

AFRICAN UNION
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**AFRICAN UNION ELECTION OBSERVATION MISSION
TO THE 28 FEBRUARY 2015
NATIONAL ASSEMBLY ELECTIONS IN
THE KINGDOM OF LESOTHO**

Preliminary Statement

2 March 2015

Introduction

1. At the invitation of the Government of the Kingdom of Lesotho, the Chairperson of the African Union Commission, H.E. Dr Nkosazana Dlamini-Zuma, deployed an African Union Election Observation Mission (AUEOM) to the 28 February 2015 National Assembly Elections in the Kingdom of Lesotho.
2. The AUEOM has a mandate to observe the Elections in conformity with the relevant African Union instruments, especially the African Charter on Democracy, Elections and Governance, which entered into force on 15 February 2012, the AU/OAU Declaration on the Principles Governing Democratic Elections in Africa (AHG/Decl.1 (XXXVIII)) and the African Union Guidelines for Election Observation and Monitoring Missions, the African Peer Review Mechanism (APRM) and other relevant international instruments governing election observation and the Constitution and National Laws of the Kingdom of Lesotho.
3. H.E The Right Honorable Raila Odinga, former Prime Minister of the Republic of Kenya, led the Mission. The Mission comprises forty (40) trained African Union observers from the Permanent Representative Committee (PRC), Pan-African Parliament (PAP), Election Management Bodies, Human Right Institutions and Civil Society Organisations, all drawn from various African countries. The Short Term Observers will complement the work of the AU Long-Term Experts who have been deployed since 29th January 2015 and will remain in Lesotho until 14 March 2015.
4. The AUEOM had extensive consultations with stakeholders including;
 - His Majesty King Letsie III
 - The Right Honourable Prime Minister
 - Leaders of the Political Parties
 - The Chief Justice
 - All Heads of Security Agencies
 - Civil Society Organisations
 - Media
 - Religious Leaders
 - Diplomatic Corps
5. Upon its arrival, the AUEOM released its arrival statement, which was followed by the launch of its pre-election statement. This statement presents the preliminary observations and finding of AUEOM to the 28 February 2015 National Assembly Election in the Kingdom of Lesotho. A more detailed report will be released by the African Union and shared with relevant stakeholders in Lesotho and on the African Union official website.

Political Context

6. The AUEOM notes that the elections were held within a tense political and security environment. These tensions were caused by differences between coalition government partners, which stifled government operations and drew in the different security agencies into the political conflict thus compromising their ability to discharge their constitutional obligations. However, the Mission commends political actors for largely conducting themselves within the laws of the country before and during polling.
7. The AUEOM further notes that the root causes of the political and security challenges still need to be comprehensively addressed in the immediate post-election phase. There is a need for a continuous support to the government and people of Lesotho.
8. The AUEOM notes that prioritising national could have avoided the current political challenges over personal interest. There is also a perceived general lack of dialogue and political consensus on national issues by political elite.
9. The AUEOM recognises and commends the efforts of the Southern African Development Community (SADC) in facilitating political dialogue and addressing security issues. The AUEOM further notes the role played by the development partners and international bodies including in providing technical support to the IEC ahead of the 28 February 2015 election.
10. The AUEOM however notes the need for continued sub-regional, regional and international support to sustain peace, and nation building efforts in Lesotho.

Legal and Institutional Framework

10. The AUEOM notes that the constitutional and legal framework for the conduct of elections in Lesotho guarantees the holding of democratic elections in conformity with regional and international standards.
11. The AUEOM however notes that the Lesotho Constitution does not provide for a robust mechanism for the operationalisation of a coalition government, nor does it effectively anticipate the dynamics of coalition politics.
12. The AUEOM notes that the legal framework in Lesotho provides for party and campaign funding. The law allows for public and private funding of political parties. The AUEOM however notes the absence of campaign expenditure ceilings as a gap in the current legal framework that could impact on the control of the influence of money in politics.

Security

13. The AUEOM notes that the relationship between the Army and the Police is characterised by tension despite the signing of an Accord and MOU between the two agencies.
14. The AUEOM notes that the two security agencies are reported to be politicised and were caught up in the tensions between the coalition government partners. On the other hand, the security forces allege interference by politicians in the discharge of their constitutional obligations.
15. The AUEOM notes that the role of the Army was limited during the election and the LMPS deployed 4000 Police Officers assisted by 3000 Police Assistants with support of about 400 security personnel from SADC countries.
16. In the light of the security environment, The AUEOM notes the security concerns by the Judiciary regarding their safety and ability to adjudicate electoral related dispute without fear or favour.

Political Parties and Candidates

17. The nomination of candidates began on 6 January 2015 and ended on 6 February 2015. 23 political parties contested the National Assembly elections. A total of 1,106 candidates including 24 independents contested the elections. Out of the total number of candidates, 775 were men and 331 were women.

Election Administration

18. On Voter registration, the AUEOM notes that voter registration is continuous and registration of new voters and voter transfers was suspended by the IEC on 14 December 2014 in line with the election calendar. Updating of the voters' roll was conducted in November 2014. The AUEOM was informed that there were 1,209,171 voters registered for the elections. The AUEOM notes that the voter registration process was considered to be largely successful despite limited time provided for updating the voters' register.
19. The AUEOM notes the efforts made by the IEC to review the voters' roll by excluding the names of deceased persons and underage voters as well as double registrations.

20. On training, the AUEOM notes that the IEC recruited and conducted cascaded trainings for electoral officials countrywide. These included Returning Officers, Polling Officials; Official Witnesses (Chiefs), Police Officers as well as Temporary Police Assistants.
21. The AUEOM notes that voter education began in January 2015. The IEC trained and accredited civil society groups to complement its voter education efforts to undertake both door-to-door, public gatherings and other voter education methods across the 10 districts of Lesotho.

Media

22. The AUEOM notes that Lesotho has one state television and twelve radio stations comprising 2 state owned radios, 2 community radio stations 8 privately owned stations. There are also seven newspapers out of which one is state owned. However, the media in Lesotho, particularly radio stations, appears to exhibit partisan coverage of general political events and electoral related issues in particular.
23. The media law only regulates the broadcast media and leaves out the print media. The regulation of the broadcast media is not sufficient and enforcement not effective.
24. The AUEOM commends the Media Institute of Southern Africa (MISA) and various broadcast media for coordinated media coverage during and immediately after polling day.

Women and Minority Participation

25. The AUEOM notes the high participation of women as voters in campaign activities, party agents and polling staff. The AUEOM was informed that 55.8% of the total number of registered voters was women. Despite the high number of female registered voters, the number of nominated female candidates contesting at the constituency level was only 30% (331) of the 1,106 candidates.
26. The AUEOM commends Lesotho for adopting the 'zebra-list' system for the proportional representation party lists that ensure 50% of the candidates are female.
27. The AUEOM observed that the IEC made provisions for visually impaired voters to cast their ballot using a specially provided template. The Commission also took steps to ensure that as much as possible, polling stations were located in places accessible to persons with disability.

Dispute Resolution

28. The AUEOM notes that the legal framework in Lesotho provides for an election dispute resolution system, which entails the use of alternative dispute resolution mechanisms such as the Conflict Resolution Committees within the IEC and the Courts.
29. However, limited human and financial resources could hamper dispute resolution through the court system. Currently there are only eleven Judges of the High Court. This, according to the Judiciary is grossly inadequate to deal with both the election related cases and ordinary cases before the Courts timely.
30. The AUEOM also notes that the Appeal Court, which is the court of last resort in election related disputes currently, has no Judges except the President of the Appeal Court. Should disputes be referred to the Appeal court, litigants might not get timely hearing.

Election Day Findings

31. The AUEOM observed the peaceful conduct of the advance voting on 21 February 2015. This catered for state security personnel, medical practitioners, journalists and domestic election observers, who were to be on duty on 28 February 2015. The AUEOM was informed that about 3,700 voters were registered as advance voters.
32. Notwithstanding the peaceful nature of the advance voting, the AUEOM noted confusion and delays caused by the graphical security marks on the ballot papers. The ballot papers carried graphic designs that were interpreted by some voters as voting marks thus causing suspicion amongst voters. The AUEOM commends the IEC for sensitizing voters country-wide about these features.
33. The AUEOM notes that election materials were available and in adequate quantities in 94% of the stations visited. In the few instances where materials were not available, such as the template for visually impaired voters, the situation did not affect the process.
34. The AUEOM observed that opening, voting, closing and counting procedures were conducted in compliance of the Electoral Act. There were no long queues at observed polling stations at closing time. However, the AUEOM noted some delays in counting at some polling stations largely due

to elaborate procedures and lack of familiarity with procedures by some polling staff.

35. On Election Day, AU observer teams visited a total of 125 polling stations in 10 districts across the country. At polling station 0507/2 in Butha Buthe Constituency No.5, there was a ballot paper booklet that omitted two party symbols. The Commission was immediately alerted to the situation and the IEC remedied the situation by replacing the faulty ballot paper booklet at this polling station and two others polling stations were similar problem were reported.
36. The presence of party agents was observed in all the stations visited. Party agents were able to undertake their responsibilities freely. The AUEOM notes that 69% of party agents in the stations visited were women.
37. The AUEOM notes that citizen observers were present in only 24% of the polling stations visited. It further notes that that 34% of the citizen observers were women.
38. Security personnel were also visibly present in most of the stations visited by AU teams. Their presence did not interfere with the process in anyway. The AUEOM therefore commends the LMPS and SADC reinforcement police unit for conducting themselves within the law on Election Day.
39. The closing and counting process was done in a very meticulous manner in the presence of party agents and independent observers. The process was undertaken in line with stipulated procedures and it proceeded in an orderly manner. The AUEOM noted with satisfaction the limited number of invalid ballot at the end of the counting process.

Preliminary Recommendations

40. Based on its preliminary findings, the AUEOM presents the following recommendation:

General Remarks:

- The AUEOM calls upon political stakeholders to inculcate a culture of constitutionalism and uphold the rule of law. This requires visionary and transformative leadership with uppermost national interests over and above personal interests
- The AUEOM implores Lesotho stakeholders to engage in dialogue aimed at resolving the current challenges as well laying solid foundation for consensus building and mutual trust.
- The AUEOM calls upon politicians to desist from interfering with and involving the security agencies in party political agendas.

- The AUEOM is of the view that the Kingdom of Lesotho requires comprehensive legal and constitutional reforms. The mission recommends this exercise be undertaken with the support of SADC.

The AUEOM Urges the Government to:

- Provide judiciary with adequate human and financial resources.
- Provide urgent security for the lives and property of Judges, to enable them carry out their mandate without fear.

The AUEOM Encourages the Parliament to:

- Undertake comprehensive constitutional legal and institutional reforms, addressing among other things: coalition governance, floor-crossing, public sector reforms and dispute resolution mechanism.
- Undertake urgent measures, including legislative measures on security sector reform that ensures the civilian control of the military and the police in line with the Constitution of Lesotho.
- Put in place a media regulatory framework that ensures adherence to sub-regional, regional and international media norms and best practices.

The AUEOM Urges the Media to:

- Build the capacity of media houses and media practitioners to discharge their mandate professionally.

The AUEOM Urges Political Parties to:

- Increase the participation and leadership of women in decision-making structures in keeping with the Protocol to the African Charter on Human and People's Rights on the rights for women in Africa and the SADC Protocol on Gender and Development in Southern Africa.

Conclusion

41. Cognisant of the fact the final result of the election is still been awaited, the AUEOM makes a preliminary conclusion that the 28 February 2015 National Assembly Election in the Kingdom of Lesotho was peaceful, transparent and generally reflect the will of the Basotho Electorate.

42. The Mission commends the people of Lesotho for exercising their right to voter in a peaceful manner.

43. The Mission congratulates the IEC for managing the electoral process smoothly.
44. The AUEOM urges political actors and the electorate to maintain the peaceful conduct, which they had displayed before and during the elections.
45. The Mission urges all stakeholders to channels all any dispute through the constitutional and legal framework of the country