

# **PROPOSED REFORM PROCESS**

**Civil Society Proposal**

**On**

**Reforms' Design**

## **Contact**

Development for Peace Education

Private Bag A483

Maseru.100 Tel (+266)22326855

**Or**

Lesotho Council of NGOs

Private Bag A445

Maseru.100 (+266)22317205

# PROPOSED REFORM PROCESS

**Civil Society Submission**

**On**

**Reforms' Design**

## Contents

SECTION I: BACKGROUND .....	3
SECTION II: OWNERSHIP AND THE STRUCTURE OF THE PROCESS .....	4
SECTION III: IDENTIFYING AND DELIBERATING REFORM ISSUES/VOICES.....	6
SECTION IV: THE CONSTITUTIONALITY OF THE REFORMS PROCESS.....	8
SECTION V: CONDUCIVE ENVIRONMENT FOR REFORMS.....	8
SECTION VI: POPULARISATION AND COLLABORATION.....	9

## SECTION I: BACKGROUND

Civil society has keen interest in the reforms process in Lesotho. This has been proven by constant position of the sector on the matter throughout the different stages of its development. Among many achievements, civil society has kept reforms agenda alive even beyond 2014. Though civil society called for reforms SADC and politicians agreed on brought forward elections in 2015. Civil society was exonerated not only when Lesotho got coalition government again but was later embroiled in either similar challenges or those emanating from the previous. Among things tried was a SADC commission of enquiry on the circumstances surrounding death of former commander of Defence Force. The report suggests a number of decisions to be undertaken and firmly points a need for the reforms. The current coalition put reforms as key priority, SADC Mission Report, African Union, United Nations, Development Partners such as European Union, governments with diplomatic relations with Lesotho in particular the United States of America have expressed that compliance with SADC decisions by Lesotho is critical for eligibility of the kingdom in the bilateral development cooperation.

Therefore civil society is committed to ensure that making reforms becomes a people's not elitist process that is insulate from voices of ordinary citizens. Further the sector envisages an all-inclusive, credible and transparent process. This proposed design is a result of robust internal engagements; (i) a series of discussion sessions initiated by Development for Peace Education comprising of Lesotho Council of NGOs, Justice and Peace Commission of Lesotho Catholic Bishops Conference, Transformation Resource Centre, Christian Council of Lesotho, Media Institute of Southern Africa Lesotho and independent researchers and experts from Department of Administrative and Political Studies, Department of Law and Department Development and Economic Studies of the National University of Lesotho which resulted in a working paper, (ii) one day civil society dialogue session which came up with draft design, (iii) broader NGO workshop on reforms led by DPE at the 17<sup>th</sup> NGO Week of the Lesotho Council of NGOs on the 28<sup>th</sup> November 2016 which came up with a proposed reforms process design and dully (iv) adopted by the 27<sup>th</sup> Annual General Meeting of Lesotho Council of NGOs on the 1<sup>st</sup> December 2016 at Machache Hall 'Manathabiseng National Convention

Centre , Maseru, which also mandated civil society leadership to firmly pursue this proposal at various levels.

Civil society presents this proposed reforms process design and appeals to the leadership; government, political parties in and outside government, media and other sectors of society to engage it, identify issues of convergence and those of divergence for further interrogation aimed at reaching consensus on how this important process should be designed and conducted. The proposed design is as follows:

## **SECTION II: OWNERSHIP AND THE STRUCTURE OF THE PROCESS**

The reforms process shall be people driven, participatory and enabling in its organisation, conduct and accessibility. It shall therefore desist from the ordinary elitist approaches that negate voices of ordinary citizens. In this line there shall be an inclusive independent multi-layered gender balanced structure to be referred to as Reforms Commission/committee with authoritative mandate shared into roles and duties distributed in the following hierarchy;

- 2.1 Chairperson (preferably a retired judge), a presiding officer and administrative authority with three deputies;
- 2.2 Reforms Commission/committee composed of wide range of stakeholder in the following categorisation and proportionality: CSOs 4, politicians 48, labour 2, academia 2, youth 2, women 2, farmers 2, business 2, aged 2, media 2, church 2, institutions of tertiary education 2, PWDs 2, PLWHAs 2, councillors 2, traditionalist 2, chiefs 2, parastatal 2, security 4, public servants 2, judiciary 2, law society 2, parliament 2, government 2, Ex-prisoners 2, Representatives of Independent candidates in the previous elections 2(IEC to be requested to facilitate a meeting where they can elect their reps);

- 2.3 Reforms Commission/Committee shall in its functions not be answerable to the executive but shall report directly to parliament on financing, accountability and reform outcomes;
- 2.4 The members shall be shall be selected through transparent and open way and shall in the case of four members be done by political parties committee that shall identify and engage a professional recruiting body to conduct selection procedures on the basis of merit and shall in the case of members of the Reforms Commission representing sectors other than security 4, judiciary 2, government 2 shall be selected through legitimately convened and openly organised platforms under the auspices of umbrella body or in the case where there is more than single apex body at the meeting organised collectively upon completion submit names to the secretariat;
- 2.5 Upon recruitment, the four shall elect amongst themselves a chairperson and others shall automatically be deputies;
- 2.6 The administrative powers on the conduct of the Commission shall be vested in this group while authoritative powers shall be vested in the Commission itself;
- 2.7 There shall be Chief Executive, chief of staff accountable directly to the team of four under terms and conditions of service determined by the team and endorsed by the Commission. Recruitment of Chief Executive shall be done through transparent, professional and open approach as a matter of principle and trust building and
- 2.8 Incumbent shall possess such qualifications as may be suitable for head of a parastatal;
- 2.9 The Chief Executive shall set up a secretariat that is adequate to be of, intellectual, expert and functionary assistance to the Commission to perform its work expeditiously;
- 2.10 There shall be a technical team which shall investigate necessary reforms issues and proposals their viability and to translate such into policy and legal documents/statements;

- 2.11 Technical team contemplated in 2.10 above shall be made of experts in governance taking cognisance of Constitutional, Parliamentary, Judiciary, Public and Security sectors as well as development and gender;
- 2.12 The technical team shall be recruited through transparent and professional means and define its conduct to be endorsed by the Commission;

### **SECTION III: IDENTIFYING AND DELIBERATING REFORM ISSUES/VOICES**

This shall be an inclusive, people-driven, transparent process aimed at building consensus among Basotho on how their country should be governed. In order to achieve this;

- 3.1 The technical team shall provide an overview of the situation and brief analysis of challenges in each of the areas; constitution, parliament, judiciary, public and security sectors and upon approval by the Commission produce Reforms Issues Paper for public consumption;
- 3.2 The Commission shall invite submission of inputs/proposals from the public in various forms, organised or individuals;
- 3.2 The Commission shall devise mechanism through which public submissions would be made orally at the public hearings and written and submitted to the designated areas, various mode of communication such as deliberations facilitated by civil society, academia or any formation which may wish to communicate input of its constituency, radio, television and social media;
- 3.3 Upon receipt of submissions secretariat shall record them in the manner approved and sort them thematically and given to the Commission for formal recognition;
- 3.4 Upon formal recognition submissions shall be assigned to the technical team that may establish ad hoc teams to expeditiously read submissions, cluster them, investigate, expose their implications to the status quo;
- 3.5 Technical team(s) shall make known to the public through various means determined by the Commission its findings ahead of deliberation of the same by the Commission

so as to enable public to make improvements/ counter suggestions etc. all of which would be taken into account when the issues are deliberated by the Commission;

- 3.6 Technical team shall then present the findings together with public submission to the Commission for deliberations. At this point deliberations shall be preliminary and may not be rejected on any substantive basis. It shall be a platform where the meaning of inputs, the implications for implementation and everything related to them would be exposed and thoroughly appreciated;
- 3.7 The preliminary deliberations shall be necessary so that before confirming, endorsing, approving or rejecting any input Basotho would be clear on the implications of proposals made and therefore make informed decisions;
- 3.8 The decision of the stakeholders at this moment would be to agree on how different submitted issues/inputs would be formulated for presentation to the wider population for plebiscite/referendum;
- 3.9 The Commission deliberations shall be open for public, media and other bodies which may be interested;
- 3.10 The Commission shall when the preliminary deliberations are done compile issues ready to be presented to the public vote;
- 3.11 The compilation contemplated in 3.8 above shall be made accessible to public, various groups of civil society, academia, media, political parties etc as soon as practically possible for internalisation, education and of course mobilisation of support for certain issues or otherwise;
- 3.12 The Commission/committee shall then embark on country wide consultations subjecting the issues raised to the public vote in the form of oral, written, media both conventional and social within the agreed mechanism;
- 3.13 The technical team shall in collaboration with Chief Executive compile public voices into a report to be presented to the Commission for endorsement;

- 3.14 The Commission shall organise a national conference to emphasise consensus on the proposals in order to harmonise the conversations which had taken place in different structures and constituencies throughout the country;
- 3.15 The Commission shall present the final public voices report to parliament;
- 3.16 Upon receipt parliament shall endorse the proposed changes and improvements and turn the public voices report into a new constitution and other necessary sectors' laws;

#### **SECTION IV: THE CONSTITUTIONALITY OF THE REFORMS PROCESS**

The constitution spells out how its different sections may be changed. In some instances two thirds majority support in both Houses is adequate for a change otherwise a referendum in case two Houses differ while in others the same support is a prerequisite for a proposed change to qualify for submission to the public vote. This is why this process needs consensus; to this end

- 4.1 The reforms design should be legislated;
- 4.2 The design and process contemplated above suggest that parliament shall abdicate its authority in so far as constitutional changes are concerned and bestow such to the agreed design and processes;

Since this decision may have to be made right at the start of the process, what are the critical requirements for this kind of mature deliberation?

#### **SECTION V: CONDUCIVE ENVIRONMENT FOR REFORMS**

The reforms debate in Lesotho occurs within a particular political context and for the process to be an all-inclusive based on consensus as contemplated above, political environment shall be conducive for reforms. In order for the process to be legitimate and for it to enjoy the trust of the broader section of the people of Lesotho certain immediate issues have to be addressed;

- 5.1 The safe return home of opposition leaders and others be considered as an urgent matter for reforms and be handled fairly, honestly, seriously and convincingly by the Prime Minister and Leaders outside the country. The facilitation should be extended to other people who may still be outside the country and are not able to come back home for various reasons;
- 5.2 Civil society shall in case of extended delays and barriers deploy a team to work with and compliment efforts of the church to ensure that leaders both in government and outside reach an agreement on the matter for speedily work on reforms;
- 5.3 Governance issues be addressed in a manner that does not antagonise parties lest the much needed consensus on reforms is not easily reached;
- 5.4 Though reform issues seem to be at different levels of urgency, they should all be addressed at the same time;

## **SECTION VI: POPULARISATION AND COLLABORATION**

This position shall be perceived as a contribution of civil society and the sectors involved to the much needed consensus among stakeholders for reforms. Therefore it is a living document that can be used as reference to deliberate and find best suited approach to the otherwise delicate process that needs all for its legitimacy. In this regard efforts shall be made to;

Present the position to government, political parties in and outside government including the *Forum* a platform for political parties not represented in parliament, as well as the public, engage in deliberations on the issues they have and maintain open dialogue with potential for mutual influence ultimate consensus;

- 6.1 civil society and partners shall popularise this position and enable other sectors including public to constructively engage and advice parties on consensus;
- 6.2 civil society and partners shall notify other interested parties of this initiative and solicit their support. Such include SADC, AU, Commonwealth, UNDP, EU, the US

government and other interested countries with diplomatic ties with Lesotho, regional, continental and global civil society formations.

**KHOTSO! PULA! NALA!**