From Conflict Actors to Constitutional Guardians? Reassessing Security-Sector Governance Under the 2025 Tenth Amendment to the Constitution of Lesotho

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Abstract

This article critically examines whether the 2025 Tenth Amendment to the Constitution of Lesotho constitutes a substantive transformation in the governance of national security institutions or merely a reconfiguration of entrenched power relations. Grounded in Lesotho's history of political instability and recurrent security-sector involvement in governance, the study adopts a qualitative doctrinal and interpretive institutional approach. It analyses the extent to which the Amendment restructures authority, strengthens oversight and promotes the depoliticisation of coercive institutions. The article finds that while the Amendment introduces important procedural reforms – particularly in relation to appointments, oversight mechanisms and professional standards – it does not fundamentally alter the concentration of authority within the executive. Consequently, the reforms align with international and regional norms on democratic security-sector governance yet fall short of achieving meaningful structural transformation. Executive dominance continues to shape the incentives that historically enabled politicisation. The article argues that constitutional reform in this context operates within the limits of constitutional engineering:

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enhancing formal accountability without fully addressing underlying political dynamics. Nonetheless, the Amendment provides a framework that may, over time, support the gradual consolidation of constitutionalism and institutional neutrality.

Keywords: Lesotho; constitutionalism; executive dominance; depoliticisation; conflict; accountability

1. Introduction

Since attaining independence in 1966, Lesotho has experienced a complex constitutional trajectory characterised by recurring episodes of political instability, contested governance and institutional fragility. Periods of democratic rule have frequently been interrupted by authoritarian interventions, coalition breakdowns and crises surrounding the transfer of political power. A defining feature of these episodes has been the persistent involvement of national security institutions in political contestation. Rather than operating solely as neutral guarantors of constitutional order, the military and police have, at critical junctures, become entangled in struggles over political authority. They have a history of undermining democratic consolidation and the rule of law (Makoa, 2018; Leshoele, 2021).

This pattern reflects deeper structural tensions within Lesotho's constitutional system. While the country formally subscribes to the principles of constitutional democracy – particularly civilian supremacy, the separation of powers and the rule of law – these principles have often been weakened in practice by the concentration of authority within the executive and limited institutional oversight (Matlosa, 2008; Makoa, 2018). In such a context, security institutions remain susceptible to politicisation, especially during periods of intense elite competition and fragile coalition governance (Vhumbunu, 2015). The recurrence of crises involving the security sector suggests that the challenge extends beyond institutional weakness to include entrenched governance arrangements that enable the instrumentalisation of coercive power for partisan ends.

In response to these longstanding challenges, Lesotho has embarked on an extensive programme of constitutional and governance reforms, culminating in the adoption of the Tenth Amendment to the Constitution in 2025 (GoL, 2025). The Amendment represents the most comprehensive attempt to date to restructure the governance of national security institutions. It introduces reforms to appointment procedures, oversight mechanisms and the regulation of professional

conduct, with the stated aim of promoting political neutrality, strengthening accountability and insulating security institutions from partisan influence. These reforms raise a fundamental constitutional question: can institutional redesign alter the historically entrenched relationship between political authority and coercive power in Lesotho?

This article examines the extent to which the Tenth Amendment reshapes the governance of national security institutions. It argues that while the reforms introduce important formal safeguards and reflect key principles of democratic security-sector governance, they do not fundamentally disrupt the underlying concentration of authority within the executive. As a result, the Amendment may enhance procedural accountability without sufficiently addressing the structural incentives that have historically enabled the politicisation of security institutions.

Importantly, the analysis situates Lesotho's constitutional reforms within a broader network of international and regional normative frameworks on security-sector governance. Instruments developed under the auspices of the United Nations (UN), the African Union (AU) and the Southern African Development Community (SADC) articulate widely accepted standards relating to civilian control, political neutrality, accountability and the rule of law. These frameworks emphasise that security institutions must operate under effective civilian oversight and remain insulated from partisan political competition, particularly in fragile democratic contexts (AU, 2007, 2013; UN, 2008). The article moves beyond a purely internal analysis and engages with comparative debates on security-sector reform and constitutionalism in developing democracies by placing Lesotho's reforms within this broader normative context.

The central research question guiding this study is: To what extent does the Tenth Amendment to the Constitution of Lesotho (GoL, 2025) restructure the governance of national security institutions in a manner that advances depoliticisation, strengthens constitutionalism and promotes political stability? This inquiry is supported by three related questions. First, how have national security institutions historically contributed to cycles of political instability in Lesotho? Second, what institutional mechanisms does the Tenth Amendment introduce to regulate the security sector? Third, do these reforms meaningfully redistribute authority and strengthen oversight, or do they reproduce existing patterns of executive dominance under a reconfigured constitutional framework?

This inquiry is significant both within Lesotho and in the broader context of comparative constitutionalism. Domestically, sustainable democratic governance depends in large part on ensuring that coercive institutions operate within constitutional limits and remain insulated from partisan politics (Leshoele, 2021). Internationally, the case of Lesotho contributes to ongoing debates about the effectiveness of security-sector reform as a tool for stabilising democracies characterised by institutional fragility and elite conflict. Comparative scholarship suggests that while constitutional reform may reshape institutional design, its success ultimately depends on whether it addresses the deeper political dynamics that shape institutional behaviour (Linz and Stepan, 1996; Sartori, 1997).

The article proceeds as follows: section two outlines the methodology employed in the study. Section three develops the conceptual framework, while section four sets out the theoretical foundations of the analysis and situates the study within relevant international and regional normative frameworks on security-sector governance. Section five examines the historical relationship between security institutions and political instability in Lesotho. Section six analyses the constitutional architecture of the Tenth Amendment and section seven evaluates its implications for depoliticisation, constitutionalism and political stability. The final section concludes by reflecting on the broader limits of constitutional reform in addressing deeply embedded patterns of political and institutional conflict.

2. Methodology

This study adopts a qualitative doctrinal and analytical research approach to examine the constitutional reforms introduced by the Tenth Amendment to the Constitution of Lesotho (GoL, 2025) and their implications for the governance of national security institutions. The doctrinal method is particularly suited to constitutional scholarship, as it focuses on the systematic analysis and interpretation of legal texts, institutional arrangements and normative principles governing the exercise of public power (Hutchinson and Duncan, 2012). Through this approach, the study interrogates how authority, accountability and oversight are structured within the constitutional framework regulating security institutions.

However, doctrinal analysis alone is insufficient to capture the full implications of constitutional reform in contexts characterised by political instability and institutional fragility. For this reason, the study also incorporates an interpretive institutional perspective. This approach recognises that constitutional provisions

do not operate in isolation but are embedded within broader political, historical and institutional environments that shape their practical effects. By situating legal texts within these contexts, the analysis is able to move beyond formalism and engage critically with the relationship between constitutional design and political practice.

The research draws on both primary and secondary sources. Primary sources include the Constitution of Lesotho, with particular emphasis on the provisions introduced through the Tenth Amendment Act of 2025 (GoL, 2025). Additional primary materials consist of statutes governing national security institutions, official reform commission reports and relevant policy documents addressing security-sector governance. These sources provide the legal and institutional foundation for assessing how authority over the security sector is structured and exercised.

Secondary sources comprise academic literature on constitutionalism, civil-military relations and security-sector reform as well as scholarship on Lesotho's political and institutional development (Matlosa, 2008; Vhumbunu, 2015; Makoa, 2018). This body of literature provides critical insights into the historical patterns of politicisation, executive dominance and institutional fragility that have shaped the governance of security institutions in Lesotho.

In addition, the study engages with international and regional normative frameworks on security-sector governance, including those developed under the UN, the AU and SADC. These frameworks are not treated as binding legal sources but as normative benchmarks against which the content and implications of Lesotho's constitutional reforms can be critically evaluated. Their inclusion enables a more comparative and evaluative analysis, linking domestic constitutional developments to broader global and regional standards on civilian control, accountability and political neutrality.

The analytical process is both textual and thematic. First, the study undertakes a close reading of constitutional provisions to identify key mechanisms relating to the distribution of authority, appointment procedures, oversight structures and normative commitments governing the conduct of security institutions. Second, these provisions are analysed thematically in relation to broader patterns identified in the literature, including executive dominance, politicisation of the security sector and institutional weakness. This dual approach allows the study to assess not only what the law provides, but also how it interacts with existing political dynamics.

The temporal scope of the study spans the period from 1966, when Lesotho attained independence, to 2025, when the Tenth Amendment was adopted. This historical framing is necessary to capture the evolution of the relationship between political authority and security institutions and to situate recent constitutional reforms within the broader trajectory of political instability and institutional development. By examining both continuity and change over time, the study is able to assess whether the Tenth Amendment represents a substantive departure from past governance patterns or a reconfiguration of existing power relations.

While the methodology provides a robust framework for analysing constitutional reform, certain limitations must be acknowledged. As a doctrinal and interpretive study, the analysis does not rely on empirical fieldwork or quantitative data. Consequently, it cannot directly measure the practical implementation of the reforms or their immediate impact on institutional behaviour. Instead, the study focuses on the structural and normative implications of the constitutional framework, with the understanding that the ultimate effectiveness of these reforms will depend on political practice, institutional capacity and the broader culture of constitutionalism.

By combining doctrinal analysis with interpretive institutional inquiry and normative benchmarking, this methodology enables a comprehensive evaluation of Lesotho's security-sector reforms. It provides the analytical tools necessary to assess not only the formal content of the Tenth Amendment but also its potential to reshape the governance of coercive institutions and contribute to long-term political stability.

3. Conceptual framework

This section clarifies the key concepts that structure the analysis in this article. Conceptual precision is necessary because debates on constitutional reform, political instability and security-sector governance often employ terms that are used inconsistently across disciplines. The concepts of constitutionalism, political stability, conflict and civilian control of security institutions are particularly central to this study. Rather than treating these as neutral descriptors, the analysis approaches them as contested and relational concepts, deeply embedded in questions of power, institutional design and political practice.

3.1. Constitutionalism

Constitutionalism remains one of the most contested and conceptually unstable ideas in public law. It has been described as "elusive" by Fombad (2008), a "confusion" by Shivji (1991) and even a "fuzzy" term by Li (2012) – characterisations that are not merely rhetorical, but symptomatic of deeper theoretical indeterminacy. These competing descriptions reveal more than definitional disagreement; they expose the extent to which constitutionalism is shaped by context, ideology and historical experience. It resists closure. No single formulation can claim universal validity without flattening the very political and institutional diversity it seeks to describe.

Yet this indeterminacy does not render the concept meaningless. Rather, it invites a more careful and critical engagement with what constitutionalism seeks to achieve in practice. At a minimum, it can be understood as the normative insistence that political power must be exercised within a framework of legal rules and institutional constraints designed to guard against arbitrariness. But even this seemingly straightforward proposition conceals tension. Law, after all, can both restrain and enable power. A regime may meticulously adhere to formal legality while hollowing out its substantive commitments.

This is why constitutionalism cannot be reduced to the mere existence of a constitutional text. Its essence lies in the effective limitation of power through enforceable norms and genuinely accountable institutions. The emphasis, therefore, shifts from form to function, from proclamation to practice. Constitutionalism demands that institutions do more than exist – they must operate with integrity, independence and fidelity to constitutional values. Without this, the language of constitutionalism risks becoming performative, invoked to legitimise authority rather than to constrain it.

Its core elements – rule of law, separation of powers, protection of fundamental rights and mechanisms of oversight – are often presented as settled features. In reality, they are sites of continuous contestation. What counts as "law"? How rigid must the separation of powers be? When are rights genuinely protected rather than selectively applied? These are not abstract questions. They are lived tensions within constitutional orders, particularly in states where formal frameworks coexist uneasily with political practices that undermine them. Constitutionalism, then, is less a fixed doctrine than an ongoing struggle: a fragile, often incomplete project of disciplining power through law while resisting its capture by it.

A meaningful distinction must be drawn between formal and substantive constitutionalism. As some scholars observe, this distinction reflects a broader evolution from traditional to modern conceptions of constitutionalism (Mangu, 2005). In this regard, Mangu (2005) contends that the traditional form of constitutionalism is primarily concerned with procedural regularity and the limitation of governmental power through formal rules. By contrast, the modern conception is more deeply invested in the realisation of normative values, including human rights, accountability and the rule of law. The prudent conception in the modern constitutional era is an amalgamation of both the formal and substantive conception. This would be what Barrie (2009) calls prescriptive and normative components.

This distinction is critical because the mere existence of a constitution does not necessarily guarantee constitutionalism in practice. As Giovanni Sartori (1997) argues, a state may maintain an elaborate constitutional framework while simultaneously undermining its spirit through the manipulation or circumvention of institutions by political actors. In such circumstances, constitutional arrangements risk becoming largely symbolic – providing a veneer of legality that conceals entrenched patterns of power concentration and weakened mechanisms of accountability.

In Lesotho, this distinction is particularly salient. Although the country operates under a formal constitutional order, repeated episodes of political instability and security-sector involvement in governance raise questions about whether constitutional constraints on power have been effectively institutionalised (Matlosa, 2008; Makoa, 2018). The concept of constitutionalism therefore provides a critical lens for assessing whether the Tenth Amendment strengthens meaningful limitations on executive authority or merely reorganises existing power structures.

3.2. Political stability

Political stability generally refers to the capacity of a political system to maintain continuity of governance, manage conflict through institutional mechanisms and avoid recurrent crises or violent disruptions. Stable systems are typically characterised by predictable political processes, institutional resilience and broadly accepted rules of political competition (Ake, 2000). However, stability should not be understood as the absence of conflict. Democratic systems inherently involve contestation, competition and disagreement. The critical issue

is whether such conflict is institutionalised and managed within constitutional frameworks, rather than spilling over into coercive or extra-constitutional arenas (Linz and Stepan, 1996).

In the context of Lesotho, political instability has often manifested through contested elections, coalition breakdowns and crises involving the security sector (Vhumbunu, 2015). These patterns suggest that instability is not merely episodic but reflects deeper institutional weaknesses, particularly in the mechanisms available to manage political conflict. The concept of political stability is therefore used in this study not as a static condition, but as an indicator of the effectiveness of constitutional and institutional arrangements in regulating political competition.

3.3. Conflict

Francis (2006) posits that conflict is an intrinsic and inevitable part of human existence, which involves the pursuit of incompatible interests and goals by parties. Conflict refers broadly to situations in which individuals or groups pursue incompatible interests or contest authority and resources within a political system (Coser, 1956). In democratic contexts, conflict is both inevitable and, to some extent, desirable, as it reflects pluralism and political participation. However, conflict becomes destabilising when institutional mechanisms for its management are weak, contested or lack legitimacy.

Conflict theory highlights the role of power struggles, particularly among political elites, in shaping patterns of instability. Where access to state power is abused for political and economic advantage there is a likelihood of abuse of security institutions. In such contexts, security institutions may be drawn into political disputes as instruments of coercion or protection.

Lesotho's political history illustrates this dynamic. Elite competition, particularly within fragile coalition governments, has at times extended into the security sector, contributing to institutional fragmentation and episodes of instability (Matlosa, 2008). The concept of conflict is therefore central to understanding why security-sector governance becomes a critical site of constitutional contestation.

3.4. Civilian control of security institutions

Civilian control of the security sector is a foundational principle of democratic governance. Civilian control can be defined as the situation in which the

preferences of civilian government always prevails over the disagreements with the military (Desch, 1999). It refers to the subordination of the military, police and other coercive institutions to constitutionally established civilian authority. This principle ensures that the instruments of coercion are exercised in accordance with democratic mandates rather than autonomous or factional interests.

However, civilian control is not a singular or uncontested concept. A crucial distinction exists between democratic civilian control and politicised civilian control. Democratic civilian control entails subordination to lawful authority combined with institutional safeguards – such as parliamentary oversight, judicial review and transparent appointment processes – that prevent abuse. By contrast, politicised civilian control occurs when political leaders exercise unchecked authority over security institutions, using them to advance partisan objectives.

Effective civilian control therefore requires a balance between authority and constraint. While the executive must retain the capacity to direct security institutions, this authority must be limited by institutional mechanisms that ensure accountability and prevent politicisation. These mechanisms include clear chains of command, independent oversight bodies, professional norms within the security sector and constitutional rules governing appointments and dismissals.

In Lesotho, the challenge has not been the absence of civilian control, but rather its configuration. The concentration of authority within the executive has often blurred the line between legitimate control and political manipulation (Makoa, 2018). This raises critical questions about whether constitutional reforms, such as those introduced by the Tenth Amendment, can recalibrate this relationship in a manner that promotes both accountability and institutional neutrality.

3.5. Conceptual synthesis

Taken together, these concepts provide an integrated framework for analysing the governance of security institutions in Lesotho. Constitutionalism establishes the normative expectation that power should be limited and accountable. Political stability reflects the effectiveness of institutions in managing conflict. Conflict highlights the underlying dynamics of power competition that shape political behaviour. Civilian control, in turn, represents the key mechanism through which coercive institutions are incorporated into the constitutional order.

The interaction between these concepts is central to the analysis. Where constitutionalism is weak, civilian control may become politicised. Where conflict is poorly managed, political actors may seek to instrumentalise security institutions. Where such dynamics persist, political stability is undermined. The critical question for this study is therefore whether the Tenth Amendment alters these relationships in a meaningful way, or whether it leaves intact the structural conditions that have historically enabled the politicisation of coercive power.

4. Theoretical and normative framework

While the preceding section clarified the core concepts guiding this study, this section develops the theoretical and normative foundations through which the governance of security institutions in Lesotho is analysed. The article draws on three interrelated theoretical traditions – constitutionalism theory, civil-military relations theory and conflict theory – while situating these within a broader network of international and regional normative frameworks on security-sector governance. Together, these perspectives provide a multidimensional lens for evaluating whether constitutional reform can meaningfully transform the relationship between political authority and coercive power.

4.1. Constitutionalism and the limitation of power

Constitutionalism theory is centrally concerned with the organisation and limitation of political power. Classical constitutional thought emphasises that the concentration of authority within a single institutional actor – particularly the executive – creates risks of arbitrariness, abuse and instability. To mitigate these risks, constitutional systems distribute authority across multiple institutions and establish mechanisms of accountability designed to constrain the exercise of public power.

Within this framework, the governance of security institutions occupies a particularly sensitive position. Because such institutions possess coercive capacity, their control must be carefully regulated to prevent their use as instruments of political domination. Constitutional rules governing appointments, command structures and oversight mechanisms therefore play a critical role in determining whether coercive power is exercised in the public interest or captured by political elites.

In the context of Lesotho, constitutionalism theory highlights the tension between formal adherence to principles of civilian supremacy and the practical concentration of authority within the executive. While constitutional

arrangements formally subordinate security institutions to civilian control, the absence of sufficiently robust constraints may allow such control to become politicised. The Tenth Amendment must therefore be evaluated in terms of whether it strengthens substantive constitutionalism – that is, meaningful limits on power – or merely reconfigures existing structures without altering underlying dynamics.

4.2. Civil–military relations theory

Civil-military relations is one aspect of national security policy (Huntington, 1957). Civil-military relations theory provides a more focused analytical framework for examining the relationship between political authority and coercive institutions. A foundational contribution to this field is the distinction between objective and subjective civilian control (Huntington, 1957).

Objective civilian control seeks to maximise military professionalism while ensuring subordination to civilian authority. Under this model, the military is insulated from political interference and operates according to professional norms, thereby reducing the likelihood of politicisation. Subjective civilian control, by contrast, involves the direct integration of the military into political structures, often through manipulation of leadership, patronage or factional alignment. While this may strengthen short-term political control, it increases the risk of institutional fragmentation and instability.

Applied to Lesotho, civil-military relations theory helps to explain how patterns of executive dominance may encourage forms of subjective control that blur the boundary between legitimate authority and political manipulation. The critical question is whether the institutional arrangements introduced by the Tenth Amendment move the system closer to objective control – characterised by professionalism and neutrality – or whether they leave intact incentives for continued politicisation.

4.3. Conflict theory and political competition

Conflict theory provides a broader explanatory framework for understanding the dynamics of political instability. It posits that political systems are inherently characterised by competition over power, resources and authority (Coser, 1956). In democratic contexts, such competition is expected to be mediated through institutional mechanisms such as elections, legislatures and courts. However,

where these mechanisms are weak or lack legitimacy, conflict may escalate into extra-constitutional forms.

A key insight of conflict theory is that the intensity of political competition is shaped by the stakes of power. Where access to state authority is associated with significant political or economic advantage, political actors may adopt increasingly aggressive strategies to secure or retain control. In such contexts, security institutions may become attractive instruments for influencing political outcomes.

Lesotho's history of coalition instability and elite rivalry reflects these dynamics. The repeated involvement of security institutions in political crises suggests that conflict has, at times, exceeded the capacity of constitutional mechanisms to contain it. From this perspective, constitutional reform must be assessed not only in terms of institutional design but also in relation to its ability to reshape incentives and reduce the likelihood that political actors will seek to instrumentalise coercive power.

4.4. International and regional normative frameworks

The theoretical perspectives outlined above are complemented by a body of international and regional normative frameworks that articulate standards for democratic governance of the security sector. These frameworks, developed under the auspices of the UN, AU and SADC, provide important benchmarks for evaluating domestic constitutional reforms.

At the international level, UN frameworks on security-sector reform emphasise democratic civilian control, accountability, human rights compliance and the depoliticisation of security institutions (UN, 2008). These principles conceptualise security-sector governance as an integral component of the rule of law and democratic consolidation.

At the continental level, instruments such as the African Charter on Democracy, Elections and Governance and the AU Policy Framework on security-sector reform articulate commitments to constitutionalism, institutional accountability and the subordination of security institutions to lawful authority (AU, 2007, 2013). These frameworks are particularly relevant in the African context, where historical patterns of military intervention and executive dominance have shaped governance challenges.

At the regional level, SADC has played a significant role in shaping reform processes in Lesotho, particularly through its involvement in conflict resolution and institutional reform initiatives. SADC's emphasis on political stability, democratic governance and the depoliticisation of state institutions has directly influenced the trajectory of constitutional reform in the country.

Despite their normative significance, these frameworks exhibit important limitations. They are largely non-binding and rely on political will for implementation. Moreover, they tend to emphasise institutional design while under-addressing the political incentives that drive elite behaviour. As a result, they may facilitate formal alignment without substantive transformation. This tension between normative aspiration and practical implementation is central to the analysis of Lesotho's constitutional reforms.

5. Historical context

Understanding the constitutional reforms introduced by the Tenth Amendment requires situating them within Lesotho's broader history of political instability and institutional conflict. Since independence, the country has experienced recurring crises in which national security institutions have played a central role. These episodes reveal a persistent pattern: political conflict has frequently extended into the security sector, transforming coercive institutions into arenas of contestation rather than neutral instruments of the state.

5.1. Independence and the 1970 constitutional crisis

Lesotho attained independence in 1966 under a constitutional monarchy and parliamentary system. However, the early post-independence period was marked by intense political rivalry between the Basutoland National Party and the Basotho Congress Party. This feuding culminated in the 1970 constitutional crisis, when Prime Minister Leabua Jonathan annulled election results, suspended the constitution and consolidated executive authority (Maqutu, 1990, 1991; Matlosa, 2008). The suspension of constitutional rule marked a critical turning point (GoL, 1970). Security institutions were increasingly used to maintain political control, establishing a precedent for their involvement in governance. This episode illustrates an early breakdown of constitutionalism, in which coercive power became aligned with executive interests rather than constitutional norms.

5.2. Military intervention and the 1986 coup

The politicisation of security institutions reached a critical stage in 1986 when the Lesotho Defence Force (LDF) overthrew the civilian government. The coup resulted in the establishment of military rule, during which executive and legislative authority were effectively concentrated in the hands of the military leadership (Matlosa, 2008; Makoa, 2018). This period demonstrated the extent to which security institutions had evolved into autonomous political actors. Rather than being subordinate to civilian authority, the military assumed direct control over the state, highlighting the fragility of constitutional constraints and the risks associated with weak civilian oversight.

5.3. Democratic restoration and the 1998 crisis

The restoration of multi-party democracy in 1993 marked a return to constitutional governance. However, underlying tensions persisted, particularly in relation to electoral legitimacy and political competition. These tensions culminated in the 1998 political crisis, when disputed election results triggered widespread unrest and led to military intervention by regional actors under the auspices of SADC (Matlosa, 2008; Vhumbunu, 2015). The 1998 crisis highlighted the continued vulnerability of Lesotho's political system to instability and the central role of security institutions in mediating political conflict. It also underscored the importance of regional frameworks in stabilising domestic crises.

5.4. Renewed instability and security-sector fragmentation (2014–2017)

The period between 2014 and 2017 saw a resurgence of instability linked to tensions between political leaders and security institutions. The 2014 crisis, often characterised as an attempted coup, involved armed confrontations between elements of the military and police, forcing the prime minister into temporary exile (Vhumbunu, 2015). Subsequent events, including the alleged assassination of Lieutenant-General Maaparankoe Mahao in 2015, revealed deep divisions within the security sector and intensified concerns about politicisation and institutional fragmentation. These developments prompted renewed regional intervention and reinforced the perception that structural reform of the security sector was necessary.

5.5. Reform processes and the path to the Tenth Amendment

The cumulative effect of these crises generated momentum for comprehensive constitutional reform. Regional actors, particularly SADC, played a key role in facilitating dialogue and promoting reforms aimed at strengthening governance, accountability and security-sector oversight.

These reform processes emphasised the need to depoliticise security institutions, clarify constitutional roles and establish mechanisms to prevent executive overreach. The adoption of the Tenth Amendment to the Constitution in 2025 represents the culmination of these efforts, reflecting both domestic and regional pressures to address the structural drivers of instability.

5.6. Historical patterns and their constitutional implications

The historical trajectory outlined above reveals a consistent pattern: political conflict, weak institutional constraints and executive dominance have repeatedly created conditions under which security institutions become politicised. This pattern underscores the central challenge facing constitutional reform in Lesotho – not merely the design of institutions, but the transformation of the relationship between political authority and coercive power.

The Tenth Amendment must therefore be understood as an attempt to disrupt these historical dynamics. The critical question, explored in the following sections, is whether it succeeds in doing so or whether it reproduces existing patterns in a reconfigured constitutional form.

6. Constitutional architecture of the Tenth Amendment

The Tenth Amendment to the Constitution of Lesotho (GoL, 2025) represents the most ambitious attempt in the country's constitutional history to restructure the governance of national security institutions. It emerges from a context in which repeated political crises have exposed the risks associated with executive dominance, weak oversight and the politicisation of coercive power. The Amendment introduces reforms aimed at recalibrating authority, strengthening accountability and promoting the professional neutrality of the security sector. However, a closer analysis reveals that while the reforms reflect important normative principles, they may not fundamentally alter the structural conditions that have historically enabled instability.

6.1. Reconfiguring executive authority

A central objective of the Tenth Amendment is to address the concentration of authority within the executive, particularly in relation to the appointment, dismissal and control of senior security officials. Historically, the prime minister has exercised significant influence over these processes, creating opportunities for political interference and the alignment of security institutions with partisan interests (Makoa, 2018).

The Amendment introduces more structured and procedurally defined mechanisms for appointments, often involving additional institutional actors and formalised processes. These reforms appear to align with principles of democratic governance reflected in frameworks developed by the UN and the AU, which emphasise transparency, accountability and the diffusion of power in the management of the security sector (UN, 2008; AU, 2013).

However, the central analytical question is whether these procedural innovations amount to a genuine redistribution of constitutional power or merely recalibrate the modalities through which that power is exercised. While the Amendment undoubtedly introduces additional layers of formality – through structured appointment processes, consultative requirements and the involvement of multiple institutional actors – such formalisation does not, in itself, displace the executive from its position of structural primacy. Rather, it leaves largely intact the executive's capacity to exert decisive influence over key processes, whether through agenda-setting authority, control over initiating mechanisms or dominance at critical decision points.

In this respect, the reforms are better understood as effecting a reconfiguration, rather than a reduction, of executive authority. They transform the *form* of control without necessarily altering its *substance*. This distinction is crucial within constitutionalism theory, which draws a clear line between procedural compliance and substantive limitation. A system may exhibit high levels of procedural sophistication while still failing to impose meaningful constraints on the concentration of power. Indeed, the proliferation of formal processes can, paradoxically, serve to legitimise existing power asymmetries by cloaking them in the language and structure of accountability.

6.2. Strengthening institutional oversight

The Tenth Amendment places significant emphasis on strengthening oversight mechanisms governing the security sector. The reforms seek to clarify reporting structures, enhance the role of oversight bodies and reinforce institutional checks and balances. These developments align with regional and continental standards, particularly within the SADC and AU frameworks. The SADC Protocol on Politics, Defence and Security Cooperation, especially Article 2, emphasises protection of people and safeguarding development of the region against instability from the breakdown of law and order, intra-state conflict and other causes. This Protocol also promotes democratic governance, the rule of law and safeguards against the breakdown of constitutional order. The AU's African Charter on Democracy, Elections and Governance reinforces this normative position through Articles 2 and 11, which collectively stress the prevention of abuse of power and the strengthening of central mechanisms of oversight and accountability against intra-state conflicts.

Despite these formal improvements, the effectiveness of oversight mechanisms depends on factors that extend beyond constitutional design. Institutional independence, resource capacity and political legitimacy are critical determinants of whether oversight bodies can function effectively. Where such institutions remain vulnerable to political influence or lack the capacity to enforce accountability, their impact may be limited.

Accordingly, while the Amendment strengthens the formal architecture of oversight, it does not necessarily guarantee functional accountability. The persistence of executive dominance may continue to constrain the autonomy of oversight institutions, thereby limiting their ability to regulate the security sector effectively.

6.3 Professionalisation and political neutrality

Another key pillar of the Tenth Amendment is the emphasis on professionalisation and political neutrality within the security sector. The effectiveness of such provisions depends heavily on the broader institutional and political environment. Professionalisation is not merely a legal condition but a sociopolitical process shaped by leadership practices, organisational culture and incentive structures. Where political actors retain the capacity to influence appointments and career progression within the security sector, the risk of politicisation persists.

Thus, while the Amendment articulates a clear commitment to neutrality, it does not fully address the structural incentives that undermine it. Without corresponding changes in the distribution of power and the operation of oversight mechanisms, legal provisions on professionalism may have limited transformative impact.

6.4. Constitutional reform and the governance of coercive power

Taken together, the reforms introduced by the Tenth Amendment reflect an effort to align Lesotho's constitutional framework with established principles of democratic security-sector governance. They introduce greater procedural clarity, strengthen formal oversight mechanisms and articulate normative commitments to neutrality and accountability.

Yet, when assessed against international and regional standards, a more critical picture emerges. While the Amendment demonstrates normative alignment, it falls short of achieving structural transformation. In particular, it does not decisively alter the balance of power between the executive and other institutions involved in the governance of the security sector.

This suggests that the Amendment operates within the limits of what may be described as constitutional engineering – the redesign of institutional structures without a corresponding transformation of underlying political dynamics. As a result, the reforms may mitigate some immediate risks of instability while leaving intact the deeper conditions that have historically enabled the politicisation of coercive institutions.

7. Depoliticisation, constitutionalism and prospects for political stability

The ultimate test of the Tenth Amendment lies in its capacity to contribute to the depoliticisation of security institutions and the stabilisation of Lesotho's political system. This requires moving beyond an assessment of formal provisions to consider how the reforms interact with broader dynamics of political competition, institutional authority and conflict management.

7.1. Depoliticisation and institutional design

Depoliticisation refers to the process through which security institutions are insulated from partisan political rivalry and encouraged to operate according to

professional and constitutional norms. Institutional design plays an important role in this process by shaping the incentives and constraints that influence the behaviour of both political actors and security personnel.

The Tenth Amendment introduces several mechanisms intended to promote depoliticisation, including more structured appointment procedures and enhanced oversight arrangements. These measures are consistent with international and regional frameworks that emphasise the importance of institutional safeguards in preventing political interference. However, depoliticisation cannot be achieved through institutional design alone. As conflict theory suggests, political actors operate within incentive structures that may encourage the use of coercive institutions as tools of competition. Where the stakes of political power remain high and institutional constraints are weak, the risk of politicisation persists.

In this context, the reforms may reduce overt forms of political interference while leaving intact more subtle mechanisms of influence. This raises questions about whether the Amendment can achieve substantive depoliticisation or merely produce a more formalised version of existing practices.

7.2. Constitutionalism and democratic consolidation

From the perspective of constitutionalism, the significance of the Tenth Amendment lies in its potential to strengthen institutional constraints on power and reinforce the rule of law. By introducing clearer procedures and enhancing oversight mechanisms, the reforms may contribute to greater predictability and accountability within the governance of the security sector. However, the relationship between constitutional reform and democratic consolidation is not automatic. As comparative scholarship suggests, constitutional arrangements are effective only to the extent that they are supported by political practices that respect institutional limits (Linz and Stepan, 1996; Sartori, 1997). Where political actors continue to prioritise short-term advantage over constitutional norms, formal reforms may have limited impact.

The Tenth Amendment therefore represents a step towards strengthening constitutionalism, but its success depends on whether it is accompanied by a broader transformation in political behaviour.

7.3. Conflict management and institutional resilience

Conflict theory highlights that political competition is an inherent feature of democratic systems. The critical issue is whether institutions provide credible mechanisms for managing conflict without resorting to coercion. On 16 October 2023, the three heads of the security agencies, including the Commander of the LDF, the Director of the National Security Service (NSS) and the Commissioner of the Lesotho Mounted Police Service (LMPS), issued a joint statement that they would defend the government of Prime Minister Sam Matekane against a motion of no confidence (Pherudi, 2024). The repeated involvement of security institutions in Lesotho's political crises suggests that existing mechanisms have, at times, been insufficient. The reforms introduced by the Tenth Amendment can be interpreted as an effort to enhance the state's capacity to manage conflict by clarifying institutional roles and strengthening accountability. By reducing ambiguity in the governance of security institutions, the Amendment may help to limit the escalation of political disputes into security crises.

Nevertheless, institutional resilience depends not only on formal rules but also on the broader political environment. Factors such as coalition instability, elite fragmentation and competition for executive power may continue to generate pressures that test the limits of constitutional arrangements.

7.4. Reform, continuity and the limits of constitutional engineering

A critical assessment of the Tenth Amendment reveals a tension between reform and continuity. On the one hand, the Amendment introduces important institutional innovations that align with international and regional norms on security-sector governance. On the other hand, it preserves key elements of the existing power structure, particularly the central role of the executive.

This duality reflects the broader limits of constitutional engineering. While institutional design can shape behaviour and create conditions for stability, it cannot fully eliminate the political dynamics that drive conflict and competition. In the absence of deeper structural and cultural change, reforms may produce incremental improvements without transformative impact.

From this perspective, the Tenth Amendment should be understood not as a definitive solution to Lesotho's governance challenges, but as part of an ongoing process of institutional development. Its effectiveness will depend on whether it

contributes to a gradual reconfiguration of political incentives and fosters a culture of constitutionalism in which security institutions are widely recognised as neutral guardians of the state.

8. Conclusion

This article set out to examine whether the Tenth Amendment to the Constitution of Lesotho (GoL, 2025) represents a meaningful transformation in the governance of national security institutions or a reconfiguration of existing power relations. By situating the reforms within Lesotho's history of political instability and within broader theoretical and normative frameworks on security-sector governance, the analysis has sought to move beyond a purely descriptive account of constitutional change and engage critically with its structural implications.

The study has shown that Lesotho's political trajectory has been characterised by a persistent pattern in which political conflict, executive dominance and weak institutional constraints have enabled the repeated involvement of security institutions in governance crises. From the suspension of constitutional rule in 1970 (GoL, 1970) to the more recent instability of the 2010s, coercive institutions have frequently been drawn into struggles over political authority. These dynamics underscore a central challenge for constitutionalism in Lesotho: the difficulty of maintaining a clear and stable boundary between political power and coercive force.

The Tenth Amendment represents a significant attempt to address these challenges. It introduces reforms aimed at restructuring appointment processes, strengthening oversight mechanisms and promoting professionalism and political neutrality within the security sector. In doing so, it reflects key principles articulated in international and regional frameworks developed under the UN, AU and SADC. These include commitments to civilian control, accountability and the depoliticisation of security institutions.

However, the analysis demonstrates that normative alignment does not necessarily translate into substantive transformation. While the Amendment strengthens the formal architecture of governance, it does not fundamentally alter the distribution of power within the security sector. In particular, the persistence of significant executive influence over key processes suggests that the underlying conditions that have historically facilitated politicisation remain largely intact. As a result, the reforms may enhance procedural accountability without fully addressing the

structural incentives that drive political actors to instrumentalise coercive institutions.

This finding highlights a broader insight within comparative constitutional scholarship: the limits of constitutional engineering. Institutional redesign can reshape formal structures and create new mechanisms of accountability, but its effectiveness depends on the broader political environment in which these institutions operate. Where political competition remains intense, oversight institutions are weak and executive authority is insufficiently constrained, constitutional reforms may produce only incremental change.

At the same time, it would be overly reductive to dismiss the Tenth Amendment as merely symbolic. The reforms introduce important institutional innovations that may, over time, contribute to the gradual strengthening of constitutional norms and practices. By clarifying roles, formalising procedures and articulating standards of professional conduct, the Amendment provides a framework within which more accountable and stable governance may emerge. Its significance, therefore, lies not only in its immediate effects, but in its potential to shape the evolution of political and institutional behaviour.

Ultimately, the future of security-sector governance in Lesotho will depend not only on constitutional design but on the willingness of political actors to internalise and respect the principles of constitutionalism. Sustainable political stability requires more than formal compliance with international and regional norms; it requires a transformation in the way power is exercised and contested. In this sense, the Tenth Amendment represents an important, but incomplete, step in Lesotho's ongoing effort to reconcile democratic governance with the control of coercive power.

The case of Lesotho thus contributes to broader debates on security-sector reform in fragile democracies. It illustrates the tension between normative frameworks and political realities and the challenges of translating formal constitutional change into substantive institutional transformation. For scholars and practitioners alike, it underscores the need to look beyond institutional design and engage more deeply with the political dynamics that shape the governance of security institutions.

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