

**LESOTHO
LOCAL GOVERNMENT ELECTIONS**

30 April 2005

**REPORT OF THE
COMMONWEALTH EXPERT TEAM**



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**This Commonwealth Expert Team was jointly organized by the Commonwealth Secretariat and the Commonwealth Local Government Forum.*

INTRODUCTION

INVITATION AND COMPOSITION OF THE EXPERT TEAM

This report presents the observations, conclusions and recommendations of the Commonwealth Expert Team which was present in Lesotho for the Local Government Elections held on 30 April 2005.

The decision to send an Expert Team followed an invitation from the Independent Electoral Commission (see letter of invitation and response to invitation in Annex C). The Team was organised by the Commonwealth Secretariat and the Commonwealth Local Government Forum and consisted of:

Councillor John E Otekat
Chairperson of the Commonwealth Local Government Forum,
President of the Uganda Local Government Association and
Chairperson of Soroti District
Uganda

Councillor Leslie Lynch
Councillor on San Fernando City Council and
Member of the Local Government Association
Trinidad and Tobago

Ms Angela Odah
National Co-ordinator
Transition Monitoring Group (NGO Coalition)
Nigeria

The Team was assisted by a support staff member from the Commonwealth Secretariat:

Mr Linford Andrews
Political Affairs Officer
Political Affairs Division

TERMS OF REFERENCE

The Terms of Reference for the Group were as follows:

"The Commonwealth Expert Team is established by the Commonwealth Secretary-General at the request of the Government and the Independent Electoral Commission (IEC) of Lesotho. It is to observe the preparations for the elections, the polling, counting and results process and the overall electoral environment and will submit its report to the Commonwealth Secretary-General and the Commonwealth Local Government Forum with

recommendations, if appropriate, for Commonwealth technical assistance. The report will then be transmitted to the Government of Lesotho, the Independent Electoral Commission and the political parties. Thereafter copies will be circulated to all Commonwealth governments and the report will be made public."

The members of the Team were invited in their individual capacities and it was made clear in advance by means of a Circular to Commonwealth Governments and a press release (see Annex D) that the views they expressed regarding the elections would be their own and not those of their respective Governments, of the Commonwealth Secretariat or of the Commonwealth Local Government Forum.

ACTIVITIES OF THE EXPERT TEAM

The Expert Team arrived in Lesotho on 23 April and began work by holding a series of briefing meetings in the Lesotho Sun Hotel. These are listed at Annex E. Some of these meetings provided information on the electoral process; others provided background on the overall environment in which the elections were being held. The Team was also provided with various written briefing materials, including documentation on the electoral laws and a copy of the Presiding Officers Manual.

During a period of three days (25 – 27 April), the Team was briefed by the Independent Electoral Commission (IEC), representatives of various political parties, Commonwealth High Commissioners and other diplomats, the media, civil society and the UNDP. The Team received their letters of accreditation from the IEC on 26 April.

On Wednesday 27 April members of the Team commenced their deployment, with one group travelling to Mokhotlong, and the second group travelling to Qacha's Nek. The Team members were able to interact with voters and observe the political environment in several key districts. One team, consisting of Councillor Otekat and Ms Odah visited the districts of Mafeteng, Mohale's Hoek, Qacha's Nek and Quthing. The second team, consisting of Councillor Lynch and Mr Andrews, covered the Butha-Buthe, Maseru, Mokhotlong and Thaba-Tseka districts.

During their deployment the teams toured their areas assessing the environment, meeting people, visiting district offices of the IEC and the Royal Lesotho Mounted Police, as well as observing the final preparations for the election. On Polling Day itself, 30 April, they were present at polling stations in time to observe their opening. They then visited as many stations as possible during the day and observed the closing procedure. The Teams then observed the counting of votes, which was conducted at all polling stations immediately after the closure of the polls.

The Teams were able to observe the count, and the sealing of the ballots. On polling day the Expert Team visited 32 polling stations in 8 districts¹.

From 2 to 4 May the Expert Team prepared its report and held a number of follow-up meetings. It met the IEC and held consultations with the diplomatic and donor community (co-ordinated by the UNDP), to exchange information on its observations. The Team also met with the Opposition parties which had originally requested the postponement of the elections on the grounds of certain concerns not having been addressed by the IEC (see **Issues**). The Team departed Lesotho on Thursday 5 May 2005 and the report was transmitted to the Commonwealth Secretary-General and the Commonwealth Local Government Forum.

¹ The following districts were covered by the Team: Butha-Buthe; Mafeteng; Maseru; Mohale's Hoek; Mokhotlong; Qacha's Nek; Quthing; and Thaba-Tseka.

THE ELECTORAL FRAMEWORK

The Local Government Elections 2005 were the first held in Lesotho since independence.

THE CONSTITUTION

The Constitution of Lesotho came into force on 2 April 1993 and was amended in 1996 and 1997. The 1997 amendments established an Independent Electoral Commission (IEC) and empowered Parliament to make laws relating to the registration of electors, the conduct of elections, the powers, duties and functions of the IEC and the registration and regulation of political parties.

ELECTION MANAGEMENT

The Independent Electoral Commission (IEC), established under Section 66 of the Constitution (as amended in 1997), derives its powers and functions from the Constitution and the National Assembly Election Act (1992). The IEC consists of a Chairman, plus two Commissioners. The Director of Elections and Registration Officers are appointed by the IEC.²

The current IEC was sworn into office in April 2001 and immediately started to put legislation in place that would enable it to carry out its job. It operates independently of Government and the influence of other political parties and is responsible to the Parliament of Lesotho. It performs its functions impartially and independently and is responsible for the organisation, conduct and supervision of the elections in Lesotho.

Another function of the IEC is the demarcation of the electoral division boundaries³. As a consequence the IEC created Community Councils, i.e. Rural Councils, Urban Councils, District Councils and Municipal Councils (see Annex F). These councils were established due to particular social and cultural ties and the physical features of the community.

² Local Government Election Act 1998, Supplement No. 1 to Lesotho Government Gazette No. 47 (12 June 1998), p46, section 3.

³ The Second Amendment to the Constitution Act (1997) made provision for the functions of the former Constituency Delimitation Commission to be performed by the IEC.

LEGISLATION

Local Government in Lesotho is guided by the following:

- The Constitution of Lesotho, which obliges Parliament to establish local government, which is specified under Section 106 quoted below:

“Parliament shall establish such Local Authorities as it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an act of Parliament.”

- The Local Government Act (1997), which outlines the institutional framework for the envisaged local government system;
- The Local Government Elections Act (1998), which outlines procedures, rules and regulations for the conduct of the local election process;
- The Local Government Elections (Amendment) Act (2004).

THE ELECTORAL SYSTEM

The Local Government Elections were to be conducted under the First Past the Post System (FPP) and not the Mixed Member Proportional (MMP) system employed in the 2002 General Election in Lesotho. According to information from the IEC, 17 political parties and 2,794 independent candidates were registered to contest the elections in a total of 129 community councils in ten districts.

In order to demarcate the electoral division boundaries, the IEC created Community Councils, i.e. Rural Councils, Urban Councils, District Councils and Municipal Councils. These structures are underpinned by a Co-ordinating structure, consisting of a District Development Co-ordinating Committee, a District Administrator, a District Planning Unit, a Local Government Service Commission and a Local Government Service Tribunal. (See Annex F)

SELECTION AND TRAINING OF POLLING OFFICIALS

According to the law, the Director of Elections appoints one or more polling officials for each polling station⁴. Training of officials is the

⁴ Local Government Election Act 1998, Supplement No. 1 to Lesotho Government Gazette No. 47 (12 June 1998), p59, section 34 (1).

responsibility of the IEC, which provides each official with a copy of the Presiding Officers Manual.

NOMINATION OF CANDIDATES

According to the law⁵ “every registered political party in Lesotho shall have the right to nominate candidates to stand for elections and such nomination shall be made in accordance with the provisions of this Act”. The nomination of candidates was to commence on 29 March 2005 in all electoral divisions. Three hundred and ninety electoral divisions were to be reserved for women.

VOTER REGISTRATION

Though voter registration took place prior to the 2002 General Election, logistical problems were cited as the main cause by the IEC for it not being conducted for the 2005 Local Government Elections. However, this has been a contentious issue (see **Issues**).

VOTER EDUCATION

The IEC had the primary task of conducting voter education across the country. This was also a contentious issue and was raised as a concern by several stakeholders (see **Issues**).

THE CAMPAIGN

During our deployment around the country, we did not witness any campaigning. However, we were informed by some political parties that they had conducted campaigns. In the course of our deployment, we observed that there were no posters or official/party symbols displayed anywhere, except in the Butha-Buthe district. These were the only signs that an impending election was taking place.

PARTY/OFFICIAL SYMBOLS

Although the legislation⁶ provides for a person who is eligible to be nominated as a candidate and for party or official symbols⁷ to be registered by both political parties and independent candidates, it must be noted that during the Team’s observations around the country we had discovered that some political parties had registered and utilised symbols closely resembling that of other parties. For example, the Lesotho Congress for Democracy (LCD) and the National Independent Party (NIP)

⁵ Local Government Elections (Amendment) Act 2004, Lesotho Government Gazette No. 75 (22 July 2004), p540, section 26A (1).

⁶ Local Government Election Act 1998, Supplement No. 1 to Lesotho Government Gazette No. 47 (12 June 1998), p56, section 26

⁷ Local Government Elections (Amendment) Act 2004, Lesotho Government Gazette No. 75 (22 July 2004), p544, section 33A.

both used symbols portraying birds in flight⁸. We determined that only five of the political parties contesting the elections had official symbols which were unique and would not cause confusion to voters. Further, nine independent candidates were found to have official symbols which were uniquely distinguishable.

MEDIA

In our meeting with representatives of the media we found that they were of the opinion that their rights were respected, in accordance with the law⁹, and that there were no reports of any kind of conflict or clashes with media personnel, political parties, independent candidates or their representatives. However, we were informed by the media that they had not been adequately informed about critical processes leading up to the elections. In their opinion, this consequently affected their ability to disseminate information. Media coverage of the entire electoral process leading up to polling day tended to be limited, partly due to the fact that the print media operates on a weekly basis, with no daily newspapers providing up to date information. The radio was the only convenient medium in rural areas, though coverage of radio stations tended to be intermittent due to the mountainous terrain.

⁸ Another example: we noted that the Marematlou Freedom Party (MFP), Basotho National Party (BNP), The Alliance Lesotho Labour Party/United Democratic Party Alliance (LLP/UDP), Lesotho Workers Party (LWP), Basutoland African Congress (BAC) and 2 other independent candidates had a hand and fingers represented in similar, though differing, variations as their official symbols.

⁹ Local Government Elections (Amendment) Act 2004, Lesotho Government Gazette No. 75 (22 July 2004), Fourth Schedule, Electoral Code of Conduct, p562, section 8

ISSUES

The Team held meetings with a cross-section of stakeholders prior to the Local Government Elections held on 30 of April. These stakeholders included the IEC, the Ministry of Local Government, NGOs, political parties (ruling and opposition), the media, and the diplomatic and donor community. It was evident from these dialogues that the following were issues of contention in the processes leading up to the Local Government Elections:

1. Demarcation of electoral divisions

It was evident from interactions with opposition parties, the media and NGOs that the delimitation of electoral divisions was unsatisfactory to them. There were complaints that the electoral divisions were extremely disproportionate from the number of voters available in those areas. Areas with larger populations had fewer electoral divisions than those with sparse populations. The IEC stated in response that it had acted on the basis of guidelines for the process stipulated in the Local Government Act (1997) (Part 1) and the Amendment of the Local Government Act (1998) and 2004 - specifically, the Local Government Act (1997) in Part 1, subsection 6, states the modalities for creating electoral divisions.

2. Update of the Voters' Register

The conduct of the update of the voters' register was another issue of contention. Civil society groups, political parties and the media contended that this fundamental pre-election process was not effectively handled by the IEC, which in their opinion led to the inability of potential voters who had turned 18 (after the 2002 voter registration exercise) from participation in the Local Government Elections. Similarly, political parties were also concerned about the inability of the IEC to provide stakeholders with the comprehensive voters' list to allow for claims and objections, as well as during the nomination of candidates for the local government elections. The IEC on its part stated that it had conducted a voters' register update as stipulated in the electoral law and had by March 2005 produced a comprehensive voters' register. However, it admitted that it had encountered logistical challenges, for example heavy rains, which disrupted the voter update process in some constituencies, due to the inaccessibility of some roads. These challenges, it added, might have resulted in the inability of persons who had just turned 18 in those areas from registering as voters.

3. Quota for Women

In accordance with the law, one third of seats in each council were reserved for women in the process of nomination of candidates.¹⁰ This was an issue of contention in the processes leading up to the elections as various stakeholders were of the view that it contravened the provisions of the Constitution of Lesotho. This provision was considered by some stakeholders as discriminatory for it deprives men from contesting elections in the electoral divisions designated for women. Civil society groups, in a statement, maintained that the provision being made for women could not be considered reasonably justifiable in a democratic society based on the fact that:

- the principle of universal and equal suffrage, provided for by the constitution is compromised;
- the principle of one taking part in the conduct of public affairs, either directly or by freely chosen representatives, is violated on the basis of sex: the electorate (including women) who want to be represented by a candidate who is not a woman may not have a free choice.

Similarly, there were concerns raised over the utilisation of the method of drawing lots in selecting electoral divisions to be reserved for women. An aggrieved candidate protested against this process by going to court. However the case was thrown out two days prior to the Local Government Elections. In response the IEC stated it had conducted this process in accordance to the electoral law and to fulfil the provisions of SADC guidelines and other international instruments focused on the empowerment of women, to which Lesotho is a signatory.

4. Voter Education

Several stakeholders stated that the IEC had conducted little voter education. As a result a cloud of uncertainty pervaded over the processes leading up to the elections. The media and civil society groups expressed disappointment over the lack of engagement with all stakeholders by the IEC and the Ministry of Local Government on the Local Government Elections and the implementation of the local government authority after the elections. There were concerns over the absence of regulations detailing implementation of the Local Government structure, as well as the infrastructure to be used by the newly elected Local Government Councils. Similarly confusion over the nomination process was also expressed by a cross-section of stakeholders.

¹⁰ Local Government Elections (Amendment) Act 2004, Lesotho Government Gazette No. 75 (22 July 2004), p539, section 18 (a) (1A), as an amendment to Local Government Election Act (1998), section 26.

5. Electoral System

Several stakeholders were of the view that Lesotho should have adopted the Mixed Member Proportion System (MMP), rather than the First Past the Post System (FPP) proposed for the conduct of the Local Government Elections. Civil society groups in particular justified this assertion based on the high rate of deaths of parliamentarians (based on 80 constituencies); and in their view an enormous amount of money had been spent on by-elections since 2002. Secondly, the civil society groups also stated that with about 1,317 elected members in the local government councils, the death rates might be higher with enormous financial burdens for Lesotho. Thirdly, they asserted that the IEC would concentrate on the Local Government by-elections more than any other activity. Finally, they stated that the time spent on Government resources and the general assistance would exceed in cost the actual allocation to the councils for delivery of services to the people at the grassroots. Political parties expressed their concern about the nomination forms which did not accommodate sponsorship of candidates by political parties.

6. The Non-Availability of a Timetable

Several stakeholders expressed concern over the non-availability of a timetable for the Local Government Elections even though a timetable had been printed and made available to certain authorities.

7. Postponement of the Local Government Elections

In view of some of the concerns stated above, seven opposition parties had threatened to boycott the Local Government Elections. Several fora for negotiations were facilitated by the diplomatic and donor community between the Government, IEC and the seven opposition parties concerned. However there was a deadlock in negotiations between the government and the seven opposition parties. The IEC stated that it had made enormous financial expenditure towards the Local Government Elections and that it would be unwise to postpone them given the poor economic status of Lesotho. It also stated that it would be impossible to raise funds in the near future to hold rescheduled elections. It thus proposed that the elections be held and the weaknesses found in the process improved in future.

THE POLL AND THE COUNT

The Group was divided into two teams, each consisting of two members. The two teams were deployed on Wednesday 27 April - one to the southern districts of the country, as far as Qacha's Nek, and the other to the north as far as Mokhotlong. The teams observed both the polling and counting of votes at various polling stations within Maseru (the capital city and district), as well as in the rural areas.

LOGISTICAL ARRANGEMENTS ON POLLING DAY

The IEC had identified suitable venues as polling stations, which consisted mainly of schools and other public buildings. Each polling station had a Presiding Officer, assisted by three polling officers. For security purposes each of the polling stations had at least one policeman and in those we visited, not more than two policemen. In most of the polling stations we visited we found that the equipment provided was adequate. No Presiding Officer complained of lack of equipment or ballot papers. Given the hilly and mountainous terrain of the country the Group observed that the IEC had made adequate preparations for the polling day, even in very remote areas. Some polling stations were however sited in small rooms with inadequate lighting and limited space. Most polling stations had to be satisfied with candles for lighting during the counting of the votes.

Voting took place as planned on Saturday 30 April 2005. Our teams arrived at the Polling Stations before 7.00 am in order to witness the opening of the polls, and found voters already waiting in the very cold weather, wrapped in their traditional blankets. In two polling stations where candidates were returned unopposed we still found voters waiting anxiously to cast their votes. This is a clear indication of the lack of voter education in as far as the election of unopposed candidates is concerned. No official from the IEC was present to explain to the voters that they did not need to cast their vote since there was only one candidate.

We were impressed by the participation of women and the elderly during the elections. We did not witness many young people casting their votes in many polling stations that we visited. We also discovered that most of the Presiding Officers and polling officers were women, and that they were extremely vigilant in their work in every polling station we visited.

VOTING PROCEDURE

The poll was conducted as follows. Every district was sub-divided into several electoral divisions, which in turn were sub-divided into various constituencies, consisting of several polling stations. Each polling station consisted of one or more polling tables, depending on the size of the

constituency, with each table managed by a Presiding Officer, assisted by polling officers. The officials were all young, trained personnel.

The prescribed polling process was as follows. The polls were to open at 7.00 am and close at 5.00pm. The opening of most of the stations conformed to the requirements of the electoral law. Before the commencement of the poll the ballot boxes would be shown to observers and the party agents. They would then be locked in full view of all present. On arrival at the polling station the voter present his/her voter registration card to the first polling officer, who would then check the registration card against the voters' register, then drawing a line (using a red pen) across the voter's particulars. The voter would then move over to the second polling officer who inspects the voter's fingers for the presence of indelible ink. If there is none the voter's fingers are wiped with a dry cloth and the left index finger is dipped in indelible ink. If successfully verified the voter would then move to the third polling officer, who issues the voter a ballot paper with an explanation on the voting procedure. The procedures seem to us to have been complied with. The voter was then free to cast his/her ballot in a secure polling booth.

At the official closing time, any voter who was already on the premises of the polling station would be allowed to cast his/her vote. Then, once the ballots were sealed in full view of the party agents and observers the Presiding Officer would commence the counting process. This would involve the opening of each ballot box in front of observers and party agents. Votes would then be sorted out, then counted in front of the observers and party agents, with each ballot paper being shown individually to all party agents and observers before being placed in a pile for the particular candidate. Spoilt votes and tendered votes would then be separated from the used ballot papers. The votes would then be placed in envelopes, sealed and signed by party agents for onward transmission to the IEC under police escort. The used and unused ballot papers would be sealed and also sent on to the IEC with an official summary of the count, signed off by the Presiding Officer. These results were then to be submitted to the IEC Results Centre at the Maseru Convention Centre for final vetting prior to the announcement of results.

An analysis of our team's observations is presented below:

EVALUATION

Opening of the Poll: in most polling stations we visited, the opening of the poll was approximately at 7.00 am as stipulated, except in cases where a candidate had been returned unopposed. We also found that in some polling stations the opening was delayed due to factors such as the late arrival of party agents or the delay in dispatch of voting materials (e.g. ballot papers, voters' registers) to polling stations. It is understood that in every new electoral system there may be teething problems. Due appreciation is given to the fact that the topography (mountainous

terrain) played a role, and that these challenges could be dealt with through enhanced deployment of technology and the utilisation of air transport. However, we express our concern at the fact that the late arrival of party agents or official witnesses caused undue delay to the opening of the polls at some stations on time.

Party Agents: we found party agents in all the polling stations we visited and they ranged from two to ten in number. They stayed until the time of the counting of the votes and even signed on the seals after envelopes containing votes were sealed.

Disenfranchisement of voters: we wish to draw attention to the fact that many polling stations, particularly those in the mountainous, rural areas, were located inconveniently far away from many voters. We encountered some voters who had to spend more than an hour reaching their closest polling station. The risk of potentially disenfranchising voters who do not have access to adequate transport in such cases has to be highlighted.

Voters' Register: all polling stations had registers and we received no complaints from anyone concerning the register, including the party agents.

Cancellation of Nominations: at one of the IEC district offices we spoke to the Returning Officer for the area on the question of the nomination of candidates. We were informed that the nominations of some 16 candidates had been cancelled. These candidates were disqualified for various reasons. However, the current Local Government Election Act (1998)¹¹ states that "the nomination paper shall be signed by two persons as a proposer and seconder respectively, all of whose names shall appear in the register of voters in the electoral division or Local Authority area". The same Act further refers to the fact that the nomination papers shall be delivered to the Returning Officer and that these nomination papers should be delivered by the Candidate or by his proposer or seconder.

Layout and Facilities: we found this to be good, or reasonably adequate, in many polling stations that we visited, except one called Makanyane (Patlong Constituency in the Qacha's Nek District) which consisted of a dark room. Voters had difficulties in finding their way through the room. Another polling station at Letuka Primary School (Thaba-Tseka District) had a dark interior with few windows, which hampered the speed of voting. We also noted that some polling stations were not clearly identifiable, due to a lack of posters or other information material on the outside walls of the stations.

Polling Staff: most polling staff were women and they appeared to be very efficient in their work. They assisted the voters in a satisfactory

¹¹ Local Government Election Act 1998, Supplement No. 1 to Lesotho Government Gazette No. 47 (12 June 1998), p57, section 26 (3).

manner. The staff were all well dressed in the official IEC uniforms and carried out their tasks diligently. However, the processing of voters was slow, with an average of six minutes to complete the process for each voter, due in part to the fact that the voting procedure had to be explained to many voters. This process needs to be speeded up to reduce the time spent by voters in the queue, waiting their turn to vote.

Security Presence: the Royal Lesotho Mounted Police and/or police assistants were present in most of the polling stations we visited. They were discreet in fulfilling their duties. We found many of them a few metres away from the Polling Station. We found no evidence of military deployment to polling stations.

Complaints by party agents: we recorded no complaints by agents in the polling stations we visited, even during the counting of votes.

Complaints by voters: except for the Patlong High School polling station (Qacha's Nek District), where a voter complained of eighteen people having voted on the tendered ballots and not ballot papers, none of the polling stations we visited had complaints from the voters. The Presiding Officers need to be able to differentiate between tendered ballots and ballot papers (eighteen people are definitely a significant loss to a candidate) and the IEC is urged to correct this anomaly.

Presence of unauthorised persons: there were no unauthorised persons at any of the polling stations the Team visited. We also had to report our presence to all Presiding Officers in the stations we visited.

Atmosphere at polling stations: in most stations we visited there was a relaxed and orderly atmosphere. The voters, who were either waiting in the queue or scattered around, chatted freely to members of the Team without any fear of intimidation or tension.

Secrecy of ballot: we noted that in all the polling stations the secrecy of the ballot was assured. The voting booths were placed in positions where voting could take place without any hindrance.

Voting: we noted that the voting procedures were being followed in most polling stations we visited. The polling officials were very strict in ensuring that the fingers of the voters were properly checked before they voted. They also went to the extent of removing nail varnish from the fingernails of ladies, prior to dipping their fingers into the ink. No voters who were qualified to vote, including women, were deterred from voting. Blind or incapacitated voters were allowed to use persons of their own choice to assist them to cast their votes.

Closing of the Poll: in the polling stations that we visited the polls closed at exactly 5.00 pm. Those persons who were in the queue by 5.00

pm were allowed to vote. This was also the case, in as far as we are aware, in the great majority of polling stations all over the country.

The Count: as set out in the Presiding Officer's Manual, the Presiding Officer at each polling station had to oversee the reconciliation of the votes; count the votes in the presence of the party agents; read out the number of votes each candidate had received and cross check with the party agents. The Presiding Officer then sealed the envelopes where votes of each candidate had been placed and asked the party agents to counter-sign on the seals. In most polling stations counting had to be done using candlelight, since the counting went up to 8.00 pm in most polling stations we visited. After the count, the sealing of the envelopes and the signing by party agents, the dispatch of the results as well as the ballot papers and related material to the Returning Officers had to be done under police escort.

Difficulties were however encountered by some polling station staff in reconciling the votes with the number of voters who had voted. There were repeated counts of the number of people who had voted vis-à-vis the number of votes cast. Despite some challenges, the polling staff seemed dedicated to their work and tried to follow the Presiding Officer's Manual provided to them by the IEC. Though we found the counting process slow and lengthy we applaud it because it ensures accuracy and transparency. The requirement for the Presiding Officer to display each ballot to the party agents, observers and all interested parties ensured that the process was transparent and all parties concerned were satisfied with the results. Our teams were satisfied with the integrity of the counts, and no party agent or any interested party complained about the procedures followed. We did note that at one polling station the Presiding Officer chose not to verify the ballot papers himself, and instead displayed them only to party agents without looking at them to check if they were perhaps spoiled in any way, or to confirm the result of the particular vote to his polling staff.

Turnout: it was of concern to the Team that voter turnout was low. While taking cognisance of the fact that these were the *first* Local Government Elections, and that voters may not yet have familiarised themselves with this new electoral process, factors such as the large distances to polling stations in far flung constituencies (especially those in the Highlands) cannot be discounted. The fact that polling day was not declared a public holiday might also have contributed to the low turnout. Among the reasons cited for the apathy of voters were an overall lack of trust in political parties, and the perception among voters that their votes would not bring about any changes in the government. It appeared that voter turnout was at its peak during the morning, particularly at the Opening of the polls. It was also noted that the voter turnout tended to be larger in more rural constituencies, as opposed to urban areas such as Maseru.

Voting materials: it was positive to note that the delivery of materials took place on schedule in most districts. For the polling stations where we did encounter delays in the opening of those stations due to the late arrival of materials, we urge the IEC to initiate steps to prevent these delays in future elections. Some voters we spoke to were dissatisfied with the delay in the opening of the polls. This dissatisfaction was particularly evident among elderly voters who had queued very early on polling day in cold weather to ensure that they were able to cast their ballots.

Domestic/ International Observers: while we welcomed the fact that observers (both domestic and international) were indeed accredited to observe the Local Government Elections, the Team did not encounter any other observers during its observations, except for a team from the British High Commission in the Thaba-Tseka district.

Women Voters: though the overall voter turnout was low, we noted that women voters turned out in commendably large numbers in all polling stations we visited.

CONCLUSIONS AND RECOMMENDATIONS

Though the Team consisted of only a few members, we were able to visit most of the electoral districts. From our observations, we conclude:

- *The overall environment*

There was an air of uncertainty that clouded the backdrop to the elections. Consultations between the IEC and some political parties deadlocked over some concerns on the conduct of critical processes leading up to the elections, i.e. the delimitation of electoral division boundaries, the display of the voters' register and the nomination of candidates. Litigation challenging the constitutionality of the quota reserved for women also created tension about the possibility of Local Elections being conducted on 30 April.

- *Preparations for the elections*

The IEC is highly commended for making good preparations for the elections. However, we noted that the IEC did not adequately involve some of the major stakeholders such as the media and the NGOs in the preparations for the elections.

- *Voter education*

We recognise that the current voter education exercise is inadequate. This exercise needs to be intensified by the IEC to enable the voters to become more aware of their role to elect the leaders of their own choice through the ballot. NGOs and civil society organisations need to be involved in this very important task of educating the voters on their right to elect their own leaders. The IEC, NGOs and other stakeholders have to provide voter education to the electorate on the importance of participation in the Local Government electoral process, the procedures for voting and the need for peace during all stages of the electoral process. The youth should particularly be targeted in this exercise, given that their participation in the Local Government Elections was minimal.

- *Voter turnout*

The turnout was low, a factor largely attributed to the fact that these were the first Local Government Elections. Most of the voters who turned out were women or the elderly, while the youth had a minimal turnout. Voter and civic education needs to be enhanced to stimulate greater participation of voters in future elections.

- *The Media*

Media coverage of the elections was minimal throughout the electoral process. The print and electronic media covered very little of the developments during the preparations for the elections and the polling day itself, though intermittent coverage was evident. The media

themselves complained to the Team about their perceived non-involvement in the preparations for the elections, by the IEC.

OVERALL JUDGEMENT

A cloud of uncertainty prevailed over the backdrop of the Local Government Elections, with a clear breakdown of consensus and communication among critical stakeholders in the electoral process. We commend the peaceful conduct of all stakeholders in the processes leading up to the elections and the conduct of polling day itself. It is our hope that this will be continued in the conduct of the post-election processes.

The will of the people should be central to the conduct of any electoral process. Consequently, we identified shortcomings in the conduct of critical processes leading up to the elections, such as the delimitation of constituencies, the conduct of the voter registration update and voter education.

We however commend the overall conduct of the polling day activities, which were carried out in a peaceful atmosphere and in a transparent manner, in accordance with the law.

RECOMMENDATIONS

We recommend:

- appropriate measures to facilitate wider and regular consultation between the Government, the IEC, the political parties, the media and civil society;
- a timetable for elections to be publicised and circulated to all stakeholders well in advance to enable them to make adequate preparations for the elections;
- consideration be granted to place mobile polling stations in remote electoral divisions, to minimise the risk of disenfranchising voters;
- there should be continuous voter registration and regular displays of voters' registers to ensure that all eligible voters are able to register;
- in the interest of promoting harmony, the IEC should provide information and allow political parties to have access to the voters' register when required;
- a Constitutional Amendment be made to accommodate the 30 per cent quota for women during all future elections;
- a provision be made to declare polling days as public holidays to enable workers to participate in future elections;
- a special provision be made to enable polling staff and other voters who have to work on polling days (e.g. the drivers of our Team), to cast their votes in their electoral districts prior to polling day itself;

- all the required materials for polling day be delivered to the polling stations on time;
- the facilities in polling stations be improved, especially through the provision of more adequate lighting to assist polling station officials to manage the counting process more efficiently, given that the counting process takes place well beyond sunset;
- an independent commission for the de-limitation of constituencies be established to handle de-limitation matters while the IEC be left to concentrate on the management of the electoral process itself;
- posters and other forms of information material, to clearly outline the voting procedure, be placed in all polling stations to enable the speeding up of the voting process, thus reducing the length of time spent by polling station officials in explaining the procedure to voters;
- the IEC should designate staff to encourage and monitor the renewal of registration of official symbols, to counter the possibility of similarities, and thus potentially confusing voters;¹²
- we urge that Returning Officers adequately verify that all nominations are thoroughly vetted prior to the acceptance of a candidate's nomination, to allow a particular candidate to be informed timeously, should there be any errors in his/her nomination paper.

TECHNICAL ASSISTANCE

We therefore recommend technical assistance as follows:

- the Commonwealth Secretariat and the Commonwealth Local Government Forum (CLGF) offer support to the Government of Lesotho to conduct the de-limitation of constituencies;
- the youth be targeted for civic and voter education, with assistance from the Commonwealth Youth Programme;
- the Commonwealth Secretariat and CLGF offer assistance in building the capacity of newly elected councillors;
- the Commonwealth Secretariat should source experts to offer technical support to build the capacity of NGOs in Lesotho, to observe electoral processes.

¹² This is provided for under the current legislation. See: Local Government Elections (Amendment) Act 2004, Lesotho Government Gazette No. 75 (22 July 2004), p547, section 33E.

ACKNOWLEDGEMENTS

We are pleased to acknowledge all those who have assisted us during our stay in Lesotho.

In the first instance, we wish to express our deepest appreciation for the co-operation and assistance of the Chairman and staff of the IEC, in Maseru as well as in the various districts we visited on deployment. We thank the political parties, Royal Lesotho Mounted Police, the civil society organisations, Commonwealth High Commissioners and others who briefed us in Maseru and in the districts.

Our gratitude is extended to our drivers, Messrs Paul Nkoka and Moeketsi Thakalekoala, whose extensive knowledge of the country were indispensable in contributing to the success of our mission. Their assistance often went well beyond the call of duty and for this we are especially grateful.

We also extend our heartfelt thanks and appreciation to Mr Linford Andrews (Political Affairs Officer) of the Commonwealth Secretariat for his diligence and invaluable support to the team during our stay in Lesotho. We thank the Commonwealth Secretary General, Rt Hon Don McKinnon, as well as the Secretary-General of the Commonwealth Local Government Forum, Mr Carl Wright, for inviting us to form part of the Commonwealth Expert Team.

Most of all, however, we wish to express our appreciation to the people of Lesotho. Their friendliness, generosity of spirit and the warm welcome extended to members of the Team have left an indelible impression on us. We depart with the hope that our mission will be a positive contribution to the development of local government in Lesotho.