

**Strengthening Africa's Governance
Architecture:
Lessons from Lesotho's First APRM
Process**

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Introduction

The kingdom of Lesotho became the twelfth African Union (AU) member state to present its Country Self Assessment Report (CSAR) for review and discussion at the meeting of the APRM Forum held in Sirte, Libya, in July 2009. This represented the culmination of a process that was initiated in July 2004 in Addis Ababa, Ethiopia, when the Head of Government, Prime Minister Pakalitha Mosisili, signed the country's accession to the Mechanism. However, Lesotho's review took five years before it happened. According to the APRM guidelines, a period of about 18 months is recommended. Lesotho is not alone in this regard because so far none of the 12 countries reviewed so far have met this requirement. This paper seeks to assess and discuss some of the key elements of the planning and execution of the baseline APRM country self-assessment exercise, focussing on the following:

The African Peer Mechanism (APRM) has been hailed as a timely and apt innovation in Africa's quest for entrenching democracy and improving governance on the continent

- Issues of capacity, autonomy and efficiency of APRM structures in Lesotho
- Integrity of the assessment process and legitimacy of assessment methods
- Popular participation and awareness, and government commitment

Based on the lessons from Lesotho's self-assessment exercise, the paper will suggest ways to strengthen the implementation of the APRM self-assessment in the future, which might benefit other countries still to be reviewed.

Brief background to the APRM process

The African Peer Mechanism (APRM) has been hailed as a timely and apt innovation in Africa's quest for entrenching democracy and improving governance on the continent. Adopted by the African Union (AU) Summit of Heads of State and Government in Durban, South Africa, in 2002 the mechanism aims at fostering the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practices, including identifying deficiencies and assessing the needs of capacity building.¹ Assessment is based on internationally-agreed standards (of both the AU and other international bodies, particularly the United Nations (UN)), as well as national instruments, and covers four broad thematic areas, namely:

- Political and democratic governance

¹ Organisation of African Unity (OAU), *The New Partnership For Africa's Development (NEPAD): The African Peer Review Mechanism*, (AHG/235(XXXVIII) Annex II), Paragraph 3, Durban, 2002; See also African Union/NEPAD, *Guidelines For Countries To Prepare For And Participate In The African Peer Review Mechanism*, (NEPAD/APRM/Panel3/guidelines/11-2003/Doc8), 2003,

- Economic governance and management
- Corporate governance, and
- Socio-economic development

An important principle of the assessment is that it should be a nationally owned and executed exercise. The APRM process involves the establishment of independent national structures that coordinate with the government of the country under review to drive the assessment (conducted by credible research institutions -designated Technical Research Institutions (TRIs) or Technical Support Agencies (TSAs)). TRIs are responsible for, among others, carrying out a technically credible and evidence-based assessment of the state of governance, in a manner that is independent and free from political manipulation; and the production of a Country Self-Assessment Report (CSAR) that also identifies national policy lacunae and priorities to be built into a National Programme of Action (to address the weaknesses identified).² These tasks are executed under the leadership and supervision of a National APRM Governing Committee or Council (NGC).

An important principle of the assessment is that it should be a nationally owned and executed exercise

The NGC is a body that should be independent from government, although government is represented in it. It should include the broadest representation of all important sectors of the community, including non-governmental and community-based organisations, business, religious organisations and the state (normally Parliament and the Executive); and is served by a local Secretariat. The NGC is often headed by a senior civil society personality.³ In addition, the national structures include a coordinating sub-committee comprised of members of the Executive, which is responsible to the Head of State or Government. The role of this structure is both to lend national political leadership to the process, and to coordinate the work of the NGC with state structures. A high-level National Focal Point is also appointed from the Executive to liaise among national bodies, the head of the Executive and the continental APRM Secretariat located in Johannesburg, South Africa. Accession to the APRM is voluntary, and the Head of State or Government of the country concerned signs a Memorandum of Understanding with a representative of the continental APRM Panel of Eminent Persons (the Panel), thus joining the Forum of Heads of State and Government of the mechanism (the APR Forum). The latter is the forum of all Heads of state and Government of the countries that have acceded to the APRM, and who are the final 'peers' to consider the Country Review Report (CRR).⁴

At the time of writing, thirty member states of the AU have already acceded⁵ to the APRM, with twelve⁶ having undergone the first review. The remainder are at

² AU/NEPAD, *Guidelines For Countries To Prepare For And Participate In The African Peer Review Mechanism*, (NEPAD/APRM/Panel3/guidelines/11-2003/Doc8) 2003, pp. 10-11

³ The major exception to this pattern was in South Africa, where the NGC was chaired by a government minister, who was also Focal Point and head of the Secretariat.

⁴ APRM Forum review meetings are usually held on the occasion of AU Summits.

⁵ The countries that have acceded to APRM are, in alphabetical order, Algeria, Angola, Benin, Burkina Faso, Cameroon, Cap Verde, Congo (Brazzaville), Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritania, Mauritius, Mozambique, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda, and Zambia. Mauritania has been suspended from the mechanism following a military coup d'état in September 2008.

different stages of preparation of their CRRs -and three (Ethiopia, Mauritius and Tanzania) are likely to be reviewed at the next Forum meeting scheduled for January 2010. With the mechanism approaching its first decade in 2012, there is a wealth of experience from which to draw lessons to strengthen the practice of APRM.

APRM assessment process core principles

One of the core principles guiding the APRM is that the self-assessment process at national level should be driven by structures that have the following characteristics:

- Inclusiveness in terms of the broadest range of national voices, thus ensuring the reflection of all interests in the process
- Be representative of the constituencies from which they are drawn
- Autonomy from government, thus limiting the politicisation and exertion of undue pressure by politicians
- Be technically competent to the extent that they have the capacity to undertake and/or guide the various complex tasks involved in the collection, compilation, analysis and presentation of information that goes into the CSAR

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Lesotho's APRM Structures

After acceding to the APRM in July 2004, Lesotho signed the Memorandum of Understanding in November 2006. In preparation for the review process, a national consultative workshop was held in Maseru in October 2005 where many stakeholders and interests from across the country participated. A 5-member Ministerial subcommittee⁷ was set up and a Country APR Focal Point established at the Ministry of Foreign Affairs to drive the process. The APRM process commenced with the establishment of the APRM Secretariat to facilitate and coordinate work between the participating bodies. A broad-based and all-inclusive APRM National Governing Council (NGC) made up of representatives of various stakeholders was set up and mandated to manage the APRM process in the country. The NGC operates in consultation with the APR Panel, through the national Focal Point, which is also the Head of the National APRM Secretariat.

In line with its terms of reference and to ensure delivery of a quality review expected of Lesotho, the NGC identified and appointed two local TRIs to undertake the research for the APR assessment. These were the Institute of Southern African Studies (ISAS) of the National University of Lesotho (NUL) and the Lesotho Institute of Public Administration and Management (LIPAM), which came together to form a consortium to undertake the assignment. However,

⁶The twelve countries are: Algeria, Benin, Burkina Faso, Ghana, Kenya, Lesotho, Mali, Mozambique, Nigeria, Rwanda, South Africa and Uganda.

⁷Members of this sub-committee were the ministers responsible for Foreign Affairs and International Relations (Focal Ministry), Finance and Development Planning, Justice, Human Rights and Constitutional Affairs, Trade and Local Government

activities towards implementation of APRM were delayed for a period because of funding problems -and later because of a national election.⁸ The self-assessment research was conducted over a six-month period between December 2007 and May 2008, based on a research design that included thorough desk research, an expert survey, a representative national citizen survey and focus-group discussions. The Country Self-assessment Report and National Programme of Action were submitted to the APRM Secretariat in November 2008 and discussed at the APR Forum in Libya in July 2009.

The most important national APRM structures during the self-assessment phase are the NGC and the TRIs/TSAs

The most important national APRM structures during the self-assessment phase are the NGC and the TRIs/TSAs. The 15-member NGC was established in September 2006, following a two-phase process of consultation between government and various stakeholder communities. The first phase began in October 2005 at the National APRM Consultative workshop. This was the forum that outlined and recommended the preliminary processes that would result in the formation of the NGC, including the establishment of a Steering Committee to identify organisations and institutions that should be invited to nominate prospective NGC members, and to outline the preliminary terms of reference of the body. The Steering Committee was made up of non-state organisations (academia, business, church organisations and other community-based structures) and government, and concentrated on both the identification of organisations to be represented in the NGC, as well as the Terms of Reference of the Council.

The work of the Steering Committee began in July 2006, and was completed by September of the same year. According to the recommendation of the Consultative Workshop, the Committee outlined the structure, membership and terms of reference of the NGC and made recommendations to government in this regard. This represented the second phase of consultations, and culminated in the establishment of the National Governing Council. The NGC that emerged comprised representatives from a range of organisations including women's groups, non-governmental organisations, academia, parliament, government, youth groups, people with physical disabilities, the labour movement, the media, business, the National Vision council and eminent persons. The NGC was chaired by a representative of the Lesotho chapter of the International Federation of Women Lawyers (FIDA) and serviced by a Secretariat headed by the Focal Point.

Autonomy and representivity in Lesotho's APRM structures

The APRM assessment is inherently a political process for it is about evaluating a country's governance practices and providing an opportunity for dialogue

⁸ guidelines that the review should be undertaken within an atmosphere free of political tension or that an election creates.

between governments on the one hand, and citizens on the other. This is an important element of good governance. It is therefore understandable that the autonomy of the assessment is usually a key issue for public debates on these processes. It is therefore important to assess the extent to which the key national structures identified above complied with some of the core principles meant to underpin the credibility of the APRM process.

In terms of the broad representivity of the NGC, it appears that the principles of inclusiveness and representation were observed, with a wide range of actors allowed to participate. However, the inclusion of national umbrella bodies such as the Lesotho Council of Non-Governmental Organisations (LCN) to represent the broad scope of NGOs and Community-Based Organisations' interest was in stark contrast to the fact the some role players such as women and youth organisations were allowed to participate in their own right, rather than through any umbrella bodies. This was clearly an indication that some organisations in Lesotho are politically more important and wield more clout to warrant being included to participate directly in the process, while others were only participated indirectly through their apex bodies. Perhaps this had something to do with other more practical considerations such as costs, but it is plausible that the political clout of some organisations in Lesotho's political landscape was a critical factor in their direct participation in the APRM process.

Other important groups, such as the organised mine-workers, traditional leadership structures and Basotho in the diaspora, were not included despite their significance in the country's economic and social contexts. Traditional leaders occupy a strategic place in governance in Lesotho, mainly because the country continues to maintain these structures and many social, economic and administrative processes are accessed through them at the local level. Lesotho is also a labour reserve economy that has survived on diasporic remittances (first in the form of mine-labour employed in South Africa, and in recent times from a more diverse but still important expatriate population). The point here is that the APRM processes need to go beyond the regular and highly organised and privileged groups, in order to bring other critical even if less politically prominent and powerful interest groups into the processes.

Despite the caveat above, members of the NGC were generally known among members of the communities and constituents they represented, as well as being able to articulate their interests. However, there were indications of issues of concern in terms of the ability of these representatives to reflect and articulate the views and experiences of their constituents during the process.

On the question of the autonomy of the NGC from government, this is a little complex for there are two possible ways of understanding the issue. Autonomy could be viewed in terms of whether or not the organisations represented in the NGC were autonomous from government. Alternatively, autonomy could be viewed in terms of whether or not the NGC itself was autonomous from government with regard to its functions, activities and processes. In many

African countries, the issue of autonomy from government (and in general from political influences) is often mediated through the political, legal and other institutional contexts in which these organisations operate. It might therefore be difficult to establish how independent from political interference these organisations are -unless one takes the crude measure of confrontation with the state as an indicator of political autonomy. The point here is that many organisations, including the ones regarded as fiercely independent from government, are regulated by government through laws and policies passed by governments, invariably to achieve various political and other goals. Also, many independent organisations have sources of funding that may include some level of government funding. Also many organisations have to work with government in order to achieve their aims. Others (especially some umbrella organisations that were represented in the NGC) are politicised (e.g. political party youth leagues). Therefore perhaps the best approach to determining the autonomy of the NGC would be to examine the nature of its work, rather than the political linkages of the actors represented in it. This is important for the following reasons:

In many African countries, the issue of autonomy from government (and in general from political influences) is often mediated through the political, legal and other institutional contexts in which these organisations operate

- The NGC that leads the APRM process has a significant government component, as was the case in Lesotho where at least five members were part of government in one way or another.
- The NGC works on issues of governance, with government and politicians from both the ruling and opposition parties as the central actors
- The principle of the APRM is that the process should be a nationally-owned project -and thus not to be an arena of party political conflict and point-scoring

This implies that the issue of autonomy within the context of the APRM processes needs to be viewed in a manner that does not assume that the presence of government ministers, officials and political parties and related organisations in the NGC necessarily undermines prospects for autonomy in the way it functions and operates. Nonetheless, there are important factors in Lesotho's experience in the establishment of the NGC which had an impact on its autonomy:

Firstly, the degree of autonomy of the NGC was limited by its late formalisation. Even after contracts with TRIs had been signed, the NGC had not yet become a legal entity, which meant that the TRI contracts were in effect signed with the government.⁹ This left the NGC with limited or no legal authority over these institutions. This is particularly an important constraint for the following reasons:

- According to the APRM guidelines, TRIs are to act as consultants to the NGC, which in turn is a distinct entity from government

⁹The research contract was signed on 19 November 2007, with the Principal Secretary of the Ministry of Foreign Affairs and International Relations representing the NGC. The TRIs were represented by their respective legal authorities (the Director-General of LIPAM and Registrar of NUL). Cf. www.foreign.gov.ls/newsletter/april_june/april_june_08_p5.pdf

- By virtue of abrogating the legal authority of the NGC (by default), the influence of government within this structure had already been made disproportionate vis-à-vis other institutions represented in the Council
- When conflict emerged between the NGC and the TRIs, it can often become difficult for the NGC to assert its authority over the latter -except through the agency of government.

Secondly, during the official launch of the APRM process and signing of the APRM Memorandum of Understanding, it was not clear what the status of the NGC was. For instance the chairman of the NGC appeared on the podium together with the Prime Minister of the country, and the representative of the APRM eminent persons' panel¹⁰ but, unlike the other two, was neither acknowledged nor introduced to the audience. This raised doubts as to whether or not the country's review process was to be a government or national process. This is a particularly important issue in Africa, where these types of national processes are often appropriated and used by governments (and particularly the ruling parties) for political ends.¹¹

For instance the chairman of the NGC appeared on the podium together with the Prime Minister of the country, and the representative of the APRM eminent persons' panel¹ but, unlike the other two, was neither acknowledged nor introduced to the audience. This raised doubts as to whether or not the country's review process was to be a government or national process

Thirdly, the setting up of the Secretariat was delayed for some time, for a number of reasons, one of which was lack of funds. But more importantly, the Secretariat, which serves the NGC, was made up entirely of civil servants deployed and paid by their ministries. The NGC did not have the resources to recruit its own staff. While this might be understandable in the context of limited funds, it raised questions about the NGC's institutional and financial autonomy.

Finally and perhaps as a function of its legal status, the NGC was not able to engage in fund-raising activities independently from government. It appears that the state treasury acted as a conduit for the NGC's funds (since the Council could not open an independent bank account), while other ministries played a key role in securing funding for the NGC. Also, the state controlled the funds that were procured.

Whilst the composition of the NGC may have engendered a sense of 'national ownership', its financial and administrative dependence on the state was a clear weakness that needs to be addressed in the future.

Capacity of the national APRM governing council

The APRM self-assessment exercise is predicated on technically competent and credible research that should be based on two central elements: the capacity of the NGC to appreciate and guide the various complex tasks involved in the

¹⁰.Lesotho as the country to be reviewed was represented by the Prime Minister as Head of Government, while the APRM was represented by Dr. Chris Stals, the member of the Panel of Eminent Persons responsible for the country review.

¹¹ Indeed, it was often the experience that the TRI researchers were introduced by citizens as "people from government" or "government people" (batho ba 'muso) -an appellation that applies to the police and other government officials- during the research phase in the villages.

The only weakness in this was the poor participation of government representatives in these early discussions, leading to a weak emphasis on the National Plan of Action as a central output of the process

collection, compilation, analysis and presentation of information that goes into the CSAR; and the execution by TRIs of a rigorous and competent research strategy to collect, analyse and present the findings of the self assessment - beginning with the adaptation of the APRM Master Questionnaire (known as the Country Self Assessment Questionnaire -CSAQ) into a field-operational instrument that addresses the national context.¹² In Lesotho, the majority of members of the initial Steering Committee that was set up to deal with composition of the NGC and outline its Terms of Reference was eventually incorporated into the NGC. The two major exceptions were two research institutions (the Institute of Southern African Studies and the Lesotho Institute of Public Administration and Management) which were identified and appointed as TRIs. This evolution had a number of implications, particularly with regard to the issue of capacity.

Firstly, it provided a degree of continuity in the increasing appreciation of the self-assessment process, with the NGC virtually refining both its own Terms of Reference as well as those of the TRIs. This contributed greatly to the common vision both within the NGC and between it and the TRIs as the work of self-assessment proceeded.

Secondly, particularly with regard to the domestication of the Master Questionnaire, the NGC became involved in the conceptualisation and adaptation of the questionnaire from the start; and also worked on an effective division of labour between itself and the TRIs regarding public sensitisation of the APRM process.

Thirdly, because of the active participation and retention of a representative of the academic community in the NGC, internal debates around the research design were engaging, bringing to play both concerns as well as an appreciation of the processes and design proposed for data collection. The only weakness in this was the poor participation of government representatives in these early discussions, leading to a weak emphasis on the National Plan of Action as a central output of the process.

Fourthly, based mainly on the small size of the country and concentration of national research expertise in the two institutions, ISAS and LIPAM were unanimously identified and recommended for appointment at a relatively early stage. This facilitated both the processes of developing the research proposal as well as evaluation of the appropriateness of the approach, methods and tools to be implemented.

¹².The APRM Master Questionnaire is a detailed guide to inform the issues to be covered in the CSA assessment. It is based on the "Objectives, Standards, Criteria and indicators" (OSCI) document that is one of the original APRM guiding documents. The Objectives identify 25 issue areas, broken down into over 60 research questions, with 183 indicators that cover the four thematic areas. This was developed to ensure that reviews are consistent and broad enough to cover a comprehensive range of issues of governance in all countries. For further discussion of this issue, see R. Herbert and S. Gruzdz, *The African Peer Review Mechanism: Lessons from the Pioneers*, Johannesburg: SAIIA, 2008.

Finally, in terms of the capacity of the TRIs to successfully execute their mandate, the Consortium compiled a team that included some of the country's leading researchers in the four thematic areas, including specialists in research design; survey methodology as well as specialists in demographic surveys.

From the above it is clear that the NGC had the necessary capacity to undertake and complete the assessment task as required.

Integrity of process and legitimacy of methods

A unique and important element of Lesotho's assessment was the targeting of youth, women, traditional leaders, public servants, politicians, disabled, religious leaders, and ethnic minorities through FGDs

The process of domesticating the APRM Master Questionnaire was engaged early in the process. It began from the initial consultations between TRIs and the NGC in September-October 2006. Once agreement had been reached between the NGC and the Country Support Mission (CSM) on the research process, 14 research themes/clusters were distilled from an initial twenty five. One of these themes included the subject of "Sovereignty and Regional Political Integration" which has hitherto not been an explicit part of the CSAQ, but which is an important issue of national concern for Lesotho. The consortium adopted a combination of qualitative and quantitative approaches to data collection including an initial desk research exercise to identify key questions for interviews with experts and key stakeholders, interviews with 120 experts, a representative national citizen survey and focus group discussions (FGDs).

A unique and important element of Lesotho's assessment was the targeting of youth, women, traditional leaders, public servants, politicians, disabled, religious leaders, and ethnic minorities through FGDs. In addition, to maintain a transparent, democratic and participatory approach to the assessment, the NGC provided regular briefings to the public and the process over the radio. Avenues were also made available to the public to raise issues and provide information to the Consortium. Following data collection, processing and analysis, the 14 research teams prepared their reports and submitted them to the TRI Research Coordinator. These were then compiled into a preliminary CSAR, using the reporting framework agreed with the NGC and the CRM from the APRM Secretariat.

The approach to the review as described above suggests that, on the basis of a technical evaluation, the Lesotho APRM assessment met the criteria for an effective review.

Conclusions and recommendations

The discussion above was intended to review Lesotho's experience as the twelfth AU country to undergo the APRM process and to draw lessons of benefit for the future. Based on the discussion above, it can be concluded broadly that despite some questions and issues of the autonomy of the process from government influence and control (especially through legal/contractual delays

as well as funding issues), the review process was adjudged to be adequately competent in its execution, as well as legitimate and of sufficient procedural integrity.

The assessment benefitted from a good working relationship between the NGC and the TRI's. This ensured a high-quality assessment and thereby promoted the acceptance of the outcome and the findings of the APR in this country. In terms of the legitimacy of the APRM process and technical competence of the assessment, the main observation is that early and constant communication and commonality of purpose between NGC and TRIs is central. It can also be concluded that the involvement of citizens, organised interest groups and political parties was adequate, although the issue of inclusion of familiar and politically mobilised and powerful organisations at the expense of other less but still important interests was raised.

As was stated at the beginning of this paper, a number of recommendations need to be put forward to take advantage of some of the useful lessons identified:

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Firstly, a long period of time (over a year) was allowed to pass between Lesotho's accession to the APRM and the country's efforts to put the necessary national structures in place. The work of putting in place the relevant APRM structures for running the self-assessment process, and the mobilisation of the necessary public resources, should run concurrently with the accession process. It would also be advisable to plan properly and commit adequate resources towards this process in the future. Secondly, the post-accession period needs to be used by government to mobilise resources for the CSA exercise. This could include both the submission of requests to development partners and dedication of funds in the national budget for this purpose. Thirdly, the sensitisation of the public to the APRM should begin much earlier in order to stimulate the interest of organisations and individuals to prepare to participate in the structures and processes of assessment.

In terms of the structures responsible for the APRM, some recommendations are necessary with regard to the NGC as the primary structure for a successful self assessment. While the membership of the NGC was broadly representative, some important groups were not represented. These assessments should be far reaching and thorough in terms of inclusivity to ensure that all key role players in the country's social, economic and political governance are part of the assessment process. Obviously there will be difficulties, including the need to balance representivity against the size, effectiveness and cost of the NGC.

Priority should be given to the technical details in setting up the structures of the APRM in countries submitting to review. This includes the mobilisation of resources, and the early formalisation of the status of the NGC as a technically autonomous body (including the areas of finances; staffing and physical accommodation). For Lesotho this would have allayed fears regarding the NGC's perceived lack of autonomy, and would have reduced delays in the assessment process.

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