

# REPORT OF THE CIVIL SOCIETY DELEGATION THAT VISITED BOTSWANA AND PRETORIA DURING THE WEEKEND OF 19 - 22 JULY 2007

## 1. INTRODUCTION

On Thursday 19 July 2007 a delegation of seven members from civil society organisations left Lesotho for Botswana with a mandate to address the Southern African Development Community (SADC) officials and the Botswana civil society movements on the prevailing state of affairs in Lesotho with a particular emphasis on the political developments which saw numerous people abducted, tortured and subjected to harrowing and humiliating treatment at the hands of security forces in Lesotho, the media harassed to the point of self-censorship and the economy placed on a standstill as the country's major economic centre was placed on hold by a 6 to 6 curfew.

The delegation comprised the President of the Law Society of Lesotho, [Advocate Zwelakhe Mda](#), the Deputy President of the Law Society of Lesotho, [Advocate Sekake Malebanye](#), the Deputy Chairperson of MISA Lesotho, [Mr. Thabo Motlamelle](#), the Secretary General of the Lesotho Trade Unions Congress, [Mr. Moletsane Jonathan](#), the Treasurer of the Lesotho Law Society [Advocate 'Mabolae Mohasi](#), the Executive Director of the Lesotho Council of Non-Governmental Organisations, [Mr. Seabata Motsamai](#) and the Director of the Transformation Resource Centre, [Miss Matšelisio Ntsoelikane](#).

## 2. IN BOTSWANA

In Botswana the delegation first met with a team of officials from the SADC led by the Deputy Executive Secretary [Mr Eng. João S. Caholo](#) and included the Director of the SADC Organ on Security, Defence and Politics, [Colonel Tanki Mothae](#). The delegation, briefed the officials on recent developments relating to the political and security climate in the country and the media situation.

The delegation highlighted that the woes of the citizenry of Lesotho started after it was announced that guns belonging to the army had been snatched by unidentified people from members of the army on guard detail at the homes of cabinet ministers, specifically, the Minister to the Prime Minister, Dr Motloheloa Phooko, the Minister of Trade & Industry, Mr Popane Lebesa and the Minister of Communications, Science and Technology, Mr Mothejoa Metsing. Mention by the government did not include that the home of the leader of the opposition All Basotho Convention (ABC), Mr Motsoahae Thabane was fired upon by unknown

gunmen in a night surrounding the period when unknown people filched guns off the bodyguards of the ministers.

A curfew was declared for Maseru only by the Commissioner of Police on 15<sup>th</sup> July which was later revoked on 22 July. What was surprising is that the curfew was enforced by soldiers who mounted roadblocks all over the city. Members of the Law Society had received affidavits by individuals who claimed they had been brutalised by soldiers at these roadblocks by being offloaded from the vehicles they were travelling in; male citizens being searched in the most humiliating of manners by women soldiers who manhandled their private parts and being ordered to roll over on the ground while being kicked with army boots and gun-butted.

The delegation informed the officials that some citizens were abducted by hooded men wearing balaclava hats. The case of Makotoko "Mashai" Lerotholi was the case in point where he was abducted for 11 days, kept incommunicado by his abductors and when he materialised at the behest of the court after his wife had sought a writ of habeas corpus that his body be produced before court, he told a harrowing story of torture at the hands of his abductors to the court. Lerotholi's evidence that he had been extensively tortured by being beaten and kicked all over the body had his genitals being pulled and kicked was not controverted by the army, which was represented in court. The army had earlier denied any knowledge of the whereabouts of Lerotholi, even claiming that he was not in their custody but the lie was exposed when he appeared in court in their custody and records showed the army had tried to palm him off to the police who refused to take him in the condition he was in and that he had been spotted at the Makoanyane Military Hospital chained to his bed and guarded by a cordon of soldiers during the time of his disappearance.

The delegation observed that when the Deputy Prime Minister referred to the issue of seized / stolen guns, he adroitly omitted to mention the criminal conduct of the army.

Five detainees successfully brought an application before the High Court seeking to be released from the custody of their captors, citing as respondents inter alia the Commissioner of Police, the Commander of the army, the Director of Public Prosecutions. The High Court of Lesotho released them by order on 7<sup>th</sup> July. In clear contempt of the High Court, the army moved in to the police station and nabbed the three who are officers of the defence force.

There is also a court case instituted by the Law Society seeking an injunction. The Law Society filed a case in the High Court of Lesotho against the Right Honourable Prime Minister Mr. Pakalitha Mosisili, the Commander of Lesotho Defence Force, the Commissioner of Police and the Attorney-General concerning the violations of fundamental human

rights in the country. A Rule Nisi was issued calling on all the respondents to show cause why an order should not be made restraining the army from assaulting, torturing members of the public, directing the police to accept into their custody members of the public assaulted by the army, give them due protection under the law, and to investigate criminal acts perpetrated by members of the army and deal with perpetrators according to the law.

Concerning the media it was stated that MISA had written a petition to the Prime Minister on 29 June 2007 to which the PM had to date not responded. MISA's position in relation to the holding of the abducted people was that holding them incommunicado was denying them their right of freedom of expression as they could not speak with family, friends and relatives, lawyers and doctors in their time of such need. The petition to the Prime Minister sought relief in the following manner:

June 29, 2007

The Rt. Hon. Prime Minister of the Government of Lesotho  
Minister of Defence  
Honourable Pakalitha Mosisili  
P O Box 527  
Phone: 2231 1000  
Fax: 2231 0518  
Maseru  
Kingdom of Lesotho

Your Excellency,

**RE: PETITION**

**THE WORSENING MEDIA FREEDOM AND FREEDOM OF EXPRESSION  
SITUATION IN LESOTHO.**

The Media Institute of Southern Africa (MISA) Lesotho Chapter has realised with deepening concern the deterioration of the freedom of expression and the freedom of the media to fulfil its function of informing the nation due to a series of serious infractions on these fundamental rights guaranteed by International, continental and regional instruments to which Lesotho is not only a signatory, but has ratified, namely: The Universal Declaration of Human Rights, The African Charter on Human and People's Rights, the Windhoek Declaration on a Free Press and the SADC Protocol on Culture, Sports and Information.

We raise our concern and your attention to the continuing moratorium on government advertising placed on MoAfrika over ten years ago and the most recent moratorium placed on Public Eye newspaper under similar circumstances. We further draw your attention to a ban placed on music performed by Basotho artists, namely Lephats'oe Lebajoa aka Selomo and Rethabile Mokete aka Mosotho Chakela which ban was placed on music by both singers last year.

We further draw your attention to the instruction by the Maseru City Council to Intelserv company to remove their billboard advertising their products mainly because it was said to be “offensive and humiliating to the Lesotho Congress for Democracy as a ruling party.”

We further draw your attention to the ongoing case in which veteran journalist, Mr Thabo Thakalekoala is charged under the Internal Security Act. Whilst on this issue, we further wish to draw your attention to incessant harassment of Harvest FM by numerous letters from the Lesotho Communications Authority (LCA) where the LCA interferes with content on the pretext that they have that authority in terms of their establishing legislation whereas that is not the case.

Further we draw your attention to a letter aimed at intimidating People’s Choice FM and its presenter of Thaha-Meso, Ms ‘Malehloka Raditapole-Sekoati in relation to an interview she conducted with a certain Mr Hape Tsakatse drawn and delivered to the station and other radio stations by the Lesotho Defence Force.

Our concern is further exacerbated by Government’s unwillingness to bring to Parliament for promulgation as legislation the Access and Receipt of Information Bill drafted in 2000 by Government’s own Law Review Commission, which instrument would bring to fruition to the Basotho nation their right to seek and impart information as envisaged by the international instruments we have referred to above.

We further remind Your Excellency of the many petitions to Government to implement the transformation of the current state broadcasters into public broadcast systems in conformity with the SADC Protocols and the African Charter on Broadcasting.

We implore Your Excellency to immediately address this situation in the interest of a democratic society by reversing the undesirable elements of the issues raised above by:

1. Removing all moratoria on advertising placed on any publishing house by Government in Lesotho.
2. Revoking all bans placed on any music by local musicians in Lesotho.
3. Revoking any ban on advertising by companies of their products, be it on billboards, newspapers, radio, television and information technologies.
4. Withdraw with immediate effect the charges placed on Mr Thabo Thakalekoala for subversion in terms of the Internal Security Act 1984.
5. Bring into Parliament as a matter of urgency the Access and Receipt of Information Bill for promulgation into law.
6. Show trust in democratic systems by allowing for the true transformation of the state owned media establishments into true public broadcasters as envisaged by the African Charter on Broadcasting.
7. Using your influence to implore the Lesotho Communications Authority (LCA) to stop issuing and retract their letters intended to interfere with content on Harvest FM or any other radio station.

8. To implore the Commander of the Lesotho Defence Force to retract with immediate effect his intimidating letter on People's Choice FM and Ms 'Malehloka Raditapole-Sekoati.

**KHOTSO!**

**PULA!!**

**NALA!!!**

It was further explained what the delegation was seeking from the SADC. Firstly it was that SADC sends in a fact-finding mission to Lesotho to verify the issues of human rights abuses that were taking place in Lesotho. Secondly to prevail over the Lesotho government to reign in the army and put an end to its terrorist acts in the name of searching for guns. Thirdly SADC should explore all possible means to continue the political dialogue it had started in the country and facilitated by former President [Sir Ketumile Masire](#) of Botswana.

Members of the delegation clarified that the situation had deteriorated to a point that the army no longer had respect for courts of law, which in itself undermined the rule of law and placed democracy under serious threat. There were fears that this kind of conduct by the army could lead to terrorism in the region.

**Responses:**

[Mr Caholo](#) responded that he would report the matter to the Executive Secretary of SADC and relay the matter to the SADC Organ. He said this clearly was a matter for the organ to deal with. In his view, the SADC region was perceived in all of Africa as the most stable region on the continent. Destabilisation of democratic dispensations anywhere in the region affected the operations of other states so the Lesotho situation affected SADC and the regional body should seek a lasting solution to the problem. To this end, he promised the Organ would be seized with the report of the civil society organisations and when next the leaders meet in Zambia, the matter could be tabled at the summit as an issue for the summit itself.

[Mr Mothae](#) said he would make sure that he relayed the message to the chairperson of the Organ when next he met him in Tanzania as soon as he arrived there as he was leaving for that country on Saturday.

**[Sir Ketumile Masire](#)**

The delegation then paid a courtesy call on Sir Ketumile Masire, the eminent person charged by SADC with facilitating dialogue in Lesotho over the electoral impasse involving the allocation of parliamentary seats.

**Bocongo:**

The delegation then presented the same message to the Botswana Council of NGOs which was also standing in for the SADC Council of NGOs since that regional body's officials were otherwise engaged. The same presentations were tabled before Bocongo led by [Mr Barulaganye Mogotsi](#).

The National Director of MISA Botswana, [Mr Modise Maphanyane](#) said they were sad to hear that these things were once again happening in Lesotho and that the perpetrators were the very people they expected to protect the citizens. He observed that with this kind of clampdown on the media, "we must all forget about the project of democracy" for Lesotho. He appreciated the efforts of the delegation and encouraged them to meet with President Thabo Mbeki of South Africa and relay the same message to him as South Africa should not just sit and fold its arms when its neighbour is burning. He encouraged the civil society to document all these human rights violations and give them out to the regional media so that sufficient noise should be made about them and a torch lit on them so everyone can see what is happening in Lesotho.

[Mr Mogotsi](#) said they had been following developments in Lesotho and they were concerned as the situation was fast resembling that of Zimbabwe where they had been very vocal pressing for change. He said the situation in Lesotho affected them as well because shared operations suffered when their colleagues in Lesotho were suffering. He said they considered the situation to be an emergency and they would treat it as such. They would further be informing other regional organisations such as the SADC Council of NGOs, the board of Bocongo, and the Botswana government itself. Since they took the issues very seriously, they would pressure the SADC Council of NGOs to develop a specific item on Lesotho at the SADC Heads of State and Government Summit.

The delegation thanked the NGOs for their solidarity spirit and pointed out the mission was asking everyone to shed a lot of light internationally on the matter in order to let the world know what is going on in Lesotho.

### **3. STATEMENT**

The mission prepared a statement for the media on the way from Botswana and it was submitted to numerous media houses early on Saturday.

### **4. IN PRETORIA**

The team then travelled Friday afternoon to Pretoria in South Africa to present the same message to Amnesty International seeking that it also sends its fact-finding mission and imploring the Lesotho government to end the hostilities and encourage dialogue to resolve political differences. In Pretoria the team met with the Acting Director of Amnesty International - South Africa, [Mr Chris Gevers](#). The delegation showed indignation that the developments in Lesotho could culminate in

creating a fertile ground for the creation of terrorist groupings because the army in Lesotho was itself operating like a bunch of terrorists by abducting people in unmarked vehicles and wearing balaclava hats.

**Mr Gevers** indicated that Amnesty South Africa was a subsidiary of the London organisation and that their research department was centralised. He promised to inform their researcher from London, **Ms Mary Rayner** about the developments in Lesotho and felt that as she was about to be in the region very shortly, she would give the Lesotho situation priority. He said Amnesty had not done much on Lesotho in the past few years and they welcomed the opportunity to visit the situation in the country and he felt there could be no good reason why Amnesty would not be involved as the information coming out of the discussion with the delegation indicated there was prima facie sufficient reason to be involved. He promised to further involve the South African Council of Churches with whom he enjoyed very good rapport.