

CHAPTER 2

Preparations for the Election and the Electoral Process

From 1986, the Military Council exercised the normal legislative powers of the State through the issue of Orders. In early 1990 the Military Council, having declared its intention to return the country to parliamentary democracy, set in motion the process for drawing up a new Constitution. The Council also issued the National Assembly Election Order 1992, which provided for the registration of voters and conduct of the election of members to a National Assembly.

The Chief Electoral Officer

The National Assembly Election Order 1992 and its amendments, augmented by subsidiary legislation in the form of legal notices, provided the principal legislative framework under which the election was organised and contested. A critical feature of this legislation was the establishment of an independent office of Chief Electoral Officer whose functions included, among others, the registration of electors, the preparation and maintenance of an electoral list for each constituency and the conduct of elections for members of the National Assembly. Two significant improvements regarding the office of the Chief Electoral Officer were introduced by the National Assembly Election (Amendment) Order 1992 which enabled the Chief Electoral Officer to appoint committees to assist or advise him or her in the performance of the functions of the office. It also required the Chief Electoral Officer to provide the Presiding Officer at each polling station with the relevant extract of the certified electoral list for the polling district concerned instead of the electoral list for the whole constituency.

It had been feared that because no elections had been held since 1970, there would be formidable difficulties, particularly in the absence of an established and functioning Election Commission. Sole responsibility for the preparations for the election devolved on the Chief Electoral Officer who was appointed in terms of Section 3 of the National Assembly Election Order 1992. The current Chief Electoral Officer, Mrs Joycelyn Lucas, who took office in January 1993, is the Chief Electoral Officer of Trinidad and Tobago serving under a British Government technical assistance programme. Her predecessor in office was Mr Noel Lee, the Director of Elections of Jamaica. Everyone with whom we had discussions spoke in the most complimentary terms about both these officers. It appeared that on Mr Lee's arrival during the last half of 1992, great

uncertainty prevailed as to how the election that had been promised would be delivered. Mr Lee immediately set to work to construct machinery for delivering a credible election. Soon after his arrival, he took a valuable initiative to establish an Advisory Committee of political party representatives.

The Committee, which met regularly on a weekly basis and at which all 17 registered political parties were initially represented, achieved the dual purpose of initiating unprecedented dialogue among the political parties and of serving as a bridgehead for contact between the Electoral Office and the political parties. Through these regular meetings, it was possible to keep the political parties informed about the progress being made with the preparations for the election and to assess their reactions to developments. Thus, within a relatively short period of under one year, and from a position of great uncertainty, it had not only become possible but also realistic for the political parties and electors to expect the Chief Electoral Officer to deliver the usual range of electoral services, including:

- compilation of an acceptable register of voters;
- appointment and training of Returning Officers, Presiding Officers and other election officials;
- establishing procedures for the nomination of candidates;
- determining the number of polling districts and stations within each constituency;
- establishing procedures for the conduct of the election;
- voter education;
- preparing the ballots; and
- supervising the counting.

It was recognised by an overwhelming majority of the political parties that the work of Mr Lee and Mrs Lucas was outstanding.

Registration of Voters

Registration of voters for the election first commenced in December 1991 and was set to be completed in April 1992. Following complaints, a decision was taken to extend the period for registration which recommenced on 1 August and continued until 31 August 1992. The cut-off date for preparation of the voters' list was extended to 31 December 1992. As a result, those who had come of age between August and December and had registered were eligible to vote.

Registration took place at designated registration centres but provision was made for registration to be carried out at the homes of the electors in exceptional cases.

The registration process did not seem to have been a controversial issue and we did not, in our discussions with the political parties and other interested

groups, hear any suggestion, nor did we receive any complaints, that it had been other than satisfactory.

The Voters' List

Following the completion of the registration exercise in August 1992, a computerised voters' list was prepared. However, this list was found to contain serious flaws which led to the postponement of the general election to March 1993. In the meantime, the delimitation of the new constituency boundaries was proceeding apace pursuant to Section 35 of the National Assembly Election Order 1992. It was explained to us that it was necessary for the registration of voters to be completed before the delimitation of the constituency boundaries could begin. This was to enable the Boundaries Commission to take into account the distribution of population as required by law in order to arrive at evenly populated constituencies.

By the time the delimitation exercise was completed, however, a new voters' list had been published with the result that when the constituency boundaries were eventually gazetted in January 1993, some voters found that their names no longer appeared on the list for the polling district in which they now resided. Accordingly, it became necessary for further revisions of the published list to be made. Subsequently, it was announced in a gazette notice of 18 January 1993 that the postponed election would be held on 27 March 1993.

A third list containing 736,902 names was eventually published and accepted by all the political parties to be as accurate as was possible in the circumstances. Indeed, we were struck by the determination and commitment of all the political parties to have an election, and it was emphasised to us on many occasions that they were not going to be deflected or distracted from this endeavour. All in all, it seemed to us that an overall national electoral roll of nearly 750,000 voters in a population of only 1.8 million reflected a very good registration figure. The final certified list was made available to the political parties on 8 March 1993 and we were told by the Chief Electoral Officer that although advertisements had been posted at legally designated places inviting applications for corrections, few such applications were received.

The Role of the Official Witness

In spite of the large number of voters on the electoral roll, it was recognised that the possibility still existed of some names being omitted from the final list. We were assured by the Chief Electoral Officer that, following complaints by a number of political parties, she had issued instructions to all Presiding Officers that in such cases, provided the voter produced a voter registration certificate showing that he or she was registered to vote at that particular station together with an appropriate document of identification such as a passport or driver's licence, his or her name would be added to the voters' list and he or she would then be allowed to vote. Where voters were able to produce their registration

certificates but not documents of identification, they would be allowed to vote provided they were identified by the Official Witness, who was usually a village headman or some other person in a similar position from one of the villages comprising the polling district concerned. For this purpose there was an Official Witness present in every polling station. As we were to observe subsequently on election day, this arrangement worked extremely well except in a few isolated cases where the Presiding Officers were reluctant to allow persons whose names were not on the voters' list to vote. Further reference is made to this in Chapter 4.

Absentee Voters

Separate voting arrangements were made for certain categories of persons who were registered as electors but who, by reason of the nature of their employment, were not able to vote at their normal polling station on polling day. These included election officials; candidates and their agents; military personnel; police officers who would be on election duties; and public officers employed abroad in the service of Lesotho, and their families.

Provided such persons applied to vote as absentee voters, they were allowed to vote prior to election day, and two separate days were set aside for this purpose. Special Presiding Officers were appointed to take the poll at designated polling stations, and the voting procedure was the same as that followed on election day. We were able to observe voting by absentee voters at a number of polling stations and were satisfied that this was conducted in accordance with the law. We were similarly satisfied that the arrangements that were made for the security of the ballot boxes were satisfactory. This extended to Presiding Officers and party agents sleeping at the polling stations to guard the boxes until election day. We were also satisfied that the arrangements made for the mixing of the absentee voters' ballots with the regular ballots at a designated polling station in the individual absentee voter's constituency were adequate to ensure the secrecy of their votes.

Non-Resident Electors: Lesotho Citizens in South Africa

A very large number of Lesotho citizens are employed in South Africa, mainly in the mines. Their remittances contribute more than 50 per cent of the gross national product (GNP) of Lesotho. The Employment Bureau of Africa (TEBA), the Maseru-based arm of the South African Chamber of Mines, which recruits labour in Lesotho for the registered mines of South Africa, gave the Group an official figure of 92,000 Lesotho citizens working under contract in the mines. Much higher figures were sometimes claimed by other sources. It was estimated that some 75–80,000 of such citizens employed in the mines might have registered to vote. To the miners must be added other Lesotho migrant workers, for example, those working on farms.

Considerable efforts were devoted by the Lesotho authorities to making special arrangements for the return of migrant workers to vote in the election.

On the advice of the South African Government, the Government of Lesotho contacted the South African Chamber of Mines and also South Africa's National Union of Mineworkers (NUM) who were able to negotiate permission for the release of the great majority of the workers. A delegation of the NUM visited Maseru at election time to protect the interests of their members, and to observe the election. The Commonwealth Observer Group held discussions with these representatives, who explained that permission to return depended on the management of the individual mines. Most had agreed to the release, but often the workers had to work extra shifts to compensate. Some would have lost pay or incurred costs by returning to vote.

The Lesotho Government had made special arrangements with the South African Government to allow border posts to remain open for 24 hours a day over three days, 26–28 March, to enable these migrant workers to return to vote. One political party expressed concern to the Observers that some mine managers were unwilling to release their workers, ignoring a circular from the South African Chamber of Mines which had requested that miners be allowed to return home to vote.

The Commonwealth Observer Group sought to establish whether these arrangements were working and that Lesotho citizens were in fact returning to vote. The border crossings were open when we visited them and there was evidence of substantial numbers crossing on the day preceding the poll. On polling day itself the border crossings were quiet and the waiting fleets of taxis found few passengers. Since a great number of voters, who presumably included some returned workers from South Africa, arrived at the polling stations long before they opened, the lack of activity at the border on polling day was not surprising: the workers would have already arrived in Lesotho. At one polling station in western Lesotho where the queue was particularly long, it was explained to members of our Group who visited the polling station that some men were becoming restive due to the delay because they had undertaken to return to their place of work in South Africa on the same day. A substantial number of the men queuing to vote in towns along the western border were wearing mining helmets.

Despite the concerns stated above, in general the political parties believed that everything possible had been done to enable the workers to return to cast their votes. Though there was no accurate figure available, we found it reasonable to believe that substantial numbers did in fact return to vote. We were satisfied that, under all the circumstances, considerable effort had been made to ensure that the democratic right to vote of these citizens had been respected. We also found no evidence of any pressure on them concerning their return on the part of any political party.

Voter Education

We were particularly impressed by the standard and result of the voter education programme carried out by the Electoral Office. This took the form of posters and advertisements in newspapers and on radio, both in English and

in Sesotho, encouraging people to vote and providing details of how to vote. A sample leaflet is at *Annex XI*. One particularly catchy advertisement which was found in many public places proclaimed: 'Your vote is your power'. The success of the voter education programme was clearly reflected in the high turnout of 72 per cent at the election and in the very small number of spoilt ballot papers. Political parties also contributed to voter education during their campaigns in the villages, through radio broadcasts and at rallies (*pitsos*). In some areas we were told that traditional leaders, too, had been involved in voter education. Generous funding from a number of donor countries also contributed to the success of the voter education campaign.

The Administrative Framework

While the Chief Electoral Officer had sole and complete charge of the arrangements for the election, much of the work on the ground was done by other senior and lower-ranking government officials and civil servants who were harnessed to assist in administering the election.

Lesotho is divided into ten administrative districts which serve as the primary decentralised administrative subdivisions of the Government. Each district is headed by a civil servant as District Secretary, who was appointed to serve as District Electoral Officer for the election. The primary function of the District Electoral Officer was to act as a liaison between the Chief Electoral Officer and Returning Officers and other election officials in the field. In particular, the District Electoral Officers were responsible for collecting election materials from the central Electoral Office and disbursing them to Returning and Presiding Officers within their districts. Each of the ten administrative districts was divided into constituencies which returned one member each to the National Assembly, and each constituency comprised a number of polling districts. In turn, each polling district had a polling station, to which as many as 18 villages might be assigned to vote.

However, while some co-ordination between the Electoral Office and other government personnel was necessary and appeared to have been taking place, the level of involvement of the District Electoral Officers varied from district to district. We were told that in some cases District Electoral Officers, or their deputies, were involved in the training of other election officials. Some of our members had the opportunity to observe a demonstration of a mock election-day polling station in action which was organised by a Deputy District Secretary in her capacity as District Electoral Officer. Its success gave us great cause for optimism.

Training

Against the background of our knowledge of an absence of a corps of officials with any experience of running an election, we took the earliest possible opportunity to ascertain what arrangements were being made to ensure that the election would be conducted smoothly.

We were made aware that the Chief Electoral Officer had carried out some training of senior electoral officers who were in turn to train the lower echelons of electoral officers. It was therefore no surprise to us that the overwhelming majority of electoral officers performed their election duties efficiently and with complete impartiality. Nevertheless, we were concerned to see in some constituencies on polling day itself that there was unevenness in the level of competence, particularly among District Electoral Officers and Presiding Officers and in the consistency with which the rules were interpreted. We found that in some constituencies basic training was still being conducted right up to the day before the election. This factor inevitably reflected adversely on the standard of performance of some electoral officials, but these were a small minority. The vast majority performed creditably and sensibly, and candidates and their agents pronounced themselves satisfied. They accepted that where discrepancies occurred these were not as a result of bias in favour of or against any particular party.

Nominations

Nomination day was set by the Legal Notice issued by the Chief Electoral Officer for 28 January 1993. Although we were not able to observe the nomination process, we were told that this duly took place on the appointed day with little controversy. The only complaint we heard was from the MFP and was explained to us by the Chief Electoral Officer as the result of a misunderstanding which was subsequently cleared up. One party alleged that their nominations were unfairly rejected. We checked this allegation with the Chief Electoral Officer and found that it was not substantiated. We were informed that no nominations were unopposed and in one constituency there were as many as seven candidates. We did not receive any complaints nor did we hear of any suggestions of pressure or intimidation of any kind which prevented anyone from being nominated as a candidate. In all, 241 candidates, including 23 women, were nominated to stand in the 65 constituencies; seven of these were independents.

Supply of Election Materials

We had been informed by the Chief Electoral Officer of her expectation that adequate supplies for the efficient conduct of the election would be delivered to each polling station by the night before polling day. To ensure the security of the supplies, arrangements had been made for election officials to sleep at the polling stations and for the police to maintain a round-the-clock guard at stations. This would enable polling stations to open on time. We were also advised that roving electoral officers would regularly patrol stations assigned to them to see that supplies which were running short at any station would be promptly replenished. However, on polling day serious shortcomings in the supply of election materials led to delays in the opening of the poll at many stations. This aspect of the process is dealt with in greater detail in Chapter 4.