COALITION POLITICS IN LESOTHO

A Multi-disciplinary
Study of Coalitions and
their Implications for
Governance

Editors

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LIST OF ACRONYMS

ABC	All Basotho Convention
ACP	Alliance of Congress Parties
AD	Alliance of Democrats
AG	Attorney General
AJA	Administration of the Judiciary Act
AMHC	All Mauritian Hindu Congress
ANC	African National Congress
BAC	Basutoland African Congress
BAP	Basotho Action Party
BBDP	Basotho Batho Democratic Party
BCP	Basutoland Congress Party
BDNP	Basotho Democratic National Party
BNP	Basotho National Party
CAM	The Comité d'Action Musulman
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CID	Criminal Investigation Division
CMW	Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
CORD	Coalition for Reforms and Democracy
COVID-19	Coronavirus Disease of 2019
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organisations
DC	Democratic Congress
DCEO	Directorate on Corruption and Economic Offences
DPL	Democratic Party of Lesotho
DPP	Director of Public Prosecutions
ECF	Extended Credit Facility

ECK	Electoral Commission of Kenya
EMB	Election Management Body
FIU	Financial Intelligence Unit
FORD	Forum for Restoration of Democracy
FPTP	First-Past-The-Post
GDP	Gross Domestic Product
GNU	Government of National Unity
HRC	Human Rights Committee/Council
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Commission of Jurists
IFP	Inkatha Freedom Party
IMF	International Monetary Fund
IPA	Interim Political Authority
JIMC	Monitoring and Implementation Committee
JSC	Judicial Service Commission
KANU	Kenya African National Union
KSC	Kenya Social Congress
LCD	Lesotho Congress for Democracy
LCN	Lesotho Council of Non-Governmental Organisations
LCS	Lesotho Correctional Services
LDF	Lesotho Defence Force
LHWC	Lesotho Highlands Water Commission
LLA	Lesotho Liberation Army
LMPS	Lesotho Mouted Police Service
LP	Labour Party
LPC	Lesotho People's Congress
LPF	Lesotho Para-Military Force
LWP	Lesotho Workers Party
MCA	Millennium Challenge Account

MEC	Movement for Economic Change
MFP	Marematlou Freedom Party
MMM	Mouvement Militant Mauricien
MMP	Mixed Member Proportional
MPs	Members of Parliament
MSM	Mkenya Solidarity Movement
NARC	National Rainbow Coalition
NASA	National Super Alliance
NDPC	National Dialogue Planning Committee
NEC	National Executive Committee
NIP	National Independence Party
NLF	National Leaders' Forum
NRA	National Reforms Authority
NSS	National Security Services
NUL	National University of Lesotho
NYS	National Youth Service
ODM	Orange Democratic Movement
PAC	Public Accounts Committee
PDP	Peoples Democratic Party
PEFA	Public Expenditure and Financial Accountability
PFD	Popular Front for Democracy
PM	Prime Minister
PMSD	Parti Mauricien Socialiste Democrate
PMU	Police Mobile Unit
PNU	Party of National Unity
PR	Proportional Representation
PSIC	Public Sector Investment Committee
PSIP	Public Sector Investment Programme
RCL	Reformed Congress of Lesotho
RLDF	Royal Lesotho Defence Force

SACU	Southern African Customs Union
SADC	Southern Africa Development Community
SGR	Standard Gauge Railway
SMM	Single Member Majoritarian
SMMEs	Small, Micro and Medium Enterprises
SMP	Single Member Plurality
SOMILES	SADC Observer Mission to the Kingdom of Lesotho
SOU	Special Operations Unit
TNA	The National Alliance
TRC	Transformation Resource Centre
TRC	Truth and Reconciliation Commission
UDF	United Democratic Forum Party
UPR	Universal Periodic Review
URP	United Republican Party
WDM	Wiper Democratic Movement

PUBLIC PARTICIPATION EXCERCISE IN LESOTHO'S PARLIAMETARY REFORM PROCESS: OF WHAT VALUE?

13

Motlamelle A Kapa

1 Introduction

In the context of fragile coalition governments, political and security crises after the 2012 parliamentary elections, Lesotho political elites started, under the facilitation of the Southern African Development Community (SADC), inclusive and comprehensive institutional reforms to achieve stability, peace, and national reconciliation. When the reform process commenced in 2019, the citizens of Lesotho arguably expected not only to have the opportunity to make inputs into the process but also to have those inputs shape the outcome of the reform process. The reforms cover seven thematic areas, but this chapter focuses on parliamentary reforms. A victim of three dissolutions within one five-year term (2012-2017), the Lesotho parliament has been a highly unstable and fragile institution. Each move to dissolve parliament resulted in a snap election within six years organised at the huge financial cost (estimated at around M728 792 880 or USD45 549 555) that the country could have utilised to provide crucial public services (Matlosa, in this volume:150).

Drawing insights from the reports emanating from comprehensive and inclusive public participation processes and interviews with three informants who were close the process, I reflect on the public participation process in parliamentary reforms, questioning the value of public inputs in shaping ultimate decisions adopted in the final policy document, styled *Plenary II Report, 2019*. I argue that the political elites turned the public participation initiative into a window-dressing exercise, serving to confer some modicum of legitimacy to what, in effect, was a self-serving project. Gathered under a final decision-making forum, the Plenary II, which they dominated both numerically and on issue-by-issue deliberations,

political elites hijacked the reform process by rejecting public inputs that directly threatened their parochial interests at the expense of those of the nation. The final product of the reform process ultimately reflects more the interests of the political elites than those of the citizens, yet the latter were promised that their voices would be heard and given effect in the implementation of reforms (National Reforms Authority Act, 2019:sec(3)). The structure of the chapter is as follows: theoretical and conceptual issues; the context of Lesotho parliament; the reform process, structures, and their roles; interpretation of the decisions of Plenary II; and a conclusion.

2 Theoretical and conceptual issues: Popular participation in the public policy-making process

It is useful to highlight some theoretical and conceptual issues around popular participation, as I do below. The purpose is not to delve deep into issues of theory but just to provide a broad theoretical and conceptual framework for the chapter. The process and practice of public participation in public policy decision-making have their origins in participatory and deliberative democratic theories. Participatory democracy has its roots in the works of Rousseau, who believed that participation of each citizen in political decision-making is vitally important to the functioning of the state (Michels, 2010:479). The value of participation is that it gives citizens a say in policy decision-making processes; fosters the inclusion of individual citizens in policy processes; increases the legitimacy of decisions; and leads to rational decisions based on public reasoning (Michels, 2011:278). The rational decision-making function of participation takes us close to the deliberative democracy model. According to Floridia (2013:3), deliberative democracy is characterised by “exchange of reasons and arguments involving all those who are affected by a public issue and have a say in it” and “its procedure is based on public debate and reciprocal reason-giving, and may aim to attain rational consensus or shared solution, or at producing better decision”. Procedurally, deliberative democracy approaches include “face-to-face large scale deliberations meetings or citizens’ juries – many of which seek to gain participation through some form of a representative sample of citizens, who then deliberate together to propose new – and arguably more reasoned solutions to public issues” (Goventa, 2004:18). For Bibbio (2019:41) participatory democracy opens avenues for collective decision-making and combines direct and representative democracy in which “citizens have the power to decide on the policy and politicians assume the role of implementation”. Floridia (2013:6) makes a distinction between participatory and deliberative models of democracy and submits that the two should not be equated because the former is “founded on the direct action of citizens who exercise some power and decide issues affecting their lives” and the latter on “argumentative exchanges, reciprocal reason-giving, and on a public

debate which precedes decisions". After all, some forms and types of participation do have some deliberative dimensions or quality, but not all forms of participation are deliberative (Florida, 2013:3).

Rowe and Frewer (2005:255-256) operationalise the concept of participation and distinguish it from other related concepts of public communication and public consultation. Public communication only allows information from the sponsors to the public; consultation creates room for information flow from the public to the sponsors, while public participation allows a two-way process of information flow between the sponsors of participation (those commissioning the engagement initiative) and the public, some degree of dialogue involving representatives of both parties in different proportions. I adopt this conceptualisation in this chapter since it captures the spirit of the reforms process in Lesotho.

The Lesotho reforms process, including parliamentary reforms, is based on participation within the framework of participatory and deliberative democracy models. The key government document, which serves as a blueprint for the reforms process, *The Lesotho We Want: Dialogue and Reforms for National Transformation: Vision, Overview, and Roadmap* (u.d:8), captures the principles guiding the reform process, three of which are instructive in the context of this chapter. The first principle is *Ownership by all Basotho*: the reforms will only succeed if Basotho fully owns them through a consultative process. The second is *Inclusiveness and participation*: the reforms will involve the full diversity of Basotho without discrimination of political, social, or another status. All Basotho will have a voice through public input on the content of programmes and policies – either directly or through legitimate intermediate institutions that represent their interests. The third principle is *Dialogue and consensus-building*: the reform process will be guided by the Basotho culture of consultation and consensus-building and by established international standards of democratic participation. In the same spirit, the government of Lesotho "... affirms the participatory and consultative nature of the reforms" and regards this document as the government's "contribution to the consensus-building and dialogue process" (Government of Lesotho, u.d:4).

The reform agenda is premised on the participatory and deliberative models of democracy. The National Reforms Authority Act (2019), establishes the National Reforms Authority (NRA) as an institution mandated to deliver reforms. The objectives of the Act as provided for under section 3, include, for this chapter and in line with the spirit of participatory and deliberative democracy, "to safeguard the reforms process by ensuring that the citizens' voices are heard and given effect" and to "promote stakeholders' consensus on the reforms and long-term national stability, unity and reconciliation".

3 Lesotho parliament in the context

Lesotho adopted, at independence from Britain in 1966, a Westminster bicameral parliamentary system, with the 33 member-senate comprising 22 Principal Chiefs and 11 other members appointed by the King, the National Assembly currently with a total of 120 members, 80 of whom are elected based on the First-Past-The-Post system and the remaining 40 elected on the Proportional Representation (PR) variant of Lesotho's Mixed-Member Proportional (MMP) electoral model. While the size of the Senate has remained constant at 33, the National Assembly has grown from 60 in 1965 to the current 120 in line with the population growth and attempts by the political elite to accommodate parties that consistently failed to win constituency seats contested under the erstwhile FPTP electoral system (Makoa, 2018:187). These parties caused political instability marked by very violent protests post-1998 elections. The change was negotiated under a political structure, the Interim Political Authority (IPA), composed of all twelve political parties that had contested the 1998 parliamentary elections. The Interim Political Authority Act (1998:sec(6)) empowered the Authority to "review the electoral system to make it more democratic and representative of the people of Lesotho" and "recommend changes to existing laws, including the constitution [...]". The outcome of the IPA negotiations was the introduction of the current Mixed-Member-Proportional (MMP) electoral model to ensure parliamentary inclusivity, representation, and, in turn, political stability. Under the MMP system, the size of the National Assembly has increased to 120 seats; 80 constituency-based seats and the other 40 based on Proportional Representation (PR) (Fourth Amendment to the Constitution, 2001:sec (2)).

The MMP did promote parliamentary inclusivity when the elections were held in 2002 in which 10 out of 19 parties secured representation in the National Assembly, thus ending political instability, albeit temporarily. But Lesotho parliament has features that inhibit its effective functioning as an independent and separate entity from the other two branches of government: the executive and the judiciary. One key feature of Lesotho parliament, as is the case in Westminster parliamentary systems, has been the "fusion of legislative and executive powers" (Dragnich, et al. in Makoa, 2004:13) in that the majority parties in the House constitute the executive. In terms of The Constitution of Lesotho (1993:sec(4)), members of the cabinet must be appointed by the King, acting in accordance with the advice of the prime minister, from among the members of the National Assembly or from among the Senators. In this arrangement, there is "no real separation between the two when they engaged in parliamentary, as opposed to government, business" (Makoa, 2005:63). Another feature is the low calibre of parliamentarians due to the low level of educational qualifications. The Constitution of Lesotho (1993: sec(58)(2)(c)) provides, among others, that to qualify for membership of the National Assembly citizens of Lesotho should be able to read and write in either the Sesotho or English language well enough to take an active

part in the proceedings of the House. That is only as far as it goes regarding the level of education required for the members of parliament. Makoa (2004:18) finds that members of parliament and civil society representatives agree that only people with a “sufficiently high level” of educational qualifications should be elected to parliament for them “to comprehend, contextualise, analyse and formulate responses to the challenges facing the country”.

The members of parliament who have a low level of education and the huge size of parliament are issues forming part of the weaknesses that Basotho have highlighted during the consultative processes, as will be seen in this chapter. The absence of a higher educational requirement for eligibility for parliamentary seats also applies to the Senate. Other than the 22 Principal Chiefs, who become senators by virtue of their positions and not on any stated qualifications, the 11 appointees of the King are not required to have any stated qualifications. While the 1966 Constitution of Lesotho had provided that the appointment of the 11 senators other than the principal chiefs had to be based on their expertise, that requirement has been removed in the current 1993 Constitution ('Nyane, 2019:32). Consequently, this leaves the Senate to be used by prime ministers as “a means of extending patronage to their supporters and allies by bringing them into the Senate and others into the cabinet (Makoa, 2004:16-17). 'Nyane advocates for strengthening of the Senate through accommodating other marginalised groups in society such as women, the youth, and people with disability. By Lesotho's current constitutional design, the Senate is subordinated to the National Assembly in the performance of its legislative functions. 'Nyane (2019:32) notes that the Constitution of Lesotho (1993) has removed a requirement that Lesotho Senate has only dilatory powers in relation to the National Assembly. That means it can only delay Bills emanating from the National Assembly but not change them in that even in cases where the Senate may propose amendments to the Bills, those proposals may be overturned by the National Assembly.

The above discussion provides a context for the Lesotho parliament as it exists. But it must be acknowledged that the features identified above persist and have been expressed by the citizens of Lesotho in the two-legged consultative reform process in the country and outside. Parliament had already made attempts to reform itself through its multi-party committee, comprising membership of the executive and backbenchers to oversee the reform process. The committee has revised parliamentary standing orders and expanded the committee system to include portfolio and cluster committees. However, nothing has been achieved to enhance the autonomy of parliament in that the envisaged parliamentary service commission has not yet been established (Government of Lesotho, u.d:10-11).

The advent of coalition politics and coalition governments, following 2012 elections, exposed further the weaknesses of parliament, and this necessitated the current reform efforts under a comprehensive programme, covering seven thematic areas: constitution;

parliament; public service; security; justice; economy; and the media. The overall vision of the comprehensive reform process, inclusive of all seven sectors, is “[to transform] the Kingdom of Lesotho into a just, prosperous and stable country marked by effective and people-focused institutions; national unity of purpose; rule of law, good governance and human rights” (Government of Lesotho, ud:7). The objectives of the parliamentary reforms are to (1) “take measures to enhance political stability including those to bring parliamentary practice into line with the MMP system particularly relating to the representation, political parties, and government formation); (2) to strengthen parliament by enhancing its autonomy and its ability to fulfil its legislative, monitoring, and oversight functions” (Government of Lesotho, ud:10).

4 Parliamentary reforms: Process, structures and their roles

The parliamentary reforms process and the overall reforms covering other thematic areas were to be pushed by some structures established by the National Reforms Dialogue Act (2018). The first of these structures were the National Leaders’ Forum (NLF) and the National Dialogue Planning Committee (NDPC), established for purposes of facilitating:

the national dialogue on the transformation of Lesotho into a just, prosperous, and stable society marked by effective institutions through promoting long-term national stability; unity, and reconciliation; creating professional and efficient institutions for effective management of public affairs, service delivery and development; building a national consensus and implementation of constitutional changes as needed; and promote stakeholder consensus on reforms and long-term national reconciliation (section 3).

More specifically, the NLF was established for purposes of forging political consensus on the reforms and national reconciliation; contributing to trust and confidence-building among political leaders; providing a forum where they could meet from time to time to promote reforms; facilitating national dialogue; bringing political leaders together to seek political-level consensus and common ground for broader national dialogue (see section 6). The NLF was composed of all 33 leaders of political parties registered with the Independent Electoral Commission (IEC); 33 women representing each of these parties; 18 members representing the National Assembly based on the principle of proportionality; seven members representing the Christian Council of Lesotho (CCL); four members representing the College of Chiefs; two members representing civil society organisations; two members representing the former and serving Speakers of the National Assembly; three members representing former and servicing Presidents of the Senate; and any other leader who participated in the NFL (see section 5). The total membership of the NLF was 103, out of which 84 or 81.55% were politicians.

The NDPC consisted of 18 members drawn from the ruling coalition of All Basotho Convention (ABC), Alliance of Democrats (AD), Basotho National Party (BNP), and Reformed Congress of Lesotho (RCL); opposition parties in parliament; opposition parties outside parliament; mother body of civil society organisations; academic; the youth; the media; persons living with disabilities; College of Chiefs; and the business sector. Out of these 18 members, political parties had eight members, constituting 53.33%. In terms of the National Reforms Dialogue Act (2018:sec (11) (1)), the functions of the NDPC were to:

- a) design and plan the national dialogue plenaries, including topics and themes, speakers and facilitators, and parallel thematic sessions;
- b) develop criteria for representation at the national dialogue and drawing of a list of participants;
- c) develop a true and impartial final report of the dialogue process and make it available to the public;
- d) sensitise and communicate dialogue plans to the public to ensure meaningful participation;
- e) provide technical support to the dialogue process;
- f) develop draft guidelines for district consultations to be endorsed in the National Dialogue Plenary I;
- g) oversee the district consultations in conjunction with the lead implementing partner and present them to the National Dialogue Plenary II; and
- h) perform any other functions necessary for the efficient and successful conduct of the national dialogue.

The NDPC was also empowered, under the National Reforms Dialogue Act (2018: sec (11) (2), to co-opt any person as may be necessary based on technical expertise or any other specific skill.

The other two structures were the National Dialogue Plenaries I and II, consisting of a representative sample of Basotho from top leaders to community representatives and included plenary and group discussions around different issues and sectors for reform. In this forum, critical issues affecting peace and causing instability were defined, discussed, and options for national reconciliation and a way to reforms were agreed upon. Outputs of Plenary I were a consensus on issues affecting peace and stability; how these could be addressed through reforms; and agreement on In-District consultation (Government of Lesotho, u.d:48).

The reforms process covered two phases, namely, In-District and diaspora consultations. These were conducted by credible civil society organisations in line with the format agreed in Plenary 1. Reports were submitted to the NDPC for consolidation to form an input into Plenary II. The output of these consultations were the proposals on pathways to national

healing, reconciliation, and discussion on issues affecting peace and stability and how these could be addressed through reforms. Plenary II was the last structure, which concluded the national dialogue process. It was to agree on the way forward regarding the reforms and make proposals for national reconciliation and its implementation (Government of Lesotho, u.d:49).

For purposes of implementing the decisions and resolutions made during Plenary II, the National Reforms Authority (NRA) was established through the National Reforms Authority Act, 2019, as a successor to the NDPC. The rationale for the establishment of the NRA was to safeguard the national reforms process by ensuring that citizens' voices are heard and given effect; promoting stakeholder consensus on the national reforms and long-term national stability, unity and reconciliation; providing effective and efficient management, coordination, oversight and strategic leadership in the national reforms process, and expediting the national transformation of Lesotho through independent, transparent and accountable structures of the law reform process in the implementation of the resolutions and decisions of Plenary II (National Reforms Authority Act, 2019:sec (3)). However, the NRA also suffers from the same weakness of domination by politicians.

Out of its 56 members drawn from different sections of the Basotho society, in keeping with the principles underpinning other structures above, 35 of them or 64.29%, are politicians (National Reforms Authority Act, 2019:sec(5)(1)). They dominate in all committees of the NRA, including the parliamentary reforms committee itself. It remains to be seen how all these committees will work and the kind of product they will produce. It is under the above processes and structures that the parliamentary reforms were conducted as part of the overall comprehensive reform covering the seven thematic areas. The citizens of Lesotho expressed their views as to what they considered as the key challenges confronting the nations in the seven areas, including for this chapter, their parliament.

The design of the national reforms process favoured politicians over other actors in Lesotho's politics. At the risk of repetition, it is worth citing the figures to stress the point. Politicians constituted 81.55%, 53.33%, and 64.29% in the NFL, NDPC, and NRA, respectively. This was a very serious blunder for the success of the reforms, and it is not clear why everyone, including the SADC facilitator, allowed this to happen.

5 The views of the citizens of Lesotho on the content of parliamentary reforms

The inclusive, participatory and deliberative nature of the parliamentary reforms process opened avenues for the citizens of Lesotho to make their inputs that would help define and shape the nature, composition, and size of a parliament they wanted under the coalition arrangements. These views were solicited through two phases of public consultations

highlighted above. These public views were consolidated by four experts (two domestic and two international) co-opted for that purpose by the NDPC. The original views of the citizens and the interventions of the experts on those views as well as those of the Plenary II are summarised in Table 13.1. Plenary II was tasked with concluding the entire process and agreeing on the way forward regarding the reform mechanisms, and making proposals for national reconciliation and its implementation (Government of Lesotho, u.d:49).

The NDPC was responsible for designing and planning the national dialogue plenaries, including topics and themes, speakers and facilitators, and parallel thematic sessions and developing criteria for representation at the national dialogue and drawing of a list of participants, in terms of the National Reforms Dialogue Act (2018:sec(11)(1)). However, the actual decision on who participated in which session out of the seven thematic areas of the reform process seems to have been left with individuals. Consequently, every participant joined the session of their choice. Three key issues have to be understood. One is who participated in the parliamentary reforms thematic area Plenary II sessions? What transpired in those sessions, leading to the final Plenary II Report, 2019? And what kind of decisions were made by the forum, and to what extent do those decisions reflect the inputs of the citizens? It is difficult to know who and in what numbers participated in the parliamentary reforms Plenary II sessions because there is no attendance list of participants. All the efforts to access such a list failed. To make sense of what took place in those sessions, I interviewed three informants who were close to the process. On the question of who participated in the sessions, three of them were unanimous that the sessions were attended by representatives of the youth organisations, civil society, and politicians (both in government and opposition and some members of the cabinet). The data below will assist in answering the last question above.

Informant 1 disclosed that under the NLF, politicians were reluctant to approve the report from the experts, arguing that: "the report did not reflect the views of the citizens". He also indicated that members of the NLF had not read the report before the meeting, although it was made available to them in advance, arguing that: "it was too bulky". For these reasons, the NLF meeting endorsed a suggestion from civil society representatives in the body to establish a sub-committee made up of representatives of civil society to "synthesise and simplify" the report for easy consumption by the NLF in its next meeting.

Thus, a three-person sub-committee of the NLF was set up. After interacting with the experts, who had authored the report, and agreeing on its contents, and synthesising and simplifying it, he continued, the sub-committee submitted a "synthesised and simplified" version of the report, along with the original experts' report before the NLF. The report was then approved for presentation in the Plenary II sessions. He further indicated that in Plenary II sessions, the representatives of the youth organisations, civil society, and politicians participated but the politicians dominated both in numbers and deliberations, which were very heated, leading to a prolonged session that ended after 11 pm. He further

showed that participants from the youth and civil society left before the sessions ended, leaving the politicians to make decisions. That is why, according to him, the final report has decisions like “retain the status quo” on issues that the citizens have suggested changes. Informant 2 agrees with his colleague that the politicians were a dominant force in the sessions and bitterly objected to the reform proposals from the citizens, especially on those issues affecting politicians directly. He revealed that the departure by some representatives of the youth and civil society organisations made it easy for the politicians to reject some of the inputs of the citizens (Interview with the Informant 2, 2021). Informant 3 concurred with informants 1 and 2 on the numerical preponderance of politicians in the sessions and the delayed closure of the last session, and the final decisions that “a status quo” must be retained on key issues (interview with Informant 3, 2021). In the end, the politicians got their way over the preferences of the citizens, as reflected by asterisks in Table 13.1 below.

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
*1. Parliamentary floor crossing is not regulated and it results in instability, early elections hence an abuse of public funds, and shortening of the parliamentary term. MPs do not consult their constituencies before crossing the floor.	(i) Floor -crossing should be provided for in the Standing Orders in accordance with the Constitution (as may be amended). (ii) Floor-crossing should be provided for in the Constitution and regulated by an act of parliament. (iii) MPs must resign their seats if they want to cross the floor and by-elections held in their constituencies	(i) National Assembly Electoral Act, 2011 should be amended to regulate floor crossing to ensure stable government. (ii) MPS who want to cross the floor should resign and by-elections called in their constituencies because voters vote for an MP they also vote for the political party he/she represents. It is only legitimate that MPs who want to cross the floor should get the mandate of the electorate.	(i) Allow floor-crossing after 3 years in the life of parliament.

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
2. Benefits of ministers and MPs are a burden to the national purse and do not take into consideration the national economic status. e.g. the M500 000 interest-free loans	(i) Interest-free loans for ministers, MPs, and other authorities should be abolished forthwith. (ii) These loans must be charged interest and all beneficiaries of these must pay both the loan and interest.	(i) The members of parliament Salaries (Amendment Act, 1998 and members of parliament Salaries (Amendment of Schedule) Regulations, 2019) should be amended. (ii) Loans must be charged interest and paid back by their beneficiaries	(i) Abolish interest-free loans
3. Lack of self-representation of persons with disabilities makes them face socio-economic and political exclusion.	(i) There should be self-representation of persons with disabilities (male and female) in both Houses of Parliament.	(i) National Assembly Electoral Act, 2011 should be amended to make it mandatory for political parties to include persons with disabilities on their PR lists (ii) Among the nominated Senators, at least one should be from the people living with disabilities.	(i) Provide for a special seat for People with disabilities in parliament
4. Children's Parliament is not legislated, therefore there is no formal platform from whence their issues can be addressed.	(i) Legislate for recognition of the Children's Parliament	(i) It is not a general practice in the world to legislate for children or youth Parliament. In recognising the need for the youth to have their voices heard, Youth Parliaments are organised by national youth councils in collaboration with government ministries responsible for youth and usually meet at least once a year.	(i) Pursue Child Protection and Wellbeing Act amendment proposing Children's Parliament by law and pursue a policy that provided for Youth Council and other platforms like youth development legislation

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
*5. Lesotho has too many political parties which add no real value to the country's democracy and there are a low threshold and poorly regulated lists for registration of political parties.	(i) A threshold for registration of political parties with IEC should be revised up to at least 5 000 members to be verified by the IEC. (i) Abolish party funding.	(i) Existence of political parties should be provided for in the Constitution and Political Parties Act with appropriate regulatory mechanisms should be promulgated to address all these concerns. (ii) Abolishing party funding would disadvantage opposition parties. Party funding makes the electoral terrain fair in line with regional and global trends.	* (i) Enact a party registration law that governs the registration, ensures party compliance with set standards, and controls unhealthy proliferation but does not curtail democracy and freedom of association.
6. The MMP system allows candidates who would otherwise not be in parliament to get in for personal rather than the public good.	(i) The MMP System should be abolished in favour of the First-Past-The-Post (FPTP).	(i) The National Assembly Electoral Act, 2011 should be amended to provide for a predetermined threshold of votes for political parties to qualify for PR seats in parliament and also allow voters two ballots: one for a party of their choice and another for a candidate. This is how the system was designed in New Zealand where Lesotho borrowed the model from. (ii) Returning to the FPTP system would take Lesotho back to the crisis, which led to the change of the FPTP system.	(i) Retain MMP with amendments on the threshold, two ballots, and submission of lists after elections in relation to performance.

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
7. Parliamentary Practices and Procedures are outdated and need to be revisited and updated.	(i) Review and update Standing orders 29 and 65.	(i) Parliamentary Standing Order 29 and 65 should be revised.	(i) Revise standing orders.
8. There is a need to harmonise the relationship between the Senate and the National Assembly	(ii) Create formal arrangements that will facilitate: Joint sittings of the two Houses and Joint Committees.	Formulation of joint standing orders to facilitate joint functions that promote smooth parliamentary governance. For instance, the British Parliament which is relatively similar to the parliament of Lesotho already operates separate and joined standing orders and joint committees.	
*9. MPs continue to be in parliament even when voters feel they no longer represent them properly.	(i) Create a mechanism for the recall of MPs.	(i) The practice in all parliamentary systems is that MPs are voted to serve the full term of parliament. It would be extremely cumbersome and disruptive to recall MPs before the end of the parliamentary term.	*Reject recall of MPs.
*10. The size of parliament is too large for a small country like Lesotho.	(i) The size of the National Assembly should be reduced from 120 to 80 members.	(i) The Fourth Amendment to the Constitution Act, 2001 should be amended to reduce the number of seats in parliament from 120 to 80 seats, half of which could be PR and the other half constituency-based seats.	*Retain status quo.

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
*11. No provision as to the academic qualifications of the parliamentarians	<p>(i) Section 58 (2) (c) of the Constitution should be amended to spell out minimum academic qualifications for members of parliament, as may be specified by an act of parliament from time to time.</p> <p>(ii) Candidates for parliamentary seats must have at least a Bachelor's degree qualification.</p>	<p>(i) Section 58 (2) (c) of the Constitution should be amended to provide for academic qualification for eligibility of MPS. The move would enhance the capacity of MPS. However, great care must be taken to avoid an elitist parliament that is out of touch with the interests of the people it is supposed to represent. (ii) It is recommended that MPs must have at least "O" level qualifications.</p>	*Retain the status quo.
*12. Abuse of the bicameral nature of parliament allows for candidates who have been rejected by the voters to be appointed into the Senate without regard to any merit principle.	<p>(i) Composition of the Senate should be left open for debate.</p> <p>(ii) Retain the two houses of parliament, but the Senate should accommodate experts and marginalised groups.</p>	<p>(ii) Section 55 of the Constitution should be amended to provide for nomination into the Senate, only people with special expertise to add value to the legislative processes.</p> <p>(ii) The current composition of the Senate should be retained as it is reflective of the nature of Basotho as a nation.</p> <p>(ii) Marginalised groups can be represented in the National Assembly through the PR component of the MMP system.</p>	* (i) Retain the status quo.

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
*13. The composition of the Senate is not fully representative.	(i) The Senate should be abolished. (ii) Chiefs in Senate must be elected by the people and (ii) Principal Chiefs must be abolished.	(i) No action is recommended because: In a constitutional monarchical context, of which Lesotho is part, the Senate performs an important legislative function as a House of review and therefore should not be abolished. It does not necessarily have to be representative; the National Assembly is. (ii) Chiefs cannot be elected lest they lose their status as chiefs	* (i) Retain Senate and improve by including Baphuthi, Bafokeng, Bathapu, and Matebele; nominate professionals and representatives of different sectors of society as members.
*14. The 11 nominated members in the Senate are too many and should be reduced and their nomination is not based on merit per se but political consideration.	(i) 11 members of the Senate who are nominated should be reduced. (ii) Their nomination must be based on their expertise and the prime minister must adduce proof of such expertise to the King before appointing them. (iii) Review the composition of the Senate to make the House politically neutral and non-partisan.	(i) Section 55 of the Constitution should be amended to reduce the number of nominated Senators to six to save national resources. (ii) This nomination should be based on special expertise and not on political criteria.	* Retain the status quo.
15. The provision for the prorogation of parliament in the Constitution is too broad.	(i) Prorogation of parliament should be retained as a democratic tool that is used to mark the Sessions of Parliament. (ii) Amend Section 82 of the Constitution to reduce the period of prorogation.	(i) Section 82 of the Constitution should be amended to reduce the period of prorogation of parliament. (ii) The conditions under which parliament can be prorogued should also be stipulated to prevent the abuse of this practice.	(i) Regulate the time limit depending on the reason for prorogation.

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
16. Vote of no-confidence in the prime minister has resulted in the dissolution of parliament and early elections. This is costly for the country	<p>(i) When a vote of no-confidence against the Prime minister succeeds, the Pprime Mminister should not be given the option of choosing whether or not to resign or dissolve parliament, but should resign and a new Prime Minister be elected from the existing parliament to finish the remaining term of parliament.</p> <p>(ii) The King should have absolute authority to decide whether elections have to be called</p>	<p>(i) Section 83 of the Constitution should be amended to prevent a vote of no-confidence to have an impact on the continuity of parliament.</p> <p>(ii) The prime minister should resign once a vote of no-confidence against him/her succeeds as it is a practice in parliamentary systems.</p> <p>(ii) In democratic constitutional monarchical systems, kings/ queens do not have absolute authority to call elections. Lesotho should not be an exception.</p>	<p>(i) Prohibit the prime minister from advising the King on dissolution after a successful vote of no-confidence. The Prime minister does not ordinarily have the power to advise on dissolution unless it is supported by a 2/3 majority of the National Assembly.</p> <p>(ii) Remove Prime Minister by 2/3 majority of the National Assembly, or</p> <p>(iii) Keep a simple majority since in the current arrangement a motion of no-confidence may not be done more than once in a session.</p>
17. There is a lack of clarity on eligibility for pension by former Prime Ministers and Deputy Prime Ministers who wish to serve as Members of Parliament after having served their term in those offices.	<p>(i) Prime minister and deputy prime minister should be eligible for a pension after serving a five-year term.</p> <p>(ii) Former prime ministers and deputy prime ministers should be disqualified from members</p>	<p>(i) Section 59 (4) of the Constitution on disqualification for membership of parliament should be amended to include former pensionable prime ministers and deputy prime ministers</p> <p>(ii) The Prime Minister and Deputy Prime Minister (Retirement and Spouse's Benefit) Act 2011 should be amended to provide that the prime minister and deputy prime minister should be eligible for a pension after a five-year term.</p>	<p>(i) Keep the status quo subject to change in the provision for the life of parliament.</p>

Table 13.1 The views of citizens, experts and decisions of Plenary II on issues affecting parliament (continued)

Issue and the challenges it poses	Views of citizens	Views of experts	Plenary II Decisions
18. There is no separation of powers between the executive and legislative arms of the state. Parliament relies on the executive for financial and human resources.	(i) An independent Parliamentary Service Commission should be established to grant parliament its independence from the executive, determine the conditions of service of both MPs and staff and control its resources	(i) An Independent Parliamentary Service Commission should be established to empower parliament to control its resources and enhance its independence from the executive.	(i) Establish Parliamentary Service Commission. (ii) Empower parliamentary committees. (iii) Limit the influence and excess of the executive to parliament and judiciary. (iv) Explore possibilities of excluding members of parliament from being members of the executive and compare practices elsewhere.
19. There is a lack of symmetry in the conditions of service for the members of A the two Houses, resulting in the sense of seniority and superiority, and inferiority.	(i) Conditions of service of members of these Houses should be standardised and harmonised.	(i) Establishment of the Independent Parliamentary Service Commission could address these issues	(i) Establish Parliamentary Services Commission

NB: *indicates key issues on which Plenary II rejected or modified the views of the citizens and those of the experts

Source: Compiled by the author

6 Interpretation of the decisions of Plenary II

As Table 13.1 indicates, the views of the citizens and those of experts were not all endorsed by Plenary II. This means that there will be very little or no changes at all concerning the issues marked by asterisks, each with adverse implications both for the quality of parliamentary processes, governance, and crucially on the national economy.

The parliamentary practice of floor-crossing with its effects of distorting proportionality of seats to votes parties receive and instability of government will continue, albeit in a slightly modified form in that it will occur after three years into the term of parliament. But parliament will finish its five-year term beginning with the current one (2017/2022) because members of the National Assembly initiated and successfully passed through the two houses of parliament the Ninth Amendment to the Constitution (2020).

The Act bars the prime minister from advising the King to dissolve parliament, as he has done in the past unless he obtains majority support of the members of parliament. The move unveiled the self-serving character of Lesotho's politicians in that they picked this issue out of all those indicated in Table 13.1 to protect their jobs. This is because they feared that then Prime Minister (Thomas Thabane) would advise dissolution.

Members of parliament will remain unaccountable to the voters in that they will cross the floor without the mandate of the voters, who may have not have cautiously elected them but the parties they represented. Regulating floor-crossing would simply require an amendment of the National Assembly Electoral Act (2011), not even a constitutional amendment. Because it would not be in their interests to regulate this practice, members of parliament have not done anything about it despite the recommendation from the Commonwealth Expert (Prasad, 2014:37). The current arrangements allow parliamentarians to be elected under the FPTP variant of the mixed electoral system to cross the floor to punish the parties under whose banner they entered parliament or get cabinet seats. The net implication of this practice has been to destabilise and collapse governments since the advent of coalition politics in the country.

Regulation of political parties will remain poor, and politicians will still form outfits masquerading as political parties even when they do not have a noticeable following from the population. Each of these micro-parties will continue to receive public funds for an electoral campaign in terms of the National Assembly Electoral Act (2011:sec(70)), yet many of them fail to secure enough votes to win a single PR seat in parliament. For example, in the 2017 elections 23 of the 35 parties (65.71%) failed to win about 2 700 votes constituting a quota for a PR seat (see IEC, 2017:37).

Rather than reducing the size of both Houses of Parliament, as the citizens preferred, politicians have resisted this move, thus making Basotho one of over-represented nations, given the geographic size of the country and its population. In the case of the Senate, politicians have decided to enlarge the House while also leaving it open as a channel for patronage usually extended to the losers in elections and political allies of sitting prime ministers. They have also decided to leave the calibre of the Senators as it is or worse, depending on who will join it in the future. So in the end, politicians ensured that they constructed the reform structures that will protect their interests in the form of parliamentary perks amidst conditions of extreme poverty, institutional inefficiencies, and ineffectiveness, lack of service delivery, and generally poor governance, all of which were to be addressed through the reforms agenda. SADC, which was responsible for facilitating the reform process, has not helped Lesotho avoid this outcome.

7 Conclusion

As part of the comprehensive national reforms, covering seven thematic areas, Lesotho parliamentary reforms exercise was rhetorically intended to grant the citizens a direct voice in the reforms process under what was supposedly an inclusive, participatory and deliberative framework. But the very flawed design of the process has allowed the political elites who were to be constrained, for the general good of the nation, through the reforms instrument, an enormous opportunity to undermine the whole process. The structures that were to drive the process (from the NLF, NDPC, and Plenary II) became dominated by the political elites, who seized the opportunity to retain and entrench their interests in the process at the expense of those of the nation on whose taxes they live. They vetoed all inputs of the citizens on issues that directly threatened their interests, thus putting to question the value of public participation in the parliamentary process and turning the whole process into a window-dressing exercise, serving only to confer some legitimacy on what is a self-serving project entrenching the interests of the elites rather than a truly institutional transformative device. There is indeed very little hope that the NRA, which is similarly dominated by politicians, will be able to rescue the voices of the citizens and give them effect in the outcomes of the parliamentary reforms.

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