lesotho;</i> • <i>If a person is, under law in force in Lesotho, adjudged or otherwise declared to be of unsound mind; and</i> • <i>If a person is determined, in Lesotho or elsewhere, in a prison or other place of detention under an order of Court or some other competent authority.</i>
80. <i>Are these legal provisions for qualification and disqualification applied fairly during elections?</i>
<i>Yes. There is serious contestation among parties on qualifications and disqualifications.</i>
81. <i>Is the practical application of the qualifications and disqualifications satisfactory and acceptable to all stakeholders?</i>
<i>Yes. Political parties are satisfied with the practical application of the qualifications and disqualifications by the IEC.</i>
82. <i>Is the political environment generally conducive for all political parties to campaign freely without undue hindrance?</i>
<i>Yes. The political environment is generally conducive to parties operations and as indicated earlier the Freedom House considers Lesotho free with a political rights rating of '2' and civil liberties rating of '3'. (1-Most Free; 7-Least Free)</i>
83. <i>Is there a code of conduct for political parties and to what extent do parties adhere to it?</i>

Yes. Lesotho Code of conduct for political parties is part and parcel of the Electoral Act.
84. To what extent are the EMBs competent, effective and well resourced in carrying out their mandate?
The EMB is competent and effective, but not well resourced to undertake its overall mandate more efficiently.
85. To what extent are the courts competent, effective and well resourced in dealing with electoral matters?
The courts of law are competent and effective in undertaking election-related dispute adjudication. There is, however, a dire need for a well resourced Electoral Court to deal with these matters.
86. What legal guarantees and institutional mechanisms exist to prevent electoral fraud, vote-rigging and other illegal election practices?
<ul style="list-style-type: none"> • The Electoral Acts; • IEC; • The Ombudsman.
87. What cases of electoral fraud and vote rigging have been brought to the fore and how have these been dealt with?
The main opposition party (BNP) lodged a complaint following the 2002 election alleging possible electoral fraud/rigging. The complaint was channelled through the normal courts of law for determination and settlement.
88. What common irregularities tend to become characteristic feature of elections and how have these been dealt with?
Insufficient supply of electoral material; late opening of polling stations; interruptions of voting due to inadequate election material etc especially in rural mountain areas.
89. Are there measures which restrict the freedom of movement of the citizenry or election observer missions?
No.
90. Are candidates and/or their agents allowed to monitor the whole electoral process without undue restrictions?
Yes.
91. What is the nature of the participation of women, youth and people with disabilities in the electoral process? Is it high or is it low and why?
The participation of women, youth and people with disabilities is low. For instance in respect of women, Lesotho has not yet achieved the 30% gender representation as required by the 1997 SADC Declaration on Gender and Development. The problem of youth participation in democratic building and elections generally manifests itself in the form voter apathy. People with disabilities do not participate fully in elections due to both political and structural constraints.
92. Do observers get invited ninety (90) days before the voting day?
Yes.
93. Do observers get accorded free movement throughout the country and room to communicate with all political parties and candidates, EMBs, media, CSOs and voters without undue hindrance?
Yes.
94. Is the process of invitation and accreditation of observers efficient and non-discriminatory?
Yes. The IEC issues the invitations.
95. Are observers allowed access to all relevant national laws and regulations?
Yes. Upon request.

<i>96. Are observers allowed access to relevant election materials such as constituency delimitation report, voters' Roll etc?</i>
<i>Yes. Upon request.</i>
<i>97. Do observers have an unimpeded and unrestricted access to all polling stations and counting centres?</i>
<i>Yes.</i>