

# LESOTHO 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Lesotho is a constitutional monarchy with a democratic parliamentary government. Under the constitution, the king is head of state but does not actively participate in political activities. The prime minister is head of government and has executive authority. On March 1, former prime minister Pakalitha Mosisili lost a vote of confidence and on June 3, a snap election. All major parties accepted the outcome, and Motsoahae Thomas Thabane of the All Basotho Convention Party formed a coalition government and became prime minister. Mosisili transferred power peacefully to Thabane, and Mosisili's Democratic Congress party led the parliamentary opposition. Local and international observers assessed the election as peaceful, credible, and transparent.

The extent of civilian control over security forces was unclear at year's end. In September the government requested additional South African Development Community (SADC) troops to foster stability as the new government moved forward with SADC-recommended security-sector reforms.

The most significant human rights issues included: arbitrary deprivation of life and torture; harsh and potentially life threatening prison and detention center conditions; restrictions on media freedom, including detention of journalists and threats of libel suits and occasional violence against journalists; lack of timely accountability in cases involving violence against women, including rape; criminalization of same-sex sexual conduct; and child labor.

Although impunity remained a problem, the government took steps to investigate, prosecute, and punish army members and police who committed human rights abuses.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were credible reports members of the Lesotho Defense Force (LDF) and the Lesotho Mounted Police Service (LMPS) committed arbitrary or unlawful killings.

For example, on July 28, Ha Mofoka police reportedly killed gang member Thelingoane Mota. According to the press, Mota was one of the gang members participating in a funeral procession who were beaten by police. Mota fled the scene with police in pursuit; his badly beaten body was discovered two days later.

There were no reports of arrests or prosecution in the 2016 case of Mamoleboheng Besele, who died after LDF members at Ha Molomo military base beat her, according to a report by the nongovernmental organization (NGO) Development for Peace Education.

On November 29, the LMPS arrested and charged eight LDF members in connection with the 2015 incident in which LDF members shot and killed former LDF commander Maaparankoe Mahao. At year's end no one had been held accountable for the 2015 alleged torture to force mutiny confessions from 50 soldiers.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Although the constitution and law expressly prohibit such practices, there were reports of torture and cruel, inhuman, or degrading treatment or punishment by the LDF and the LMPS. On September 5, the NGO Christian Council of Lesotho stated, "We are aware that some people are arrested and tortured."

On September 4, former defense minister Mokhosi stated that he was tortured, given a "made up story" to present to the magistrate, and threatened with death if he did not admit to the "story." He claimed police stripped him naked, beat him, and suffocated him. Police commissioner Holomo Molibel stated that a doctor who examined Mokhosi refuted his claim of torture.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and potentially life threatening due to gross overcrowding; inmate-on-inmate violence occurred, including rape; there was physical abuse, and inadequate sanitary conditions, medical care, ventilation, lighting, and heat. According to the Lesotho Correctional Service (LCS), it had no

facilities or staff with specialized training to deal with prisoners with disabilities. They depended on voluntary assistance from other prisoners. Prison buildings lacked ramps, railings, and other measures facilitating physical access for prisoners with disabilities.

Physical Conditions: Men and women, juveniles and adults, and pretrial detainees and convicted prisoners were held separately. According to the Lesotho News Agency, Minister of Justice Mahali Phamotse attributed overcrowding at prisons holding men to high crime rates among the unemployed.

On March 1, authorities completed the release of all military prisoners accused of the 2015 mutiny.

According to the LCS, one inmate died from injuries incurred from fighting between two gangs at Maseru Central Correctional Institution. Eight inmates died of natural causes. In February an inmate was reportedly gang raped at the Leribe Correctional Institution.

Although prisons provided potable water, sanitation was poor in Mokhotlong, Berea, Quthing, and Qacha's Nek, and facilities generally lacked bedding. Proper ventilation and heating/cooling systems did not exist, and some facilities lacked proper lighting. All prisons had a nurse and a dispensary to attend to minor illnesses, but health care was inadequate. Prisons lacked round-the-clock medical wards; as a result, guards confined sick prisoners to their cells from 3 p.m. to 6 a.m.

Administration: In response to credible allegations of assaults and mistreatment of inmates at the Maseru, Butha Buthe, Qacha's Nek, and Berea correctional institutions, authorities conducted investigations and took disciplinary measures against three Maseru officers and two Qacha's Nek officers. Investigation of assault allegations at the Butha Buthe and Berea institutions continued at year's end.

The Office of the Ombudsman stated it had received no complaints from prisoners during the year; however, prisoners were often unaware they could submit complaints to this office. Additionally, any complaints must go through prison authorities, creating the possibility of retaliation against complainants.

According to the LCS, prisoners and detainees have the right to submit complaints to judicial authorities without censorship and to request investigation of credible

allegations of inhuman conditions. The LCS referred no complaints to the magistrate court during the year.

Prisoners generally had reasonable access to visitors. According to families of those LDF soldiers detained on allegations of mutiny, however, visit schedules were sometimes changed or limited arbitrarily.

Independent Monitoring: The Crime Prevention, Rehabilitation, and Reintegration of Ex-prisoners Organization and benevolent groups made up of principal chiefs, church ministers, representatives of the business community, advocates of the court, and other citizens, visited prisons to provide toiletries, food, and other items. The International Committee of the Red Cross (ICRC) periodically visited a group of foreign nationals detained in the country.

Improvements: The LCS reported completion of the renovation of inmate cells at the Maseru Central Correctional Institution. The LCS in cooperation with the Ministry of Health improved prisoner access to antiretroviral and tuberculosis medication during the year.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, and provide for the right of any person to challenge the lawfulness of arrest or detention in court, and the government generally observed these requirements.

#### **Role of the Police and Security Apparatus**

The security forces consist of the LDF, the LMPS, the National Security Service (NSS), and the LCS. The LMPS is responsible for internal security. The LDF maintains external security and may assist police when the LMPS commissioner requests aid. The NSS is an intelligence service that provides information on possible threats to internal and external security. The LDF and NSS report to the minister of defense, LMPS to the minister of police, and the LCS to the minister of justice and correctional service. Impunity in the LDF and LMPS was a problem.

Civilian authorities generally maintained effective control over the LMPS, NSS, and LCS. The extent of civilian control over the LDF remained unclear. For example, the killing of LDF commander Motsomotso on September 5 led to a government request for the deployment of a rapid-response SADC team. This was followed by a September 14 government request for additional SADC troops to

foster stability as the new government moved forward with SADC-recommended reforms.

In general the public viewed the LDF and LMPS as institutions that did not hold officers accountable for their abuses, including killings, torture, and corruption. For example, no progress was reported in the investigation of the 2015 killing of former LDF commander Maaparankoe Mahao. Nevertheless, several LDF and LMPS members were arrested and charged with other abuses during the year, which some observers viewed as a step forward in addressing LDF and LMPS impunity. On September 28 and October 16, murder charges were filed against former LDF commander Tlali Kamoli, Captain Litekanyo Nyakane, Lance Corporal Motloheloa Ntsane, and Lance Corporal Leutsoa Motsieloa for the killing of Subinspector Mokheseng Ramahloko in 2014. Kamoli was also charged with involvement in the 2014 bombings at the residences of the then prime minister's girlfriend, her neighbor, and the police commissioner.

On August 4, the body of a police constable was exhumed from Lepereng cemetery. In March 2016 Mokalekale Khetheng disappeared following his arrest by police. On August 8, Prosecutor Lesaoana Mohale charged Senior Superintendent Thabo Tsukulu, Senior Inspector Mabitle Matona, Subinspector Haleokoe Taasoane, and Inspector Mothibeli Mofolo with his murder. The High Court denied Tsukulu's bail application on October 19. On August 30, former defense minister Tseliso Mokhosi was also charged but released on bail. Except for Mokhosi, the accused remained in custody pending prosecution at year's end.

The Police Complaints Authority (PCA) investigates allegations of police misconduct and abuse. The PCA was ineffective because it lacked authority to fulfill its mandate: It could only investigate cases referred to it by the police commissioner or minister for police and could act on public complaints only with their approval. The PCA also lacked authority to refer cases directly to the Prosecutor's Office. The PCA did not publish its findings or recommendations.

The Directorate on Corruption and Economic Offenses (DCEO) investigates and prosecutes cases of corruption, including police corruption, referred to it by the government or based on substantiated public complaints. DCEO officials complained of insufficient staffing and resources to investigate all complaints received. The DCEO operated only in the capital since it did not have offices in the districts.

### **Arrest Procedures and Treatment of Detainees**

The law requires police, based on sufficient evidence, to obtain an arrest warrant from a magistrate prior to making an arrest on criminal grounds. Police arrested suspects openly, informed them of their rights, and brought them before an independent judiciary. Police must inform suspects of charges upon arrest and present suspects in court within 48 hours. The law provides that authorities may not hold a suspect in custody for more than 90 days before a trial except in exceptional circumstances.

The law provides for bail, which authorities granted regularly and, in general, fairly. Defendants have the right to legal counsel. Authorities generally allowed detainees prompt access to a lawyer and provided lawyers for indigents in all civil and criminal cases. Free legal counsel was usually available, from either the state or an NGO. The Legal Aid Division under the Ministry of Justice and Correctional Service offered free legal assistance, but a severe lack of resources hampered the division's effectiveness and resulted in a backlog. NGOs maintained a few legal aid clinics.

There were no reports of suspects detained incommunicado, held under house arrest, or reports of authorities ignoring court orders for their release this year.

Pretrial Detention: Pretrial detainees constituted 23 percent of the prison population. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. Pretrial detention could last for months, however, due to judicial staffing shortages and unavailability of legal counsel.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law provides the right to a determination of the legality of the detention by a magistrate or judge. The judiciary generally respected this right and did so without undue delay.

#### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence. There were no reports that judicial officials, prosecutors, or defense attorneys were intimidated or corrupted. There were no instances in which the outcomes of trials appeared predetermined by government or other interference. Authorities generally respected court orders.

## **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right, but trial delays were common.

Defendants enjoy the right to a presumption of innocence. In most cases officials informed defendants promptly and in detail of the charges with free interpretation as necessary. In some cases interpreters were not readily available, resulting in delays in the filing of charges.

In civil and criminal matters, a single judge normally hears cases. In constitutional, commercial, and appeals cases, more than one judge is assigned. Trials are open to the public. A backlog of cases in the court system and the failure of defense attorneys to appear in court delayed trials.

Defendants have the right to be present at their trials, to consult with an attorney of their choice, to have an attorney provided by the state if indigent, and to have adequate time to prepare their case. Authorities provide free interpretation as necessary during proceedings at the magistrate and High Court levels but not at other points in the criminal justice process. By law the free assistance of an interpreter is not required for court of appeals cases.

Defendants may confront and question witnesses against them and present witnesses on their own behalf. The law allows defendants to present evidence on their own behalf at the Magistrate Court, but the High Court requires legal representation. Defendants may not be compelled to testify or confess guilt and may appeal a judgment. The law extends the above rights to all citizens.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary with jurisdiction over civil matters. Individuals and organizations may freely access the court system to file lawsuits seeking cessation of human rights violations and recovery of damages. There were no regional human rights bodies to which individuals and organizations could appeal adverse domestic decisions.

## **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and laws prohibit arbitrary interference with privacy, family, home, and correspondence, and the government generally respected these prohibitions. Although search warrants are required under normal circumstances, the law provides police with the power to stop and search persons and vehicles as well as enter homes and other places without a warrant if the situation is life threatening or if there are “reasonable grounds” to suspect a serious crime has occurred. Additionally, the law states any police officer of the rank of inspector or above may search individuals or homes without a warrant.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of speech, but the constitution does not explicitly mention freedom of the press. Media freedom continued to deteriorate, marked by several incidents of censorship, intimidation of journalists, and radio stations taken off the air.

Freedom of Expression: The law prohibits expressions of hatred or contempt for any person because of the person’s race, ethnic affiliation, gender, disability, or color. The government did not arrest or convict anyone for violating the law. The NSS reportedly monitored political meetings.

Press and Media Freedom: The law provides for the right to obtain and impart information freely but only as long as it does not interfere with “defense, public safety, public order, public morality, or public health.” Nevertheless, censorship, intimidation of journalists, and suspension of radio broadcasting rights occurred.

Violence and Harassment: According to the Media Institute of Southern Africa-Lesotho (MISA-Lesotho), on August 8, People’s Choice FM reporter Palo Mohlotsane was prevented from covering a political rally in support of former deputy prime minister Mothetjoa Metsing by Lesotho Congress for Democracy (LCD) supporters who berated the journalist, accused him of being a spy, and prevented him from taking photographs. On August 28, MISA-Lesotho also reported that LCD youths barred media journalists from covering a press conference, calling journalists politicians masquerading as reporters. They boisterously disrupted a press conference, alleging media bias. MISA-Lesotho



alerted Amnesty International and the Committee for the Protection of Journalists to both of these incidents.

On November 30, the LMPS announced the arrest of five LDF suspects in the 2016 shooting of *Lesotho Times* editor Lloyd Muntungamiri, a Zimbabwean national. At year's end Muntungamiri was recovering from injuries sustained in the attack and remained abroad due to fear for his safety.

On October 23, *Lesotho Times* reporter Keiso Mohloboli returned to the country. She fled the country in June 2016 after being detained and interrogated by police concerning her sources for an article revealing police corruption.

Censorship or Content Restrictions: The government restricted antigovernment broadcast media by controlling access to transmission lines. While independent media were active and covered a wide variety of views and opinions, heavy reliance on government advertising and technical resources also encouraged self-censorship. Despite being funded, staffed, and equipped to begin broadcasting operations, due to a government moratorium on licensing new radio stations three UNESCO-backed community stations--Thabana-Ntlenyana Radio in Mokhotlong, Phesha Kwi Qili in Quthing, and Semonkong Community Radio--had applications pending for more than two years.

Prior to the June 3 snap elections, People's Choice FM (PC FM) broadcasts were suspended for two days. According to former communications minister Serialong Qoo, transmission equipment on loan to the station was required by the state radio broadcaster. Although PC FM was able to obtain its own equipment, the national broadcaster then refused to reconnect the station--all radio broadcasters in the country use a single transmission tower owned by the government. PC FM was granted a court order that it be given network access, but it had already lost two days of broadcast news coverage, including coverage of a major opposition rally. On August 10 and on September 12, the government prevented MoAfrika FM from broadcasting. The government claimed that MoAfrika FM payments for transmission service were in arrears and that its broadcasts were inflammatory. MoAfrika FM's owner responded that the suspension was due to broadcasts critical of the government.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet. In February, however, police briefly detained and questioned the administrators of a popular

Facebook political website, seeking the identity of a person who posted sensitive government information under an alias.

There were no credible reports the government monitored private online communications without appropriate legal authority. The internet was not widely available and almost nonexistent in rural areas due to lack of communications infrastructure and high cost of access. According to the International Telecommunication Union, 27.4 percent of the population had access to the internet in 2016.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association, but the law requires organizers to obtain permits seven days in advance for public meetings and processions. The government generally respected these rights if a permit was sought.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The system was active and accessible.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: On March 1, parliament passed a motion of no confidence in the prime minister, triggering a chain of events that led to early elections. On June 3, parliamentary elections were held in which the opposition All Basotho Convention Party won 48 of 120 seats and formed a coalition government with the Alliance of Democrats, the Basotho National Party, and the Reformed Congress of Lesotho.

On June 16, Prime Minister Pakalitha Mosisili peacefully handed over power to Motsoahae Thomas Thabane. Domestic and international observers characterized the election as peaceful and conducted in a credible, transparent, and professional manner. Observers expressed concern, however, regarding LDF presence at polling places in some constituencies; there were no reports otherwise of the LDF interfering in the electoral process.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process. Women participated in the political process, but there were no members of racial or ethnic minority groups in the National Assembly, Senate, or cabinet. The law provides for the allocation of one-third of the seats in the municipal, urban, and community councils to women. The law also states a political party registered with the Independent Electoral Commission must facilitate the full participation of women, youth, and persons with disabilities. Party lists for the 40 proportional representation seats in the National Assembly must include equal numbers of women and men.

Women held several prominent positions in government. The president of the Senate and minister of police were women, as was the chief justice, governor of the Central Bank of Lesotho, and the chief executive of the Lesotho Highlands Development Authority. One woman held the rank of brigadier general while another held the rank of colonel in the LDF.

More than 98 percent of the population is ethnic Basotho. On August 14, the prime minister appointed Yan Xie, a naturalized citizen of Chinese origin, to the position of head of special projects and special envoy and trade advisor on China and Asia.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. The government did not implement the law effectively, and some officials reportedly engaged in corrupt practices with impunity.

Corruption: According to *Lesotho Times* newspaper, the DCEO was investigating a 49 million maloti (\$3.7 million) fertilizer contract awarded in September to the Machache Trading Company. The contract was awarded at 9.3 million maloti (\$705,000) above the closest competitor's bid. On September 26 and 27, two competitors filed complaints regarding the contract award. In response Minister of Agriculture and Food Security Mahala Molapo cancelled the award and referred the matter to the DCEO for investigation.

In July 2016 former finance minister Mamphono Khaketla was accused of soliciting a four million maloti (\$303,000) bribe from Bidvest, a South African company, for awarding the company a no-bid multimillion dollar contract to manage the government's vehicle fleet. On September 14, the DCEO charged Khaketla with "soliciting a bribe." The case was pending trial at year's end.

Financial Disclosure: The law requires appointed and elected officials to disclose income and assets and prohibits false or misleading declarations. The declaration regime identifies which assets, liabilities, and other financial interests public officials must declare. Officials must file their declarations annually by April 30. The law does not require public declarations or that officials file declarations upon leaving office.

The law provides for disciplinary measures and criminal penalties for failure to comply. The law mandates that the DCEO monitor and verify disclosures. The DCEO claimed it could not effectively implement the law because it lacked adequate resources. Some ministry staff declared their assets and potential conflicts of interest.

On August 31, the leaders of the four-party coalition government signed an agreement to strengthen investigative and judicial enforcement of a revamped policy on declaration of assets and interests. On November 29, the agreement took effect. For the first time, some ministers declared their assets and interests. The DCEO did not question any declaration's veracity.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. According to some local NGOs, officials of the former government were not cooperative and responsive to their views and accused NGOs of not being impartial.

Although the former government did not permit ICRC representatives to visit LDF detainees, the new government of Prime Minister Thabane issued a statement that it would invite the ICRC and Amnesty International to investigate the allegations of torture concerning the arrest and detention of former defense minister Mokhosi. Mokhosi was subsequently released on bail and fled to South Africa, claiming he feared for his life. No ICRC visit occurred during the year.

Government Human Rights Bodies: The independent Office of the Ombudsman appeared to function without government or political interference. The office was partially effective but constrained by a low level of public awareness and use of its services because its operations were limited to Maseru and it had insufficient staffing, financing, and equipment.

In June 2016 the National Assembly passed legislation to create a human rights commission. On March 13, the Constitutional Court dismissed a case in which two NGOs challenged the legislation because NGOs were not consulted and the Senate had not considered it. The government had not established the commission by year's end.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

#### **Women**

Rape and Domestic Violence: Sexual assault and rape were commonplace. The law criminalizes the rape of women or men, including spousal rape, and domestic

violence. Rape convictions carry a minimum sentence of 10 years' imprisonment. When informed, police generally enforced the law promptly and effectively; however, those cases prosecuted proceeded slowly in the judiciary. Local and international NGOs reported that most incidents of sexual assault and rape went unreported. From January to August, 247 complaints of sexual assault and rape were filed at magistrate courts in the country's 10 districts. During that period 40 cases were prosecuted.

Domestic violence against women was widespread. The government Child and Gender Protection Unit (CGPU) did not compile data on domestic violence. The LMPS included reports of domestic violence with assault data but did not break down the data by type of violence. Assault, domestic violence, and spousal abuse are criminal offenses, but few cases were prosecuted. The law does not mandate specific penalties. Judges may authorize release of an offender with a warning, give a suspended sentence, or, depending on the severity of the assault, fine or imprison an offender.

Advocacy and awareness programs by the CGPU, ministries, and the NGO Women and Law in Southern Africa (WLSA) sought to change public perceptions of violence against women and children by arguing that violence was unacceptable. The government had one shelter in Maseru for abused women. The shelter offered psychosocial services but provided help only to women referred to it. The majority of victims were not aware of the shelter. There was no hotline for victims.

Other Harmful Traditional Practices: There were reports of forced elopement, a customary practice whereby men abduct and rape girls or women with the intention of forcing them into marriage; no estimate of its prevalence was available. If a perpetrator's family was wealthy, the victim's parents often reached a financial settlement rather than report the incident to police.

Sexual Harassment: The law criminalizes sexual harassment. Victims rarely reported sexual harassment. Penalties for those convicted of sexual harassment are at the discretion of the court. Police believed sexual harassment to be widespread in the workplace and elsewhere. The CGPU produced radio programs to raise public awareness of the problem.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at:

[www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Except for inheritance rights, women enjoy the same legal status and rights as men. The law prohibits discrimination against women in marriage, divorce, child custody, employment, credit, pay, owning or managing businesses or property, education, the judicial process, and housing.

Under the civil legal system, women have the right to make a will and sue for divorce. A customary law marriage does not have legal standing in a civil court unless registered in the civil system. Civil, but not customary law protects inheritance, succession, and property rights. Civil law defers to customary law that does not permit women or girls to inherit property.

## **Children**

Birth Registration: According to the constitution, birth within the country's territory confers citizenship. The law stipulates registration within three months of birth but allows up to one year without penalty. For additional information, see Appendix C.

Education: By law primary education, which goes through grade seven, is universal, compulsory, and tuition free beginning at age six. The Ministry of Education set the maximum age for free primary education at 13. Secondary education is not free, but the government offered scholarships for orphans and other vulnerable children. Authorities may impose a fine of not less than 1,000 maloti (\$76) or imprisonment on a parent whose child failed to attend school regularly. For additional information, see Appendix C.

Child Abuse: While the law prohibits child abuse, it was nevertheless a problem, especially for orphans and other vulnerable children. Neglect, common assault, sexual assault, and forced elopement--a customary practice of abducting a girl with the intention of marrying her without her consent--occurred.

The Maseru Magistrate's Court had a children's court as part of a government initiative to protect children's rights. The CGPU led the government's efforts to combat child abuse. The CGPU sought to address sexual and physical abuse, neglect, and abandonment of children, and protection of the property rights of orphans. It also advocated changing cultural norms that encourage forced elopement.

Early and Forced Marriage: Civil law defines a child as a person under age 18 but provides for a girl to marry at age 16. Customary law does not set a minimum age for marriage. (For more information, see UNICEF website)

Sexual Exploitation of Children: The law sets the minimum age for consensual sex at 18. Anyone convicted of an offense related to the commercial sexual exploitation of children is liable to imprisonment for a period of not less than 10 years. Child pornography carries a similar sentence. An antitrafficking law criminalizes trafficking of children or adults for the purposes of sexual or physical exploitation and abuse. Offenders convicted of trafficking children into prostitution are liable to a fine of two million maloti (\$151,500) or life imprisonment. The death penalty may be applied if a knowingly HIV-positive perpetrator infects a child. Authorities generally enforced the law when cases were reported. (For information on the incidence of sexual exploitation of children, see the UNICEF website.)

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

There was a small Jewish community. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with disabilities. The national disability policy establishes a framework for inclusion of persons with disabilities in poverty reduction and social development programs, but by year's end, the government had not incorporated objectives or guidelines for the implementation of these programs.



Laws and regulations stipulate that persons with disabilities should have access to public buildings. Public buildings completed after 1995 generally complied with the law, but many older buildings remained inaccessible. Unlike in prior years, according to the executive director of the Lesotho National Federation of Organizations of the Disabled (LNFOD), air travel services were adequate for persons with disabilities. The executive director stated that the insufficient number of sign language interpreters in the judicial system for hearing-disabled persons who could sign resulted in case postponements. Braille and JAWS (computer software used by persons with vision disabilities) were not widely available. Hearing-disabled persons who signed could not access state services. Children with physical disabilities attended school; however, facilities to accommodate them in primary, secondary, and higher education were limited.

There were no reports of persons with disabilities being abused in a prison, school, or mental health facility, but according to the LNFOD, such abuse likely occurred regularly.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law prohibits consensual sexual relations between men, but authorities did not enforce it. The law does not address consensual sex between women. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced societal discrimination and official insensitivity to this discrimination.

The law prohibits discrimination attributable to sex; it does not explicitly forbid discrimination against LGBTI persons. LGBTI rights groups stated that there was discrimination in access to health care and participation in religious activities. There were no reports of employment discrimination.

The Matrix Association, an LGBTI advocacy and support group, recorded one report of police abuse of LGBTI persons during the year.

### **Other Societal Violence or Discrimination**

Media reported killing of elderly persons, primarily in connection with accusations of witchcraft. On August 16, the Ministry of Social Development launched an Elderly People Protection Program to address this and other abuses faced by the elderly. Sporadic incidents of mob violence targeting suspected ritual killers and other criminals remained a problem.

According to the *Post* newspaper, local gangsters raped women in a deep gully between Ha Lebona and Ha Koeshe villages. A nurse based at Ha-Koeshe clinic stated that some patients stopped visiting the clinic due to fear of leaving their neighborhoods. Media continued to report retaliatory killings among competing accordion music artists and gangs of fans in Mafeteng District because of insulting lyrics directed at each other.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

By law workers in the private sector have the right to join and form trade unions of their own choosing without prior authorization or excessive bureaucratic requirements. The law prohibits civil servants and police from joining or forming unions but allows them to form staff associations for collective bargaining and promoting ethical conduct of their members. All trade unions must register with the Registrar of Trade Unions. The law allows unions to conduct their activities without interference.

The law provides for a limited right to strike. In the private sector, the law requires workers and employers to follow a series of procedures designed to resolve disputes before the Directorate of Dispute Prevention and Resolution, an independent government body, authorizes a strike. The law does not permit civil servants to strike.

The law protects collective bargaining and places no restrictions on it. The law permits unions to bargain for wages above the minimum wage. Government approval is not required for collective agreements to be valid. By law the Public Service Joint Advisory Council provides for due process and protects civil servants' rights. The council consists of an equal number of members appointed by the minister of public service and members of any association representing at least 50 percent of civil servants. The council concludes and enforces collective bargaining agreements, prevents and resolves disputes, and provides procedures for dealing with general grievances. Furthermore, the Public Service Tribunal handles appeals brought by civil servants or their associations.

The law prohibits antiunion discrimination and other employer interference in union functions. The law provides for reinstatement of workers dismissed for

union activity. The law does not exclude particular groups of workers from relevant legal protections.

The government enforces applicable laws with cases typically resolved within one or two months. A minority of cases filed with the Department of Labor, a division within the Ministry of Labor and Employment, the Directorate of Dispute Prevention and Resolution (DDPR), and the Labor Court took up to nine months to be resolved. It was rare for a case to take longer than nine months. The recent appointment of the president of the Labor Court should reduce a backlog of outstanding labor court cases. The DDPR had seven arbitrators nationwide. A decrease in the number of arbitrators was not a binding constraint as the number of arbitration cases had declined due to efficient and effective dispute prevention activities to educate both employers and employees.

Employers generally supported freedom of association and collective bargaining. Although factory workers have bargaining power, only some workers exercised the right to bargain collectively. This is because the law requires any union entering into negotiations with management to represent 50 percent of workers, and only a few factories met that condition. In 2015 the Factory Workers Union (FAWU), the Lesotho Clothing and Allied Workers Union, and the National Union of Textile Workers merged to form the Independent Democratic Union of Lesotho to strengthen their bargaining power. The National Clothing Textile and Allied Workers Union, which separated from FAWU, remained blacklisted by employers who stated the founders had deliberately incited labor strikes. All worker organizations were independent of the government and political parties except the Lesotho Workers Party-affiliated Factory Workers Union. Most unions focused on organizing apparel workers.

Factory owners in the apparel industry were generally willing to bargain collectively on wages and working conditions but only with trade unions that represented at least 50 percent of workers. Factory decisions concerning labor disputes are determined by companies' headquarters, which are usually located overseas. In the retail sector, employers generally respected freedom to associate and the right to bargain collectively, although retail unions complained employers commonly appealed labor court rulings to delay implementation of the rulings.

Staff at the Avani Lesotho Hotel (Lesotho Sun at the beginning of the strike) were on strike from December 2014 to the end of 2015 over demands for a 14 percent salary increase. Following the strike, employees filed a court case against their

employer after they failed to reach a mutual agreement on salaries and working conditions.

In the public sector, while both police and civil servants had associations, no single association represented at least 50 percent of civil servants. According to the Lesotho Public Servants Staff Association (LEPSSA), approximately 34 percent of civil servants belonged to the association. LEPSSA reported most civil servants did not register for the association because they were unaware of it. This low rate of participation made it difficult for LEPSSA to engage with the government on workers' rights problems.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the applicable law. Police reported that inadequate resources hampered their investigations and remediation efforts, although penalties for violations, including two million maloti (\$151,500) or 25 years' imprisonment, were sufficient to deter violations.

The CGPU conducted community outreach on forced labor through community gatherings, lectures, workshops, and radio programs. The Human Trafficking Unit of the police targeted high schools to raise awareness of human trafficking and other forms of forced labor. Police reported a potential human trafficking case involving a Mosotho man who deceived a 19-year-old domestic worker in Maseru with a promise of finding her a better job in South Africa. According to police, the suspect took the woman to his home in a village located approximately 24 miles outside of Maseru, where he repeatedly raped her and forced her to work in his fields. On October 26, the suspect was scheduled to appear in court. In a case dating back to 2015, a Nigerian man accused of forcing another Nigerian man to build a house without pay was scheduled to be formally charged and appear in court on August 29, but the case was postponed. A new date had not been set by year's end.

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law defines the legal minimum age for employment as 15, or 18 for hazardous employment. Hazardous work includes mining and quarrying; carrying heavy

loads; manufacturing where chemicals are produced or used; working in places where machines are used, or in places such as bars, hotels, and places of entertainment where a person may be exposed to immoral behavior; herding; and producing or distributing tobacco. While age 15 is the legal minimum age for employment, the law also provides that free and compulsory primary school be completed at age 13, two years before a child is legally allowed to work. The law prohibits illicit activities including drug trafficking, hawking, gambling, or other illegal activities detrimental to the health, welfare, and educational advancement of the child. The law also states a child has a right to be protected from the use of hallucinogens, narcotics, alcohol, tobacco products, psychotropic drugs, and any other substances declared harmful, and from being involved in their production, trafficking, or distribution. Additionally, the law prohibits the use of children for commercial sexual exploitation. While the law protects children working in the informal economy, it excludes self-employed children from relevant legal protections.

The government did not effectively enforce minimum age laws for employment outside the formal economy, since scarce resources hindered labor inspections. The Ministry of Labor and Employment and the CGPU investigated cases of working children. The ministry had only two child labor inspectors. There were no reported cases of child labor.

The NGO Beautiful Dream reported 11 cases of child marriages, seven cases of child sex trafficking, and more than 20 cases of boys being forced to drop out of school to be herdboys.

In 2015 the government approved the guidelines for herdboys, which make a distinction between the concepts of “child work”--work that is not harmful and is acceptable as part of socialization--and “child labor”--those forms of work that are hazardous and exploitative. The guidelines apply to children under age 18 and strictly prohibit the engagement of children at a cattle post, the huts where herders stay when in remote mountain rangelands. Herding is considered illegal child labor only if herding deprives herdboys of the opportunity to attend school, obliges them to leave school prematurely, or requires them to combine school attendance with excessively long hours and difficult working conditions. The highest estimated percentage of working children was in herding.

The most recent data available from the Bureau of Statistics, the 2011 Household Budget Survey, reported 3.5 percent of children ages six to 14 participated in economic activities; this statistic did not include children aiding their families or

others without compensation. In its most recent report in 2014, UNICEF estimated 23 percent of children between ages five and 14 were working. Two-thirds of these children were engaged in subsistence farming, while the rest were engaged mainly in domestic service. Child labor was higher among boys (86.6 percent of child workers) than among girls (13.4 percent). The report was based on 2004 data provided by the Ministry of Labor and Employment.

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The labor code prohibits discrimination, but it does not explicitly prohibit discrimination based on disability. There is no provision for equal pay for equal work.

Discrimination in employment and occupation occurred. According to the WLSA, there was no legal basis for discrimination against women in employment, business, and access to credit, although social barriers to equality remained. Both men and women reported that hiring practices often aligned with gender, with men preferentially selected for certain positions (such as mechanics) and women preferentially selected for other positions (such as sewing machine operators).

A 2013 study by the Lesotho Network of People Living with HIV and AIDS found substantial discrimination in employment and occupation against those who are HIV-positive (see section 6). The Ministry of Labor and Employment, however, did not report any cases during the year of such discrimination against those who were HIV-positive. The law prohibits such discrimination.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens.

#### **e. Acceptable Conditions of Work**

There is a sector-specific minimum wage and a general minimum wage. The general minimum monthly wage varied from 1,402 maloti (\$106.21) to 1,530 maloti (\$115.91). The Lesotho Bureau of Statistics official estimate for the poverty income level was 246.60 maloti (\$18.70) per month. Minimum wage provisions do not cover significant portions of the workforce. Labor laws do not cover workers in agriculture or other informal sectors.

The law stipulates standards for hours of work, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, a daily minimum rest period of one hour, at least 12 days of paid leave per year, paid sick leave, and public holidays. Required overtime is legal as long as overtime wages for work in excess of the standard 45-hour workweek are paid. The maximum overtime allowed is 11 hours per week; however, there are exemptions under special circumstances. The laws require the premium pay for overtime be at a rate not less than 25 percent more than the employee's normal hourly wage rate; any employer who requires excessive compulsory overtime is liable to a fine, imprisonment, or both.

The law empowers the Ministry of Labor and Employment to issue regulations on occupational health and safety standards, and the commissioner of labor is responsible for investigating allegations of labor law violations.

The law requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner that minimizes injury. It also requires each employer to have a registered health and safety officer. Employers must provide first aid kits, safety equipment, and protective clothing. The law also provides for a compensation system for industrial injuries and diseases related to employment. Penalties for violations were insufficient to deter violations.

Labor inspectors worked in all districts and generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. The ministry began implementing International Labor Organization Recommendation 204 to make the informal sector liable for inspection. The ministry's inspectorate reported employers, particularly in the security, transport, and construction sectors, did not always observe the minimum wage and hours of work laws. Many locally owned businesses did not keep employees' records to facilitate labor inspections as required by law. Smaller employers failed to establish safety committees, did not have complete first aid kits, and did not provide protective clothing. With the exception of the mining industry, employers' compliance with health and safety regulations generally was low. According to the Ministry of Labor and Employment, noncompliance with the health and safety regulations increased especially in construction, where there was an increasing frequency of fatal accidents. The International Labor Organization's Better Work Lesotho (BWL) also reported some employers paid workers less than required by law for overtime work.

Trade union representatives described textile-sector working conditions as poor or even harsh but not dangerous. Union officials stated most textile factories were in prefabricated metal buildings. Unions reported few examples of dangerous health hazards but noted that in government-constructed factories there was usually improper ventilation due to poor planning and design. Employers, who leased the factories from the government, were not allowed to change the design of government factory buildings to install ventilation systems. Third-party auditors hired by foreign textile buyers conducted spot checks on many exporting factories, customarily sought labor's input, and briefed the unions on their findings. Unions believed the third-party auditors kept factory owners in line with health and safety regulations. Unions also mentioned compliance with labor law and labor standards was much higher at factories enrolled in the BWL program.

Many workplace policies covered employees with HIV/AIDS. Some of the larger factories maintained health services at the workplace. Where factories did not provide health care, workers had the right to access services at public health centers. Employers provided space for employee examinations and time off for employees to see doctors, receive counseling, and participate in educational and antistigma programs.

The Ministry of Labor and Employment is responsible for enforcing these laws and standards, but limited budget resources constrained enforcement efforts. Inspections did not cover agricultural and other informal sectors, which employed most workers. A recent study on the rural and informal economy estimated that 47.8 percent of workers worked in the informal economy. The ministry's inspectorate noted penalties were not sufficient to deter violations. The BWL supported ministry inspection efforts by providing examples of crucial noncompliance and inconsistent labor law application for inspectors to raise with employers. The BWL also shared experiences and assessment findings with the ministry on a regular basis with a view to work toward industry-wide improvements.

The Ministry of Labor and Employment received 80 reports of workplace fatalities and accidents, 35 percent of which occurred in the textile industry. The ministry attributed an increase in the number of accidents to an improvement in the reporting of accidents compared with previous years. Ministry representatives indicated underreporting was a possibility.

Working conditions for foreign or migrant workers were similar to those of residents.



The law does not explicitly provide that workers may remove themselves from situations that endangered health or safety without jeopardy to their employment. Nevertheless, sections of the code on safety in the workplace and dismissal imply such a dismissal would be illegal. Authorities protected employees when violations of the law were reported.