

THE LOCAL GOVERNMENT SYSTEM IN

LESOTHO



1 INTRODUCTION

The Kingdom of Lesotho is a constitutional monarchy located in southern Africa. It is landlocked and completely surrounded by the Republic of South Africa. Its area is 30,335 sq km with a population of 2,152,262.¹

Lesotho has a bicameral parliament comprising the Senate (upper house), and the National Assembly (lower house). The Senate is not an elected chamber. It comprises 33 members. Twenty-two are principal chiefs; while 11 are nominated by the King acting in accordance with the advice of the council of state.

The National Assembly is wholly elected and comprises 120 members elected through the mixed-member proportional (MMP) system: two-thirds are elected according to first past the post system (one member one constituency) one-third through proportional representation

(the party list variant). The term of office for members of parliament does not exceed five years.

The current head of state is King Letsie III. The prime minister is the leader of the majority party in the National Assembly. The King appoints ministers upon the advice of the prime minister. Ministers may be appointed from both Houses of Parliament.

Lesotho is divided into 10 administrative districts: Berea, Buthe Buthe, Leribe, Mafeteng, Maseru, Mohale's Hoek, Mokhotlong, Qacha's Nek, Quthing and Thaba-Tseka. The capital is Maseru, where parliament is based.

There are 128 community councils, 10 district councils and one municipal council, being Maseru City. Community and municipal councillors were elected at the elections held on 30 April 2005.

2 POLITICAL AND ORGANISATIONAL STRUCTURE OF LESOTHO

Lesotho adopted multi-party parliamentary democracy at independence in 1966. After the first post-independence elections in 1970, the country abandoned democratic politics. From 1970 to 1993 the country experimented with civilian and military dictatorships. Multi-party parliamentary democracy was restored in March 1993. The Basutoland Congress Party (BCP) won all seats in the 65-member National Assembly. The 1993 elections were administered under the one-member-one-consistency or first-past-the-post system.

The second national election following re-democratisation was held in 1998. The number of seats in the National Assembly was increased from 65 to 80. The Lesotho Congress for Democracy (LCD) won 79 of the 80 seats.

The most recent elections were held on 17 February 2007. The ruling Lesotho Congress for Democracy won with 61 seats, the National Independent Party 21, the All Basotho Party 17 and the Lesotho Workers' Party 10. A further six parties shared the remainder of the seats. This election was the second held under the MMP system of representation.

The next general election is due no later than February 2012.

3 LEGAL BASIS FOR LOCAL GOVERNMENT

3.1 Constitutional provisions

The constitution of Lesotho mandates parliament for the establishment of local government. Section 106(1) stipulates that: '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'.

3.2 Main legislative texts

The two main pieces of legislation governing local government are:

- Local Government Act No. 6 1997
- Local Government Elections Act 1998.

Both pieces of legislation were amended in 2004. The Local Government Act 1997 was

Table 1. Lesotho National Assembly elections 17 February, 2007. Final Seat Allocation

| Party name | Total number of seats |
|-----------------------------------|-----------------------|
| Lesotho Congress for Democracy | 61 |
| National Independent Party | 21 |
| All Basotho Convention | 17 |
| Lesotho Workers' Party | 10 |
| Basotho National Party | 3 |
| Alliance of Congress Parties | 2 |
| Basotho Batho Democratic Party | 1 |
| Basutoland Congress Party | 1 |
| Basotho Democratic National Party | 1 |
| Marematlou Freedom Party | 1 |

amended for two main reasons: first, to reduce the number of councils to be established; and second to insert a clause that reserves at least one-third of seats in a council for women.

The Minister of Local Government is responsible for the administration of the Local Government Act 1997. The Independent Electoral Commission (IEC) is largely responsible for the administration of the Local Government Elections Act 1998.

4 LOCAL GOVERNMENT ORGANISATIONAL STRUCTURE

4.1 Main division

The main division in local government is between urban and rural councils. In the urban areas councils have a single-tier structure; in the rural areas councils have a two-tier structure.

There are two types of single-tier structures in the urban areas, depending on the size of the council. In larger towns and the city of Maseru, municipal councils are established. The others are urban councils.

In the rural areas two-tier structures are established, with community councils as the lower tier and district councils as the upper tier. Community councils are directly elected. District councils are indirectly elected as they represent community councils.

4.2 Distribution of local governments and population

The average population per district is 215,754. For the community councils it is about 27,000.

The smallest district is Qacha's Nek with a population of 80,323. The largest is Maseru with 477,599. No figures, as yet, are available for community councils. The urban population represents about 13% of the total.

5 DEMOCRATIC AND POLITICAL STRUCTURES IN LOCAL GOVERNMENT

The first ever elections for local government were held on April 30 2005. They were conducted under the first-past-the-post system. Voters must be 18 years of age or over.

Anybody who has reached the voting age may be elected as a councillor.

Councillors are elected for a term of office not exceeding five years.

5.1 Council structures

For community councils and Maseru Municipal Council the electoral system is based on single-member divisions. The mayor (for municipal councils) and chairpersons (for community and district councils) are elected by councillors from amongst themselves. Councillors and mayors/chairpersons hold office for a maximum of five years. Mayors and chairpersons are part-time and remunerated at rates determined by cabinet.

The district councils comprise:

- Chairpersons of each community council
- A member of each community council elected by the councillors from amongst themselves
- Two gazetted chiefs (representing all community councils in the district)
- A member elected from an opposition party that constitutes at least 25% of the community council – on condition that the chairperson and the community council member have not been elected from his or her party.

Within chiefs' areas 'pitsos' are held (in some cases frequently). These open meetings provide opportunities for participation. In terms of proposals made, elected councillors are expected to support such forms of participation.

There is a legal requirement in Section 22 of the 1997 Local Government Act to establish a standing committee on finance and planning.

The legislation gives councils discretion to establish other committees including standing committees other than finance, special committees and joint committees involving more than one council. Other than a standing committee on finance, councils have established committees on land administration and management, and social services.

5.2 Local government staffing

The Honourable Minister of Local Government established the Local Government Service Commission as provided by the Local Government Act 1997. The Commission has the power to declare and fill posts which are deemed to be executive, while councils take care of non-executive posts.

Each council must have a town clerk (in the case of Maseru Municipal Council) or council secretary. The head of the paid service is referred to as the town clerk or council secretary.

The staffing structure comprises the town clerk or district council secretary supported by sectional heads such as health, works, finance, administration, human resources and legal affairs.

5.3 Independent scrutiny

Lesotho has an Ombudsman, empowered by the 1993 Constitution to 'inquire into and make a finding on the grievances or complaints of citizens against public, local and statutory authorities'. Section 135(b) of the Constitution specifies that the provisions apply to 'any local government authority and the members and officers of a local government authority'. The authority of the Ombudsman is provided for by the 1993 Constitution (Chapter XII) and the Ombudsman Act No. 9 of 1996.

6 DISTRIBUTION OF SERVICE DELIVERY COMPETENCE

The Local Government Act 1997 provides for local authorities to perform all functions set out in the first and second schedules. They are responsible for control of natural resources, land/site allocation, grazing control, markets (provision and regulation), control of building permits, local administration of central regulation and licences, bus terminals, mortuaries and burial of destitute persons and unclaimed bodies, fire protection, education services, family welfare, public health, physical planning, roads and public transport facilities, cemeteries, environmental protection, parks and gardens, sports and leisure, water supply maintenance and economic promotion, and forestry – including agricultural improvement.

All functions are subject to capacity constraints. Many are very general and are in the process of being made more specific.

7 FINANCE

7.1 Revenue

Revenue for Maseru City Council (now Maseru Municipal Council) in 2003/2004 totalled Maluti 33m (US\$4.5m). This was made up of:

| | |
|-----------------------------|-----|
| 1. Central government grant | 90% |
| 2. Charges | 7% |
| 3. Property rates | 3%. |

The collection of the charges and rates is the responsibility of the councils.

7.2 Revenue-sharing

The aim is for local authorities to become increasingly self-sustaining but at the moment most revenue will have to be channelled through central government.

The Ministry specifies how the funds are to be used as it approves the budget. Ministerial

approval of the budget and its implementation means it has oversight in respect of local taxes, such as rates.

7.3 Expenditure

The expenditure of Maseru City Council in 2003/2004 was Maluti 44m (US\$6m). This represents a substantial degree of over-expenditure in relation to the budget, which has normally been met by supplementary transfers from central government. It has been one of the main causes of concern in relation to the performance of the council.

The main items of expenditure were:

| | |
|---------------|-----|
| 1. Emoluments | 40% |
| 2. Roads | 20% |
| 3. Premises | 18% |
| 4. Transport | 12% |

The policy is not to allow deficit budgets, but in practice supplementary estimates are regularly approved by central government.

8 ORGANISATIONS OF LOCAL GOVERNMENT

There is no local government association but active consideration is being given to this.

9 INTERGOVERNMENTAL RELATIONS

The current policy of government is to increasingly devolve powers to local authorities as they become established and demonstrate capacity. A major constraint to autonomy is the limited scope for raising local revenues with the result that councils depend financially on central government. The role of the new district administrators is also important as they are senior officials with responsibility for the performance of local government, as well as other public-sector bodies in their areas of jurisdiction.

There are no bodies responsible for intergovernmental relations apart from the Ministry of Local Government.

10 E-GOVERNMENT

There is a government website and an evolving ICT strategy for the country led by the Ministry of Communications.

In 2005 there were 43,000 internet users in Lesotho representing just over 2% of the population.²

11 ENVISAGED REFORMS

There are a number of initiatives that are being coordinated by the Ministry of Local Government. Elected local government was introduced country-wide with the elections held on 30 April 2005. Parallel with this is a planning process guided by policies emanating from the Ministry, and elsewhere in government, that are concerned with the deepening of democracy, poverty alleviation and improved service delivery through local government.

An inter-ministerial task force has been charged with a review of financial planning and legislation as it pertains to local government. The implementation programme includes the following headings: ministries and public understand the decentralisation programme; roles and functions to be devolved, finalised and approved by Cabinet; legislative review; human resource development framework developed; councils in operation with appropriate facilities; local government plans developed; ministry management of decentralisation; capacity-building; and local government development programme designed and funding agreed.

12 MISCELLANEOUS

International development agencies have been

interested in promoting local democracy in Lesotho since the late 1970s. An important obstacle, as perceived by the government, was lack of public understanding of local government. Consequently, the Ministry began a sensitisation programme as part of the reform strategy.

In terms of both the legislation and policy, it is envisaged that the local authorities will play important roles in the development planning process.

12.1 Traditional leaders

The issue of the traditional leaders is very important and has been a source of substantial tension. They are expected to play a role in local government, with two positions per council reserved for them that are elected by their peers.

The provisions of the 1993 Constitution (Section 103) and the Chieftainship Act No. of 22 of 1968 need to be taken into account. Chiefs have positions in councils reserved for them but not for all of them. They are elected by their peers. They are free to stand for the other wards if they wish. They continue to play roles in governing their localities in conjunction with councillors.

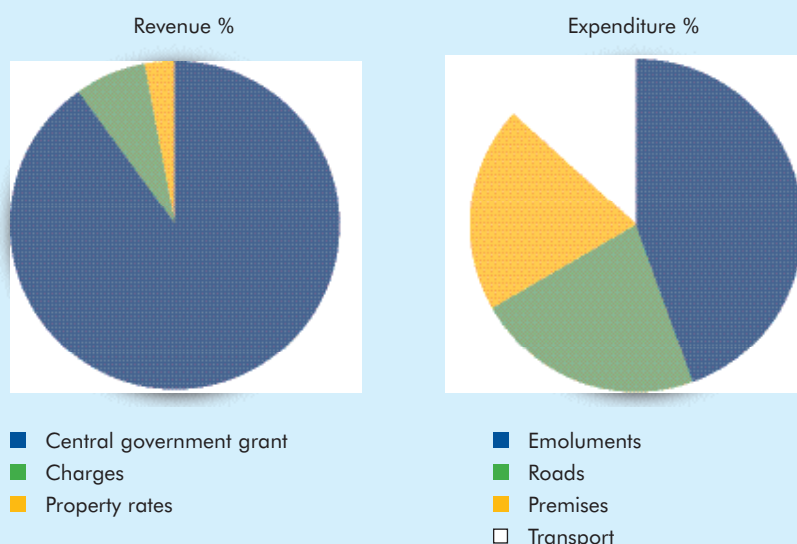
13 SUMMARY

On 30 April 2005, the first local government elections were held since Lesotho gained independence in 1966. The Lesotho experience of local government has been one of episodic attempts to create a new system to replace the highly centralised structures that prevailed after independence in 1966. These attempts have been hindered by a variety of factors, many of which are related to the wider political system. Financial conditions and the traditional system of local governance have also tended to present challenges. The present government has made a solid start and remains committed to reform.

References

1 & 2 CIA World Factbook 2007.

Figure 1. The financial structure of local government in Lesotho



| Service | Delivering authority | | Remarks |
|--|----------------------|------------------|--------------------------|
| | Central | Local government | |
| GENERAL ADMINISTRATION | | | |
| Police | ● | | |
| Fire protection | | ● | |
| Civil protection | ● | | |
| Criminal justice | ● | | |
| Civil justice | ● | | |
| Civil status register | ● | | |
| Statistical office | ● | | |
| Electoral register | ● | | |
| EDUCATION | | | |
| Pre-school | ● | | |
| Primary | | ● | |
| Secondary | ● | | |
| Vocational and technical | ● | | |
| Higher education | ● | | |
| Adult education | ● | | |
| SOCIAL WELFARE | | | |
| Kindergarten and nursery | ● | | |
| Family welfare services | | ● | |
| Welfare homes | ● | | |
| Social security | | ● | |
| PUBLIC HEALTH | | | |
| Primary care | ● | | |
| Hospitals | ● | | |
| Health protection | | ● | |
| HOUSING AND TOWN PLANNING | | | |
| Housing | ● | | |
| Town planning | | ● | |
| Regional planning | ● | | |
| TRANSPORT | | | |
| Roads | | ● | Minor roads only |
| Transport | | ● | Bus stations |
| Urban roads | ● | | |
| Urban rail | ● | | |
| Ports | ● | | |
| Airports | ● | | |
| ENVIRONMENT AND PUBLIC SANITATION | | | |
| Water and sanitation | ● | | |
| Refuse collection and disposal | ● | | |
| Cemeteries and crematoria | | ● | |
| Slaughterhouses | ● | | |
| Environmental protection | | ● | |
| Consumer protection | ● | | |
| CULTURE, LEISURE AND SPORTS | | | |
| Theatre and concerts | ● | | |
| Museums and libraries | ● | | |
| Parks and open spaces | | ● | |
| Sports and leisure | | ● | |
| Religious facilities | ● | | |
| UTILITIES | | | |
| Gas services | ● | | |
| District heating | ● | | |
| Water supply | | ● | |
| ECONOMIC | | | |
| Agriculture, forests and fisheries | | ● | |
| Electricity | | ● | Agricultural improvement |
| Economic promotion | | ● | |
| Trade and industry | ● | | |
| Tourism | | | |