

DOES LESOTHO STILL HAVE CHANCE TO REMINISCE?

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POINTS OF DEPARTURE

When it became clear that SADC will discuss Lesotho at its summit in Victoria Falls in 2014 and that the regional body is likely to decide on intervention in Lesotho and predicting that South Africa would be favoured to lead such an intervention yet the regional body is not only not conversant with the issues but is going to rely on belligerent politicians to define and understand the situation in which chances were high that solution may not be achieved, civil society organisations resolved to talk to SADC.

It is important for both intellectuals and activists to understand the Lesotho situation for what it is even if approaches to solution may differ. In that way complementarities are possible. Otherwise efforts to correct the situation that is not commonly defined would be counterproductive.

LESOTHO'S POLITICAL HISTORY AT GLANCE

Lesotho went to first modern parliamentary elections in 1965 and in 1970 results were annulled; constitution suspended, state of emergency declared and the country went through terrible political conflict, violent at times. Notable among many features of the 1970-1986 period is that the opposition in exile had liberation army operative. Following the military regime 1986-1993, the country went to elections where Basotholand Congress party won all 65 constituencies. When Lesotho returned to constitutional order, the previous chapter was not closed and the new democracy was used to settle the previous challenges. In other words the new era was used to deal with and address the challenges of the past. This made the post 1993 period a very big challenge which saw members of the army taking arms against each other, military and the sitting government in conflict, the king removing elected government, split of the ruling party and the new party usurping power. Though this era ended horribly for the sovereign Kingdom with South African's military intervention short of credentials to be legitimate except that SADC later owned the operation and Botswana glorified it, there was a platform for dialogue over the future of the country. President Mbeki brokered a collectively managed transition through Interim Political Authority which did not only bring leaders together and express discontent, heal one another but changed electoral system from FPTP to the MMP. Its first application saw representation shifting from one to 10 political parties in parliament. This brought some relative political stability and the several development policies were developed in the post 2002 era inclusive of but not limited to Vision 2020, Poverty Reduction Strategy and Gender and Development Policy.

FALL, RISE AND FALL OF MOSISILI

Following the peaceful end of a 12 year Mosisili regime and consequential replacement by the ABC led coalition government in 2012, Lesotho closed the chapter on confrontational and arrogant politics and entered into an era of collaborative politics. Whether politicians comprehend this is another issue. Coalitions are usual in the countries that use Proportional Representation and Mixed Member Proportional electoral systems. The slim majority of the government on the one hand and the constitutional as well as governance arrangements on the other made vulnerabilities of Lesotho coalition severe. The intricacies of managing and sustaining effective coalition government came on the spotlight when the ABC, LCD and BNP could not pull through even for three of the five year term.

With the help of Commonwealth, Lesotho has been diagnosed as in dire need of some reforms to make coalition work. In order to learn how coalitions are run, the big delegation of Lesotho government, made of Deputy Prime Minister as the head, coalition ministers, political parties including opposition, church and civil servants went to New Zealand. It would seem that it was not desirable for civil society to be in the delegation. In fact government said that the New Zealand government said it does not want civil society to be part of the delegation, surprising indeed. It is amazing because it was civil society which made a big deal out of the New Zealand report and even took it to the communities. Ironically, Development for Peace Education which pioneered citizen debate on reforms using the New Zealand report was accused for demeaning government. The New Zealand trip however did not bring immediate results to the challenges of the coalition government. Internal coalition discontent became rife in 2014 and since May the coalition struggled for its survival. On the conviction that the only external intervention that can help is one based on the appreciation of the situation on the ground, civil society organisations approached SADC and defined the situation as follows

“**Convinced**, that the different bouts of political tensions as evidenced by the standoff between the military and the police, disagreement over prorogation of parliament and a fallout among members of the coalition government parties are not only causes and simultaneously effects of the political quark mire but manifestation of (a) the challenges of handling intra and inter conflict of coalition parties and (b) operationalisation of coalition government itself all of which are a result of constitutional and institutional arrangements which have not yet matured to level required by the MMP and currently emerging political attitudes”(LCN,2014:2).

This SADC did not consider but defined its own approach informed by the belligerent parties. The level of collaboration in government deteriorated from bad to worse. The motion of no confidence was mooted in parliament and LCD

courted DC (the main opposition led by former Prime Minister Mosisili). This meant literally that Thabane has lost confidence of parliament but that had to be established in parliament which was then adjourned *sine die*. Thabane moved swiftly to advise the King to prorogue it thus making it effectively impossible for the leader of the house and speaker (who was in the party of the Deputy prime minister and leader of the house) to summon the house who otherwise had that power to call it. On the 29th August 2014 the King in terms of Section 12(1) (a) of the Lesotho Defence Force Act and acting in accordance with the advice of the Prime Minister appointed Brigadier Maaparankoe Mahao as he then was as commander, assuming the rank of Lieutenant General (Legal Notice NO.64:2014). In the same communication the King repealed Legal Notice NO.41 of 2012 which appointed Lieutenant General Tlali Kamoli as the Commander. At the eve of this appointment, the Prime Minister and the Minister of Gender, Youth, Sports and Recreation (third partner in coalition) fled the country and sought sojourn in South Africa when their partner found haven in one of the local churches, key police installations were attacked, property damaged, ammunition confiscated and one sub inspector killed, home of Lieutenant General Maaparankoe Mahao attacked and he narrowly escaped death and radio stations suddenly went off air. When asked by civil society whether he was taking over or not, Lieutenant General Tlali Kamoli responded elaborately on the negative. Nevertheless he did not leave office which he was legally removed from and thus becoming a *de facto* commander while *de jure* Commander did not occupy the office.

The open disagreement between the Prime Minister and Deputy on prorogation of parliament, removal and replacement of the army commander, appointment of the President of court of appeal, removal of the Minister of Communications, science and technology and the general collapse of collectivity of government marked the beginning of end of the coalition. Lesotho was then on the way to next elections soon. This government was replaced by different coalition led by Prime Minister Mosisili after SADC mediated brought forward elections in 2015 however the same challenges unresolved in the previous regime remained intact to haunt the next. Contrary to the expectations at least of SADC and to the exoneration of civil society and keen observers of Lesotho situation and experts, the post 2015 National Assembly elections only changed the jokey not the horse, turf, prize not even rules of engagement.

In the new Mosisili's regime, a coalition of seven political parties many things happened but one that prompted SADC Inquiry was the army fracas. Leaders of opposition fled the country citing life threats and conspiracy that they would be arrested while some soldiers would be coerced into implicating leaders for plot to overthrow government. The sitting commander was demoted to his former position of brigadier and the former reinstated, some soldiers arrested on the account of alleged mutiny and the demoted commander assassinated by the members of Lesotho Defence Force. The death of Mahao marked the height of military terror

in the Kingdom. In the build up to this horrific event, the military has just become not a national security but terror. This explains the claim;

“Before lunch on 21st May 2015 and after postponing the two applications *habeas corpus* (CIV/APN/191/2015) Lance Corporal Makhabane (CIV/APN/194/2015) Molefi (CIV/APN/189/2015) Jobo all serving members of the Lesotho Defence Force and having made certain interim orders and put counsel to terms, certain unpleasant reports were later made to me that certain insolent remarks and threatening language were openly directed at some members of the court staff, to senior legal practitioners and to the media staff and other members of the public”(Justice Peete,2015:1).

Though the Judge ruled this behaviour out and laid basic acceptable conditions for soldiers coming to court, such were never met. If the military can disrespect the courts as the sanctuary of justice and the political authority utters no word, the situation could not be defined as normal in the democratic dispensation. At death of Mahao the situation in Lesotho was tense, people were furious and the general expectation was on the Prime Minister to announce government action against perpetrators. SADC Troika met in Tsoane South Africa and defined the situation as

“the deterioration of the political and security situation in the kingdom of Lesotho, which forced the main opposition leaders to flee the country fearing for their security, and exacerbated by the tragic death of Brigadier Maaparankoe Mahao, the former Lesotho Defense Force (LDF) Commander on the 25th June 2015” (SADC Troika, 2015).

This narration communicated that death of former commander did not occur in a vacuum but in a particular political context where violence both direct and structural was manifest and peace in its various forms did not exist. SADC further resolved to “establish as a matter of urgency an independent commission of inquiry into the circumstances surrounding the death of Brigadier Mahao and its deployment with immediate effect” (SADC, 2015). In order to operationalise and internalise this commission and indeed give it necessary direct legal power over individuals it was procedurally subjected to the Public Inquiries Act of 1994. SADC had already closed its mission in Lesotho when Mahao was killed but it read situation as sharply deteriorating and decided to establish a commission to inquire about the death and recommend what can be done to restore peace. Though government changed gear on the way, the Commission did its work, made recommendations which government was expected to implement but had serious challenges. In conclusion of its work, the commission recommended that Lieutenant General Tlali Kamoli be retired, investigations on the death of Mahao be done vigorously, amnesty be given to minority suspects, LDF members implicated in murder cases be suspended and be brought to book, reforms be fast tracked and SADC operationalises Oversight Committee.

Pressure from within and external actors was exerted on government to comply as the country risked losing access to AGOA through which more than 40,000 are employed in the textile industry, Millennium Challenge Corporation support and other forms of support from EU and other partners.

PRESENT AND THE FUTURE

Though commander was bought out by the previous regime, there was no intention whatsoever to deal with other recommendations including to deal with criminality issues. The government was actually out to dismiss the report and discredit judge Phumaphi. Their approach was general amnesty yet by its definition was means through which those on the one divide of the conflict were exonerated while those on the other were further disadvantaged. The amnesty did not have any regard to the victims of the acts upon which the so called amnesty was sought. The new regime is committed to the full implementation and a number of soldiers have reported to the police helping with investigation. The former commander is remanded in custody to answer for among others assassination of Sub inspector Ramahloko, soldiers accused of killing Mahao are in custody, and exiled soldiers back in the country. Some high profile cases are being handled for an example exhumation of a missing police officer in whose *habeas corpus* case police leadership fought hard. This led to some police officers and the former minister of Defence and the Deputy Leader of LCD being charged for murder. Three bodies of men killed by army officers were rescued from the Lesotho Highlands Water Project.

Lesotho is the country where elections was held three times in five years and two top soldiers have been killed by known members of the army with ill intentions in the period of two years. The SADC standby force is in the country by the request of the government to support implementation of the decisions of SADC. Leaders of opposition in exile have not yet accepted government invitation to come back home and dwell on reforms. However there is a general complain about police brutality which the opposition complain that it is targeted at them. The former Minister of Defence and Deputy Leader of LCD told his torture story to the public. Former Police spokesperson but still a serving police also reported torture by the colleagues and there are several other cases on police brutality. These matters DPE and TRC have taken u with Commissioner of Police and Minister.

Lesotho needs to move from here to;

- ✓ Do reforms in a manner that will give stability and effectiveness to the coalition government(s) and ensure that democracy institutions contribute to the idea separation of power;
- ✓ In order to make the reforms process inclusive and credible, more efforts should be made to bring home leaders of opposition. In this regard civil society has already advices an approach that bring the third party to facilitate the negotiations between government on the one hand and the leaders on the other. Civil society itself has offered to play a supportive role in this regard;

- ✓ The efforts of government to reclaim rule of law, taking those suspected of criminal offences to law should be supported and part of that support should be to ensure that no torture happens at the police custody. This must not only be a commitment by the government but also a process closely monitored by SADC;

The role of civil society in this regard is that of advocating for the progress and collaboration among different actors. Civil society has done various initiatives and played technical support to different partners. Civil society in Lesotho may need support in the following direction to continue its work; monitor progress including of the SADC standby force in Lesotho; facilitating dialogue among different actors about ways through which to move with reforms. This includes facilitating safe and agreed return home of exiled leaders ahead of anticipated reforms debate; Mobilisation of citizens' active participation and making the process Basotho owned yet receiving relevant support externally; guiding reforms process and keeping adequate pressure on all parties in reforms dialogue and the partners to make all efforts including putting resources to see the process through; establishing effective regional collaboration and sharing networks that would make citizens' voices heard by governments but regional bodies as well.

In response to the question, the answer is in the affirmative. However it has to be mentioned that it is not given though. An effort must be done by the opposition and government to meet each other half way. In order to balance need for truth and healing on the one hand and reconciliation and progress on the other, Basotho need a broad based national dialogue to define the national peace architecture for their Kingdom. The dialogue should not be a once off national event bringing leaders to the exclusion of the masses, rather a national apex activity that would be followed by series of lower level facilitated talks. The *Post-Conflict Reconciliation & Reconstruction Strategy* is needed. This needs first appreciation of Basotho and later other partners. In fact this is not only wisdom of Morena Moshoeshoe but also science

“The complexity of intra-state conflict and peace making poses two main challenges to the international mediators. First, they should acquire a thorough understanding of local history, politics, cultures and personalities before assuming a substantive role. Second, they should refrain from rushing the process and making precipitate interventions. However critical the situation and however obvious the basis of a settlement might appear, they should not attempt to thrust solutions on the parties or pressurise them into signing an accord prematurely” (Nathan, 2000:9).

So Basotho can reclaim their pride among nations not only by retribution but application of wisdom that balance between justice and peace. This is called *reconciliation* and this is not only the magic but also science that only occurs as truth is revealed and remorse that invites forgiveness manifests.

