

*The Lesotho's Ideal Form Of Government*



## **Lesotho's Ideal Form of Government: Monarchic – Aristocratic Democracy**

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### **ABSTRACT**

Prior to a formal document that declared the Basotho to be British subjects, Lesotho's form of government was a conglomeration of monarchy, aristocracy and democracy. The end of British rule marked a significant turn, the Mountain Kingdom stripping off the monarchy his powers and adopting the so-called democratic form of government. I maintain the view that former traditional Lesotho's monarchic-aristocratic-democracy, if duly revised and accordingly adapted to suit ideal form of democracy, is still ideal, if Lesotho wishes to restate political stability today. I argue that as long as the king remains a constitutional monarch, Lesotho's so-called democratic form of government will always bear unwanted disastrous consequences of internal conflicts. A desirable ideal Lesotho's form of government ought to be such that the monarch be vested with the following powers: the power of control over the police and the armed forces and the power to control the judiciary.

### **INTRODUCTION**

There are many different ways in which societies are governed. History attests that nearly all forms of government are dynamic since they must adapt to changing situations. External influence from the global world is another factor and source of dynamism in today's societal forms of government.

In a monarchic form of government a single individual makes policies and enacts laws under which his subjects must abide by. In an aristocratic form of government a group of elite individuals is given the mandate and responsibility to assume power of running the state. A democracy is a form of government where the people rule themselves. In the democratic idea the people have a right to rule, that is to say, the policies and laws ought to be made by the people or at least by the representatives chosen by the people themselves.

The issue I will explore in this paper is not what in fact the best form of government is. Rather, I want to demonstrate that each of the three forms of government discussed in this paper has its own merits, and combined together, as it was the case in traditional Lesotho society, they beget a stable

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political society. I discuss each form of government and attempt to show how it was harmoniously incorporated to the other forms of government in traditional Lesotho society. I explain why I think it is time to abolish chieftaincy and reiterate the powers of the paramount chief in Lesotho.

### **Democracy**

Arblaster correctly notes that since democracy is a concept before it is a fact, it has no single precise and agreed meaning (Arblaster, 1994: 3). Perhaps the reason why nearly every political regime claims to be democratic is due to the fact that 'democracy' has different meanings and connotations. However, given that there is one commonly accepted definition of democracy, it is possible to find a more or less commonly acceptable explanation of it.

The word democracy is derived from the Greek *demokratia*. The root meanings of *demokratia* are *demos* (people) and *kratos* (rule). Democracy is defined as a rule of the people by the people. The 'people' refers to any mature citizen of a given political state. Such a person qualifies to participate in this form of government in which, in contradistinction to aristocracy, the people rule themselves in democracy. This form of government, as Held correctly points out, "entails a political community in which there is some form of political equality among the people" (Held, 1996: 1). Political equality is an essential characteristic feature of an ideal democratic form of government.

In contradistinction to aristocratic and monarchic forms of government, the people rule themselves in an ideal democratic form of government. This is what is meant by the phrase 'rule of the people by the people'. In an ideal democracy there is no single person or a group of selected persons devising policies and enacting laws for the people; rather, the people themselves participate actively in policy-making of their own democratic state.

There are two types of democracy: direct or participatory democracy and representative democracy. Participatory democracy is a system of decision-making about public affairs in which citizens are directly involved. In this type of democracy all citizens are personally actively involved in deciding on general policy, in legislating laws, in applying laws and in an overall governmental administration. Inevitably, fundamental values such as political equality, liberty, moral self-development, the common interest and the like characterize participatory democracy. Rule by the people in this type of democracy means that everyone participates in decision-making that binds everyone. Participatory democracy was operational only in Greece, given the size of states they had.

Representative democracy is another type of democracy. It is a system of decision-making whereby some persons are chosen by the people to make general policies, legislate laws and run the government on behalf of the people who have elected them. For a certain agreed upon period some are elected and assigned to govern justly, failing which the people have a right to overthrow them.

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Traditional Lesotho society was predominantly monarchic, but incorporated participatory democracy. Mature male citizens were directly involved in decision-making about public affairs. Given that it was a patriarchal society, it is not surprising that women were excluded in decision making. Serious issues were discussed and debated upon in a “pitso”. A ‘pitso’ is a type of a rally where every mature male citizen has a full right to participate actively. Questions and objections were raised and discussed extensively in a pitso. It is important to note that more talking was done by the people than the chief and his councilors; the latter played a passive role to a great extent. The chief assumed the role of a chairman in these debates. Inevitably, the people’s voice was very influential regarding policy-making in traditional Lesotho society. However, given that the population of Lesotho today has risen to approximately 1.8 million, I think it should adopt representative democracy.

### **Aristocracy**

Aristocracy is a form of government administered by a few men of virtue. This is called noble governance by noble men. Plato regarded aristocracy as second best to monarchy; Aristotle called the best rule or rule of the best men.

The character of Platonic ethics is aristocratic because according to Plato it is only philosophers who are capable of arriving at the knowledge of the supreme Idea of the Good. Aristocrats constitute the highest class in Platonic Ideal state. These exceptionally intelligent guardians of the state have acquired knowledge of the truth. Being virtuous, they pursue the true interests of the state without thinking of their own personal advantage or disadvantage. It is important to note that since Plato regards democracy as the worst form of all lawful governments, aristocrats are not chosen democratically. Rather, the magistrates, who fall under the class of guardians qualify to select men who have the right education and mode of life.

Traditional Lesotho society also incorporated aristocracy since the king together with few men of virtue finalized the laws and policies discussed in a pitso. It is important to discuss the notable differences and similarities between Platonic Ideal state and traditional Lesotho society regarding aristocrats. On the one hand, Plato’s guardians, who are the future aristocrats, were separated from the artisans and given special education that was intended to equip them with the necessary tools as future rulers. On the other hand, in traditional Lesotho society pupils were never separated, they attended one initiation school. The similarity consists in that just as Plato’s aristocrats were not to be selected democratically, so were the councilors of the king in traditional Lesotho society. The people were never asked to vote for the advisers of the king. Instead, old revered men of virtue, who, in my opinion resemble Plato’s magistrates, had a mandate to select those who qualified to be the king’s councilors. Also, just as Plato’s aristocrats ought to be intelligent, powerful, and, above all, virtuous men; so were future councilors in traditional Lesotho society.

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It may be argued that advisors of the king did not share power with him; and if the king could make decisions opposed to that of his advisors, one is not justified to regard aristocracy as having been incorporated to monarchy in traditional Lesotho society. In principle, the king or chief was expected to abide by the admonitions of his councilors; but in practice, some kings and chiefs ignored their advisors. In other words, ideally the king was expected to share power with his councilors. History attests that kings and chiefs who gave heed to the admonitions of their councilors were successful in government. Moshoeshoe I is a typical example of a successful ruler who shared power with his subordinates.

#### **Monarchy**

Monarchy is a form of government where one person rules. For Plato, (*The Republic*, Books V and VI), monarchy is the best well-ordered form of government. In Platonic Ideal state power is vested in the hands of the philosopher king. A genuine philosopher-king is one who has knowledge of the truth and thus governs in virtue of knowledge. In his ideal state, Plato, thus, proposes a rule by the philosopher-king, that is, a virtuous man who has knowledge of the course that the ship of the state must take, and can reach its prescribed destination safely. Just as the trained pilot can be trusted to weather the storms and surmount the difficulties the ship encounters, so the philosopher-king can be trusted to lead the ship of the state to its destination. In fact, Rauch sums well Plato's *Republic* (Book V: 473D) when he says: "Until philosophers are kings, or kings have philosophy so that political power and philosophical wisdom are united in the same persons, there will be no end to the evils of this world" (Rauch, 1965: 54). Plato objects to the democracy of the Athenian type because the politicians therein do not know their business at all.

For Aquinas, (Sigmund, 1988: 14-29) kingship is a just government that is in the hands of one man alone. Aquinas's divine rights of kings proclaims a king as the anointed one appointed by God. He cites a chain of passages from the Scriptures to prove that a king is appointed by God. Thus, for example: "My servant, David, shall be king over them and all of them shall have one shepherd" (Ezekiel, 37: 24). For Aquinas, a king is rightfully a person who directs a perfect community. He rules for the common good. Aquinas maintains that Solomon correctly holds that "A king commands all the lands subject to him" (Ecclesiastes, 5: 8). On Kingship or The Governance of Rulers, Aquinas insists that it is better for men to be under one ruler than many; and concludes that rule by one person is the best form of government.

Hobbes' hypothetical state of nature eventually forced people to live in a community and to appoint one man or an assembly of men as rulers. Hobbes' imaginary state of nature is a state of perpetual war where civilization was unimaginable. Hobbes was mainly discontent with political unrest and prevailing civil wars in Great Britain. In his *Leviathan*, Hobbes

thought monarchy could unify the people and thereby bring an end to civil wars of his time.

For Hobbes, (Hobbes, 1991: 121-129) given that in the state of nature people were stubborn and wild, and unruly elements, in an organized society the king must be vested with absolute power so as to punish offenders of the law. Hobbes' king who is not a party to the compact is empowered to enact laws alone or may at his own free will appoint some men to assist in the legislation of laws. The people have freely given him power to reward those who obey him and punish those who disobey him. It was Hobbes' conviction that the king's role to unify his subjects would stop civil wars. Uniformity of action that follows the decision of the sovereign inevitably leads to a long-term preservation and lasting peace. According to Hobbes, in the state of nature every person was governed only by their own reason. Reason allowed them to use any means to preserve themselves, and Hobbes called that the state of nature.

Traditional Lesotho society's form of government was predominantly monarchic. Prior to Moshoeshe I's reign, chieftaincy played a vital role in the running of government. Head chiefs of the bataung, batlokoa, bakoena, bafokeng, makhoakhoa, and the like, enjoyed sovereignty over their respective clans. Prior to the time of troubles (lifaqane) during the latter part of the eighteenth century, head chiefs enjoyed sovereignty in their territories. During the time of troubles these head chiefs developed "systems of alliance and more centralized structures of authority based upon age-regiments" (Gill, 1993: 65).

Moshoeshe I appointment to kingship among the Basotho to a great extent resembles Platonic selection of a philosopher-king. Chiefdoms of different clans reorganized themselves in view of adopting a more centralized structure of authority to respond to the time of troubles. These head chiefs unanimously appointed Moshoeshe I to be their king. In my view, the criteria of selection were Platonic. He was chosen regardless of the fact that he was a minor chief of the Mokoteli branch of the koena clan. Just as Platonic philosopher-king had to be a genius, Moshoeshe I was chosen because he was exceptionally intelligent and a man of character.

Plato's philosopher-king had to obtain the highest education. Moshoeshe I "was taught the traditions of his elders; the laws and customs of his people which revolved around the chieftainship and the extended family; the art of warfare, cattle-raiding, hunting and self-defence; practical skills such as leather-work and basket-making; and responsibilities of manhood including family life" (Gill, 1993: 63). In my view, Moshoeshe I obtained the highest education from Mohlomi. He was sent to Mohlomi, the famous diviner and healer who instructed him to be a man of character; a virtuous chief characterized by generosity, love of enemies, sympathy and the like. As a minor chief of the koena clan Moshoeshe I put into practice Mohlomi's instructions for he was correctly convinced that goodness of the heart would likely be the source of true and lasting power. Thus, it was

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because of his exceptional intelligence and virtuousness that Moshoeshoe I was chosen to be the first king of the Basotho.

It is important to note that Moshoeshoe I appointment as king of the Basotho was initiated by the representatives of different clans. Normatively, in my view, his successors to the throne should have been elected likewise, that is, by the representatives of the people on behalf of the people. None of Moshoeshoe I lineage had the qualities he himself possessed. As a matter of fact, there is no guarantee that Moshoeshoe I intelligence and virtuousness imply that his sons would inherit these qualities. I think Moshoeshoe I misused his exceptional intelligence and alone made kingship a monopoly and privilege he shrewdly restricted to his family. So, to restore order to kingship in Lesotho I maintain the view that it is ideal that kings be appointed by representatives of the clans or by the people themselves to ensure that the appointed king has all necessary qualities of a desired monarch.

### **THE ROLE OF THE KING**

#### **Commander in chief of the armed forces**

Moshoeshoe I lived during the time of troubles. One other main reason why he was appointed king was that the armed forces should be under his control. At the present moment the minister of defense is the prime minister. However, as it is the case in many independent African states, the government's power to control the police and the armed forces in Lesotho is abused. For example, at times men and women on uniform are used to disperse and torture workers when they rightfully go on strike fighting for their rights. Thetsane' merciless persecution of the workers by the police may be recalled.

I am in full agreement with the Marematlou Freedom Party's (MFP) proposal that the king be head of the police and the armed forces. The Marematlou Freedom Party's argument to support the monarchy in this regard is valid and sound. The MFP "felt that armed with these powers, the King would be an insurance policy against abuse of power by self-seeking and power-hungry politicians. We were further convinced that this would make for stability and ensure that democracy became firmly rooted in Lesotho" (Khaketla, 1971: 11). Evidence of 'abuse of power by self-seeking and power-hungry politicians' abound. The Basotholand National Party as a government reigned tyrannically for sixteen years (from 1970 to 1986) misusing the police and the armed forces to destroy all forms of legitimate democratic opposition. The Lesotho Congress for Democracy as a government endeavoured in vain to misuse the police and the army to silence the legitimate democratic opposition and resorted to the stronger South African army under the cover of SADAC to massacre the army in Lesotho because they refused to dance when the government sung the song of assassination.

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In my “Church and State in the Social and Political Realms Through the Ages”, I have argued that given the role they play in society, “under normal circumstances the clerics’ right to partake in politics does not imply that they are also entitled to participate actively in certain political parties” (Manyeli, 2009: 376). Similarly, given the role the king plays in society, namely, unification of the nation, he ought not to affiliate himself with certain political parties. Holding a neutral position in party politics, the king qualifies to be endowed with the powers of control over the police and the armed forces. Ideally, therefore, the paramount chief should be minister of defense or the commander in chief of the police and the armed forces in Lesotho.

#### **The commander in chief of the judiciary or the minister of justice**

In pre-colonial Lesotho society the judiciary system operated differently from what it is today. Disputes and cases were thoroughly discussed and decided upon in each village. The chief (Ramotse) and his council accordingly deliberated on each case accordingly and gave a verdict. In the case whereby a complainant felt discontent about the judgment passed upon him, he was justified and duly entitled to appeal to the head chief (Morena oa sehloho). The head chief would assemble his council and deliberated on the case at stake. Under normal circumstances such a case would eventually be settled by the head chief’s final judgment. The author recalls only cases regarding chieftaincy itself as the only ones that were further referred to the paramount chief (morena e moholo).

Since the colonial era until the present moment Lesotho operates under a dual judiciary system. Some cases are still being settled by chiefs and head chiefs. Others are referred directly to magisterial courts of law and thereby deliberated upon by respective magistrates. This dual judiciary system does not pose many problems since complainants dissatisfied about judgments passed in traditional courts of law are entitled to appeal to magisterial courts of law.

However, given the complexity of laws enacted and their proper interpretations today, many cases can only be settled in magisterial courts. New laws have been enacted regarding cases such as rape, murder, theft and the like. Since chiefs and head chiefs have no power to pass judgment on such cases, it is categorically imperative that traditional courts of law be abolished. The main task of chiefs and head chiefs was to maintain order by settling such cases. If it is the case that the current state of affairs is such that they can no longer fulfill what was their essential task, it means that it is time that chieftaincy be abolished in Lesotho. Another role allotted to chiefs was fair distribution of land. But, that task is currently being carried out by local councils. The implication is simply that it is time to let go in peace chieftainship in Lesotho.

But, concerning the paramount chief, he still has a vital role to play in Lesotho. I have already demonstrated that in view of assuring that our men



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and women on uniform are not misused and misled by power-hungry politicians, the paramount chief ought to be the commander in chief of the police and armed forces. In the same way, in order to assure that justice prevails, the paramount chief must be the commander in chief of the judiciary.

The common practice at present is that judges are appointed and promoted by the ruling party as a government. These judges take an oath and pledge to administer justice impartially at all times and under all circumstances. But, in practice it may be hard to pass judgment against the government that has promoted them. Again, ideally the government ought to appoint and promote judges deploying the criterion of merit. But, in practice people may be tempted to appoint and promote judges deploying the criteria of reward for having been loyal to the party and relationship by consanguinity. Consequently, it becomes difficult for judges appointed because of loyalty to the party and those appointed because they are the next of kin to be impartial when hearing cases relating to the party.

Normatively, it is the paramount chief that better qualifies to be the minister of justice. As head of state expected to unify the nation, he ought not to indulge and affiliate himself to party politics. As such, he can be entrusted with the task of appointing and promoting judges. Ideally and in practice it is highly possible for the paramount chief to appoint judges solely deploying the criterion of merit if he does not align himself with any political party. However, he too may be tempted to appoint judges related to him. But, the fact of consanguinity alone can easily be detected and immediately be condemned and rejected by the public. The most dangerous and serious factor is that of party affiliation because some people are affiliated secretly and their secret affiliation may jeopardize fair administration of justice and be to the advantage of the ruling party regarding cases whereby the party leaders happen to be either the defendants or complainants.

A judge appointed by a person having no affiliation to political parties stands a better chance to pass judgments impartially. Such a judge has neither fear of disappointing those who appointed him nor a fear of being demoted or losing his job, if he chooses to be always impartial. Ideally, therefore, the paramount chief ought to be in full control of the judiciary.

However, some may question the practicability of the paramount chief being assigned with the task of appointing judges. How will he exactly know who qualifies and deserves to be appointed judges? In my view, Law society can be instrumental in advising the paramount chief in this regard. Law society is a council of lawyers, and the government does not have any influence on them. The paramount chief can incorporate them and appoint judges on merit relying on their thorough knowledge of lawyers. The aim is to deprive self-seeking and power-hungry politicians the right to appoint judges because very often they do so for their own selfish purposes.

## CONCLUSION

A nation without culture and continued tradition inevitably loses its identity. The Basotho are proud of being who they are because they have retained and conserved the culture and tradition they have, and it is desirable that they retain these treasures. As Basotho, our respectable culture has been transmitted from one generation to the next institutionally and practically in daily life. And today such a treasure must continue to be transmitted in writing too to ensure that it is known and lived.

However, given an undeniable fact we are living in a changing world, we must read the signs of times and continually re-evaluate our culture as such. Some elements of it are such that they need to be shunned and be regarded as things of the past. For instance, initiation school has been replaced by modern education, and there is no need to retain it. In initiation school, for example, pupils were trained to fight with sticks as future defenders of the nation. That is no longer necessary because we have armed forces trained to fight with modern weapons. Surprisingly, most advocates of initiation school never attended it. It is very unfortunate that they encourage people to retain a culture they themselves know nothing about. I believe it is categorically imperative that we retain a culture that is still valuable today. It is absurd that a culture be maintained simply because that is the way our forefathers lived. It is time to read the signs of times and retain only that which is still valuable.

Chieftaincy is part of our culture that needs to be regarded as a thing of the past. In my evaluation of chieftainship I have attempted to show that it has been replaced by local councils for distribution of land and by magisterial courts for the administration of justice. In my view, it is absurd to retain chieftaincy if it has lost the role it was intended to play. Moreover, retaining chieftaincy does injustice to tax payers, most of who struggle for survival. All chiefs and head chiefs receive salaries from the government, and this impels the government to increase tax in order to maintain the lives of the people whose functions have already been replaced.

However, I have demonstrated that the paramount chief has a role to play regarding the judiciary and the defense forces in Lesotho. I have shown that it is hard for the judges appointed by the government to pass a judgment against their masters. In principle they know that they must abide by the oath they have taken, but in practice they are likely to be tempted to be partial in view of pleasing their promoters. Therefore, I suggest the paramount chief to be the minister of justice. I believe that with the aid of law society justice will eventually be administered to all. Likewise, I think it is ideal that the paramount chief be commander of the armed forces. These men and women on uniform are recruited by the ruling party as a government, and it seems to me that they think they have to be loyal to the ruling party even when it has gone astray. Power-hungry politicians promote in higher ranks those they know will be loyal and make sure their position is not in anyway threatened.

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A typical example is that of the Basotholand National Party (BNP) that ruled tyrannically from 1970 to 1985, suspending the constitution, and misusing the armed forces. Instead of protecting the nation, the armed forces vigorously and forcefully protected BNP. Another current example is that of the ruling Lesotho Congress for Democracy (LCD) which misuses men and women on uniform to inflict severe pain on people who go on strike fighting for their rights. The police were ordered to inflict pain and severely torture the people working in Chinese firms, denying them of their right to strike. The paramount chief, holding a neutral position in party politics can be trusted with the task of being in charge of the armed forces. Therefore, I believe he is the right person to be the commander in chief of the armed forces.

Last but not least, I think the following points need to be given serious consideration for the paramount chief to carry out his duties faithfully. First, he must at all times hold a neutral position in party politics. As a father of the nation he must always bear in mind that his role is to unify the people, and he can only fulfill that role if he rises above party politics. In fact, he is entrusted with the task of being in charge of the judiciary and the armed forces precisely because he ought to be the protector of all, regardless of people's standings in political parties.

Second, kingship ought not to be inherited. Rather, one must be appointed king by merit. Moshoeshe I was elected king of the Basotho because he was exceptionally intelligent, disciplined and a man of character. None of his descendents ever possessed all the qualities he had. If we wish kingship to function properly, the paramount chief ought to be appointed, and hereditary kingship must be abolished.

Third, given the scarcity of land, the paramount chief must let go the land he currently owns alone. This would be in line with fair distribution of resources. People who solely depend on agriculture suffer because of the land the king possesses alone for his large fields and for his flock of cattle and sheep. Just as fair distribution of natural resources is mandatory, so is fair distribution of land. Fourth, given that the king's salary comes from the tax payers, it is in accordance with justice that his salary be known. It must be a salary based on the economy of the country. Fifth, the paramount chief as a citizen must also pay tax. It is despicable and unfair that a man who is paid more than anyone in the country be tax free. Also, given that he is the most highly paid citizen, it is unfair that his children be taken care of by the State. Like any other citizen justice demands that he too takes responsibility of parental duty and takes care of his own children.

Evidently, there are too many unwanted privileges accorded to the king in one of the poorest countries in Africa. They ought to be eliminated with immediate effect, failing which they are likely to disfigure and blur the image and status of kingship in Lesotho.

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