

# LESOTHO

## EXECUTIVE SUMMARY

Lesotho is a constitutional monarchy. 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. In the most recent elections in 2007, the governing Lesotho Congress for Democracy (LCD) party retained a majority of seats in parliament; domestic and international observers characterized the election as generally free and peaceful. However, some members of the leading opposition parties and nongovernmental organizations (NGOs) claimed it was not entirely fair. Security forces reported to civilian authorities.

Torture and physical abuse by police, poor prison conditions, and abuse of spouses and children were the most important human rights problems in the country.

Other human rights problems included lengthy pretrial detention and long trial delays and stigmatization of persons with HIV/AIDS. Societal abuses included sexual abuse, stigmatization of persons with disabilities, mob violence, human trafficking, and child labor.

The government occasionally took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in the government; however, impunity sometimes occurred.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed any arbitrary or unlawful killings during the year.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

Although the constitution and law expressly prohibit such practices, local media reported instances of police torture and abuse.

Police reportedly tortured suspects in custody. During the first eight months of the year, police stated that three persons died while in their custody. For example, local media reported that on March 3, Lithoteng police tortured Tseliso Thatjane, who was suspected of stealing a television and a DVD player. Police arrested Thatjane's wife, Masebatso Thatjane, reportedly saying they would release her only if Tseliso surrendered. Once he surrendered, police allegedly beat him with a knobkerrie (traditional wooden club used in herding) and repeatedly suffocated him with a plastic bag until he lost consciousness. They also demanded a bribe of 500 maloti (\$62) to release him, which was paid. Tseliso filed a case demanding compensation for wrongful arrest and torture, but the case did not move forward as he chose not to pursue it.

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

Prison conditions were poor. Press reported that Maseru Central Prison experienced food shortages. The Lesotho Correctional Service (LCS) authorities denied any food shortages but acknowledged the quality of food given to inmates had deteriorated.

The risk of HIV and other sexually transmitted diseases for prisoners was high, and there were reports of prisoners (but not guards) brutalizing or raping others. Some inmates contracted sexually transmitted diseases in correctional facilities due to high incidences of sexual assault and gang rape by other prisoners during the "initiation" of new inmates. The LCS employed a full-time HIV/AIDS coordinator, and HIV testing, counseling, and treatment were available. The LCS provided condoms in all adult male and juvenile facilities. HIV prevalence among female prisoners was extremely high; according to LCS nursing staff, three in five female prisoners were HIV-positive.

Many prison facilities were in disrepair, but efforts were made to refurbish the Juvenile Centre and prisons in Maseru, Leribe, and Thaba Tseka. Although potable water was available, sanitation was poor and prison facilities lacked bedding. Proper ventilation or heating and cooling systems did not exist, and some facilities lacked proper lighting. Prisoners received free medical care from government hospitals and were eligible to vote in elections. All prisons had a nurse and a dispensary to attend to minor illnesses. Some correctional facilities owned ambulances to transport inmates for emergency medical care. Nine prisoners reportedly died in prison of various illnesses during the year.

The LCS reported a total prison population of 1,762 (1,709 men and 53 women), a pretrial detainee population of 394 (384 men and 10 women), and juvenile population of 87 (68 boys and 19 girls). The country's prisons had a combined capacity of 2,866. Juveniles were held in different detention centers. Men and

women were separated within adult and juvenile facilities. High-security prisoners and military prisoners were held in a separate facility. The law provides that pretrial detainees and convicted prisoners be held in separate facilities. In practice pretrial detainees and prisoners were placed simply in separate cells.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and allowed them to request investigations of credible allegations of inhumane conditions; however, no investigations were conducted during the year.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the court, and other citizens. The International Committee of the Red Cross visited correctional facilities in June.

The Office of the Ombudsmen handles complaints from the general public, including prisoners. However, no report on prison complaints was released during the year. Prison recordkeeping was considered generally adequate. Authorities used community service and official warnings as alternative sentences for nonviolent offenders.

According to prison officials, prison conditions for women were better than for men; specifically, women did not face the same overcrowding issues as men.

To improve prison conditions, the government renovated the Maseru Central Prison, Juvenile Training Centre, Leribe Prison, and Thaba Tseka Prison. Renovations included new water systems in cells, greater electrification of prison facilities, and improved fencing.

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

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

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

The security forces consist of the Lesotho Defense Force (LDF), Lesotho Mounted Police Service (LMPS), National Security Service (NSS), and Lesotho Correctional Service (LCS). In law and in practice, the LMPS maintains internal security. The LDF maintains all external security and assists the police when requested by the LMPS commissioner. The NSS is an intelligence service that

provides information on possible threats in support of internal and external security.

Civilian authorities maintained effective control over the LDF, LMPS, NSS, and LCS, and the Directorate on Corruption and Economic Offences (DCEO) investigates and punishes abuse and corruption. There were no reports of impunity involving the LDF, NSS, or LCS during the year. There were isolated but unconfirmed reports of the LMPS acting with impunity.

### **Arrest Procedures and Treatment While in Detention**

The law requires police, based on sufficient evidence, to obtain a warrant of arrest from the magistrate prior to making an arrest. During the arrest suspects are apprehended openly and informed about their rights before they are brought before an independent judiciary. Suspects must be informed of charges within 48 hours, and their families must be notified of any detention. The law allows family members to visit inmates. However, according to media reports and LMPS officials, police did not always comply with these provisions.

The law provides for bail, which authorities granted regularly and, in general, fairly. Defendants have the right to legal counsel. Detainees are allowed prompt access to a lawyer, and lawyers are provided for indigents in all civil and criminal cases. The Legal Aid Division, under the Ministry of Justice and Human Rights, offered free legal assistance, but a severe lack of resources hampered the division's effectiveness. NGOs maintained a few legal aid clinics. There were no reports of suspects detained incommunicado or held under house arrest. The law provides that a suspect cannot be held in custody for more than 90 days before a trial except in exceptional circumstances.

Pretrial Detention: Pretrial detainees constituted 16 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. However, pretrial detention could last for months due to judicial staffing shortages and unavailability of legal counsel.

Amnesty: The government occasionally grants amnesties and early releases on Moshoeshoe's Day, the King's Birthday, Independence Day, or Christmas Day. During the year a total of 111 male prisoners and one female prisoner were granted amnesty.

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

The constitution and law provides for an independent judiciary, and the government generally respected judicial independence in practice.

### **Trial Procedures**

Defendants are presumed innocent until proven guilty. There is no trial by jury. Trials are public. In civil and criminal matters, a single judge normally hears cases. It is only in high-profile constitutional, commercial, and appeals cases that more than one judge is appointed. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner; free legal counsel is usually available, either from the state or a legal NGO in all kinds of cases. Defendants may confront and question witnesses against them and present witnesses on their own behalf. Defendants are allowed to present evidence on their own behalf at the Magistrate Court, but at the High Court legal representation is required.

Defendants have the right to access unclassified government evidence. The government cannot classify evidence and use it against a defendant. If evidence is going to be used in court, both the plaintiff and the defendant must have access. Defendants have the right to appeal. A defendant may either be held or released on bail until sentenced.

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

### **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. Citizens can freely access the court system to file lawsuits seeking cessation of human rights violations or a recovery of damages. In some cases the court has ruled in favor of citizen plaintiffs. There were no reports the government failed to comply with decisions pertaining to human rights.

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

The constitution and laws prohibit such actions, and the government generally respected these prohibitions in practice. 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 considered life threatening or if there are security concerns. The law states that any police officer, rank of inspector and above, can conduct a search on individuals or homes without a warrant.

The High Court awarded 100,000 maloti (\$12,360) to retired LDF brigadier Motlalentoa Kopo, who had been arrested by LDF members in 2007. The judgment stated the invasion of Kopo's home was both unlawful and groundless and violated his fundamental right to privacy and family life as guaranteed by the constitution.

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

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The constitution and law provide for freedom of speech but do not explicitly mention media freedom. The government generally respected freedom of speech. An independent press, effective judiciary, and functioning democratic political system combined generally to promote freedom of the press; however, harassment of journalists, self-censorship, and lawsuits by officials to silence criticism were sometimes problems.

On August 17, the government reportedly interfered with the transmissions of four privately owned radio stations to limit coverage of protests that started on August 15.

Freedom of Speech: There are no official restrictions on the ability of individuals to criticize the government publicly or privately or discuss matters of general public interest without reprisal. The government did not impede criticism.

Freedom of Press: The independent media were active and expressed a wide variety of views without restriction. Multiple laws could be invoked to control the media, but none was used during the year. The constitution grants citizens the right to express themselves and to obtain and impart information freely. However, since these rights are guaranteed only as long as they do not interfere with "defense, public safety, public order, public morality, or public health," this provision encouraged self-censorship.

Violence and Harassment: While journalists were not subjected to arrest, imprisonment, or physical attack, many reported being harassed. Journalists reportedly were called to meetings by private businessmen, where the journalists were threatened with legal action for publishing critical articles.

Censorship or Content Restrictions: On August 17, the government, which controls all commercial radio transmitters in the country, reportedly shut off the transmissions of four privately owned radio stations it accused of fomenting unrest. The government acknowledged the broadcasts were interrupted but claimed the interruption was a technical error related to system upgrade.

Libel Laws/National Security: Some journalists practiced self-censorship as the occasional government official employed slander and libel lawsuits against media outlets, editors, and journalists. For example, in 2010 the prime minister filed a lawsuit at the High Court against a local newspaper, claiming two million maloti (\$247,000) for defamation after the newspaper alleged that he had embezzled eight million maloti (\$1 million). At year's end the case was pending in court.

In August Judge Maseforo Mahase of the Lesotho High Court sued Harvest FM radio station for eight million maloti (one million dollars) for defamation. She claimed that a program shown by the station on July 14 contained defamatory remarks about her. The case was pending at year's end.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could express views via the Internet. The Internet was not widely available and almost nonexistent in rural areas, due to the lack of communications infrastructure and high cost of access.

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

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

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

The constitution and law provide for the right to peaceful assembly. Protest marches and gatherings were commonplace and regularly authorized by the government.

However, in August two leaders of a large protest organized by the Coalition of Concerned Civic Organizations were arrested and charged under the Public Meetings and Processions Act and Internal Security Act. They were later released due to lack of evidence.

Twenty students of Limkokwing University appeared at the Magistrate Court in November 2010 charged under the Public Meetings and Processions Act following rioting that took place during a student strike. The case was pending at year's end.

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

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

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for free movement within the country, foreign travel, emigration, and repatriation. The government generally respected these rights in practice.

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 country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection of refugees. The system is active and accessible, and no patterns of discrimination were identified.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution and law provide the right for citizens peacefully to change their government, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

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

Recent Elections: During the most recent 2007 national elections, the ruling LCD party maintained a legislative majority, claiming 61 of 80 constituency-based seats in the National Assembly. Domestic and international observers characterized the elections as generally free and peaceful. Other observers, including members of the leading opposition parties and some NGOs, stated they were not entirely fair. Their complaints included the method of allocating proportional parliamentary

seats, the legality of appointing a leader of opposition when no opposition party controlled the stipulated 25 percent minimum of seats, and the need to review the electoral laws regarding the formation of alliances between parties. After three years of mediation by several different parties, on March 9, the government and opposition parties resolved their differences on the electoral laws and ended public arguments about the remaining issues.

Political Parties: There were no undue restrictions on political parties. The Independent Electoral Commission (IEC) had registration material on 23 political parties, but not all parties have representation in parliament, and some are completely dormant.

Participation of Women and Minorities: There are no laws preventing women or minorities from voting or otherwise participating in political life on the same basis as men or nonminority citizens. The Local Government (Amendment) Act, 2010 provides for the allocation of one-third of the seats in the municipal, urban, and community councils to women. The National Assembly Electoral Act, 2011 also states that a political party registered with the IEC must facilitate the full participation of women, youth, and persons with disabilities. Party lists for proportional representational seats must include equal numbers of women and men.

There were 29 women in the 120-seat National Assembly and seven women in the 33-seat Senate. The speaker of the National Assembly, seven of 19 government ministers, two of three assistant ministers, and five of 10 High Court judges were women.

Approximately 98.5 percent of the population is ethnic Basotho. There were no members of minorities in the national assembly, senate, or cabinet.

#### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials occasionally engaged in corrupt practices with impunity.

For example, on February 21, several government officials, including Principal Secretary for Administration in the Prime Minister's Office Kubutu Makhakhe, Administration Deputy Principal Secretary Thato Masiloane, Director of Finance Marapelang Raphuthing, acting Head of Procurement Manthabeleng Shai, and Procurement Officer Lerato Moerane, were suspended for inflating the prices of government purchases and favoring businesses closely associated to their families and friends.

After disciplinary hearings Makhakhe was found guilty on seven of 10 charges and his contract was not renewed; Masiloane was acquitted; Raphuthing was fired; and Shai was suspended for three months without pay. Moerane's case remained pending at year's end.

On May 31, Deputy Commissioner of Police Tumelo Moseme Assistant Commissioner of Police Dlamini Mphatsoane, Assistant Commissioner of Police Thakane Theko, and Inspector Habofanoe Lepheane were charged with corruption, fraud, bribery, theft by false pretence, and obstructing the course of justice. The DCEO charged the officers with conspiring to rig tenders for the supply of new police uniforms and alleged that the police officers received 125,000 maloti (\$15,450) in bribes. The seven suspects were remanded out of custody on free bail, defined as bail without a bond.

The law does not provide for public access to government information. In practice individual ministries made information available but not according to any stated policy or procedure.

Police Commissioner Malejaka Letoane was under investigation over a 24 million maloti (\$3 million) tender awarded in 2008 to supply police uniforms in April and December 2010. The case against her was pending at year's end.

There were no further developments in the reports of corruption and fraud within the Block Farming Program in February 2010. Three ministers personally owed more than 18,500,000 maloti (\$2.3 million) in government-guaranteed loans provided under the program directly overseen by their ministries.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations 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 local NGOs, government officials often were cooperative and somewhat responsive to their views.

Government Human Rights Bodies: The independent Office of the Ombudsman appeared to function without undue governmental or political interference. The office was considered effective but was constrained by a low level of publicity; high level of centralization; and shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries and reinstatement of employees illegally suspended from their jobs.

On April 5, the senate passed an amendment to the constitution providing the legal framework necessary to establish a human rights commission, but one had not yet been established by year's end.

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

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status. However, the constitution recognizes customary law as a parallel legal system, and under it women remain disadvantaged with regard to property rights, inheritance, and succession rights. Persons with disability were disadvantaged regarding access to buildings, employment, and healthcare.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, domestic violence; and sexual harassment. Rape convictions carry a minimum sentence of 10 years' imprisonment, with no option of a fine. When cases are reported, police and judiciary generally enforced the law promptly and effectively; however, sexual assault and rape reportedly were commonplace, and most incidents were not reported. From January to December 2010, a total of 832 cases of sexual offenses against women were reported, and 311 prosecuted.

Domestic violence against women was widespread. The Child and Gender Protection Unit (CGPU) stated that in 2010 there were 103 reported cases of assault against women. This number greatly understated the extent of the problem, as domestic violence was usually not reported. While domestic violence and spousal abuse are criminal offenses defined as assault, few cases were brought to trial. The law does not mandate specific penalties, and judges have a wide degree of discretion in sentencing. An offender can be officially warned and released, given a suspended sentence, fined, or imprisoned, depending on the severity of the assault. Violence against women and children was increasingly considered socially unacceptable, due in part to government advocacy and awareness programs by the CGPU and other ministries. These efforts were bolstered by local and regional organizations and several other NGOs, and broadcast and print media campaigns. Activities included teaching youth and parents how to report such offenses and how to access victim services. Other campaigns and radio programs educating women about their rights took place throughout the year.

Sexual Harassment: Sexual harassment of women in the workplace and elsewhere was a problem, but many cases went unreported. Most reported cases were handled internally within the organizations in which they occurred, and statistics on the extent of the problem were not readily available.

Reproductive Rights: The law gives couples and individuals the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Many international and local NGOs worked in partnership with the government to provide such services. There are no legal, social, or cultural barriers that limit access to these services. There is access to contraception at minimal fee. Male and female condoms were freely available. Women and men are equally diagnosed and treated for sexually transmitted diseases. Regardless of the patient's background, government hospitals and clinics provided equitable access to reproductive health services. These services include skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. The incidence of maternal mortality was 970 deaths per 100,000 live births. This very high rate could be attributed to the high HIV/AIDS prevalence rate and absence of health infrastructure in many rural areas.

Discrimination: Women and men enjoy equal rights in civil and criminal courts. The law prohibits discrimination against women under formal and customary or traditional law. However, inheritance rights are an exception; the Legal Capacity of Married Persons Act does not address the issue, and customary law discriminates against women as it pertains to inheritance. A woman married under civil law may contest inheritance rights in civil court. The law grants women married under customary law economic rights similar to those accorded to women married under common law (except as it pertains to inheritance). Under the formal legal system, women have the right to make a will and sue for divorce. In order to have legal standing in civil court, a customary law marriage must also be registered in the civil system.

Women's rights organizations took a leading role in educating women about their rights under customary and formal law, highlighting the importance of women's participation in the democratic process. The Ministry of Gender and Youth, Sports and Recreation is charged with promoting the rights of women. It supported efforts by women's groups to sensitize society to respect the status and rights of women. Although polygamy is not recognized by the formal legal code, it was practiced under customary law by a small minority.

Women were not discriminated against in access to employment or credit.

## **Children**

Birth Registration: According to the constitution, citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths, all births are registered by hospitals and local clinics. Children born in private homes are registered at the offices of local chiefs, and the information is

then transmitted to the District Administrator's Office for issuance of birth certificates. The Children's Protection and Welfare Act (CPWA) that was passed during the year states that a child has a right to be registered within three months of birth. If the child is registered after one year, a nominal fee of 2.50 maloti (\$0.31) is to be charged.

Education: By law primary education is universal, compulsory, and tuition-free through grade seven. Secondary education is not free, but the government offered scholarships for orphans and vulnerable children (OVC). The Education Act states that children from age six shall be enrolled in a primary school and are to stay in school until they reach an age that had not been determined by year's end. A fine of not less than 1,000 maloti (\$124) or imprisonment could be imposed on a parent whose child failed to attend school regularly. On June 16, the prime minister officially launched the tuition-free and compulsory primary education campaign. The Ministry of Education ran a series of public service announcements and radio programs to raise awareness of the new law.

UNICEF reported that a substantial number of children did not attend school. The problem was particularly prevalent in rural areas, where there were few schools. Attending school regularly was most difficult for OVC, those involved in supporting their families through subsistence activities, or those whose families could not afford fees for the purchase of uniforms, books, and other school materials.

Child Abuse: While the CPWA prohibits child abuse, it was nevertheless a problem, especially for OVC. Incidents of child abuse included child neglect, common assault, sexual assault, and forced elopement, a customary practice of abducting a girl with the intention to marry her without her consent.

With branches in all 10 districts, the CGPU led the government's efforts to combat child abuse; however, its effectiveness was limited by a lack of resources. The CGPU sought to address sexual and physical abuse, neglected and abandoned children, and protection of the property rights of orphans. It also advocated for the changing of cultural norms that encourage forced elopement.

Unlike in the previous year, there were no reports of violence at traditional initiation schools. These schools use traditional rituals to initiate teenage boys into manhood and are attended mainly by rural youth. While the activities of these initiation schools were kept secret, the media reported violence against students, teachers, and members of surrounding communities.

Child Marriage: Child marriage was covered by sometimes contradictory laws. The CPWA defines a child as a person under the age of 18. However, under the

Marriage Act of 1974, which was still in force, a girl could marry at age 16 while a boy could marry at age 18. Moreover, customary law does not set any minimum age for marriage. According to UNICEF data collected between 2000 and 2009, an estimated 23 percent of women between the ages of 20 and 24 were married before the age of 18.

Sexual Exploitation of Children: The country's laws set the minimum age for consensual sex at 18 and state that anyone who commits an offense related to commercial sexual exploitation of children is liable to a fine up to 30,000 maloti (\$3,708) or imprisonment for a period up to two and a half years or both. Child pornography carries a similar sentence, but in cases where a child is trafficked the offender is liable to a fine of two million maloti (\$247,000) or up to life imprisonment.

According to media reports and local NGOs, child prostitution was a problem. Young girls and boys, many of whom were OVCs, moved to urban areas to engage in prostitution. Child prostitution in the country is driven by poverty. A study conducted by a local NGO also noted that prostituted children often acted on their own and were apparently not controlled by organized criminal syndicates or any other third party. UNICEF and the government, however, agreed that while the numbers remained small, the trend toward the commercial sexual exploitation of children was a growing problem.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There were a small number of Jews but no practicing 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](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to healthcare, or the provision of other state services. The government approved a national disability policy in April that sets up a framework for inclusion of persons with disability in the poverty reduction strategy and social development programs.

The Association of the Disabled actively promoted the rights and needs of persons with disabilities.

Laws and regulations stipulate that persons with disabilities should have access to public buildings. Buildings completed after 1995 generally complied with the law. Information for the blind in the form of Braille and JAWS (computer software used by visually impaired persons) was not widely available. Sign language was not provided by service providers in the government or private sector, so signing individuals could not access various state services. There were limited facilities for training persons with hearing and speaking disability.

The government did not effectively implement laws to ensure that persons with disabilities have access to information and communications. Media reports indicated that persons with disabilities experienced societal abuse. There was no record of such abuse in prisons, educational facilities, or mental health facilities.

Election law, which was respected in practice, provides for assisted voting for persons with disabilities. They are allowed to have anyone of their choosing assist them with voting, including the presiding officer at a polling station; there should also be a third person to verify that the voter's choices are respected.

The Ministry of Health and Social Welfare is responsible for protecting the rights of persons with disabilities.

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

The law does not address sexual orientation. However, a law against sodomy existed but was not enforced. While lesbian, gay, bisexual, and transgender (LGBT) persons mainly faced general discrimination in access to health care, the government had not made any formal statement on the issue. Homosexual conduct was taboo in society and not openly discussed. Violence against LGBT persons was known to occur but often went unreported for fear of being ridiculed.

Matrix, an LGBT support group, operated freely in all 10 districts. On May 17, LGBT community members gathered at a local theater to watch a documentary celebrating the life of a gay South African activist. In September representatives from Matrix and the Ministry of Justice and Human Rights participated in a radio program seeking the views of the general public on LGBT issues.

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

The media reported several incidents of “mob violence” in which members of the society took the law into their own hands to punish suspects. For example, in October two men were accused of stock theft in Mapoteng in the Berea District. An angry group of villagers beat them to death and burned their corpses. The case was pending investigation by police at year’s end.

The law prohibits discrimination in the workplace on the basis of HIV/AIDS status. In 2006 the parliament amended the labor code to include an HIV/AIDS workplace policy. Medicine was available to all HIV positive citizens at subsidized prices at all government hospitals.

LDF policy states that if a soldier is found to be HIV positive after induction, the person is not discharged or separated. The soldier is provided counseling and testing, and duties are adapted as appropriate.

According to the deputy secretary general of the Lesotho Network of People Living with HIV/AIDS, discrimination against HIV positive persons was declining.

## **Section 7. Worker Rights**

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

Under the 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 the purpose of 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 labor code requires a series of procedures to be followed by workers and employers before a strike is authorized. Civil servants are not allowed to strike, and therefore all public sector strikes are unauthorized. Under the law the Public Service Joint Advisory Council ensures 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 machinery for dealing with general grievances. Further, the Public Service Tribunal handles appeals instigated by civil servants or their associations. No association represented at

least 50 percent of civil servants; therefore neither the council nor the tribunal was functioning.

The law protects collective bargaining. There are no restrictions on collective bargaining; unions are allowed to bargain for wages above the minimum wage. Government approval is not required for collective agreements to be valid. The law prohibits antiunion discrimination and other employer interference in union functions. The law provides for reinstatement of workers dismissed for union activity; however, it was rarely enforced.

No particular groups of workers are excluded from relevant legal protections.

Workers exercised these rights in practice; however, only a small part of the labor force was unionized. Union officials stated that the government did not interfere with their ability to organize but complained of an overall lack of government support. A majority of employers will bargain only with unions that represent at least 50 percent of their staff. The Labor Commissioner's Office reported that the union movement was fragmented and did not influence labor market decisions.

The apparel industry was the largest private-sector employer and accounted for approximately 50 percent of formal employment. There were 42 apparel factories with an estimated 36,000 workers, constituting approximately 80 percent of all jobs in the manufacturing sector. Most unions were focused on organizing apparel workers. Unions alleged that most factory owners in the apparel industry remained opposed to unionization. Both locally and foreign-owned businesses lacked a full understanding of the labor code's provisions regarding the right to form labor unions. The International Labor Organization's Better Work Lesotho (BWL) program, which aims to improve compliance with national labor laws and international labor standards, worked to increase the understanding of national labor law and the internationally recognized core labor standards.

Both police and civil servants had associations. According to the Lesotho Public Servants Association (LEPSA), approximately 34 percent of the civil service had joined the association. This low rate of participation made it difficult for LEPSA to engage with the government on workers' rights issues, because the government only recognizes staff associations representing at least 50 percent of all civil servants. LEPSA reported that some civil servants of higher grades intimidated those of lower grades into not joining the civil service staff association. The intimidation reportedly included threats of dismissal or transfer for noncompliance.

While the government generally enforced antiunion discrimination provisions, there were problems in the law's implementation. Unions complained that the Labor Court and Labor Inspectorate were inefficient, onerous, and bureaucratic.

Workers claimed they were dismissed for union involvement, but Ministry of Labor and Employment investigations often revealed they were dismissed on other grounds. Unions reported that labor inspectors usually were intimidated by factory owners and unable to enforce union rights. According to the International Trade Union Confederation's (ITUC) 2011 Annual Survey of Violations of Trade Union Rights in Lesotho, many employers stopped union organizers from entering factory premises to organize workers or represent them in disputes. In some cases employers intimidated union organizers and members, threatening the latter with dismissal. However, the ITUC also reported that while serious workers' rights problems persisted in nonunionized factories, there were significant improvements in unionized factories, where efforts were made to develop regular dialogue and negotiation between representatives of workers and management.

Following unsuccessful minimum wage negotiations, the textile and apparel unions organized a stay-away from August 15-17. Other groups, including taxi operators, joined the protest. The stay-away was declared illegal by the minister of home affairs prior to its start. After the first day's protests led to skirmishes between protestors and security forces, police arrested two leaders from some of the participating organizations for intimidation and contravening the Meetings and Processions Act (see Section 2. b.). They were later released because of lack of evidence. An estimated 90 percent of workers stayed home on the second and third day of the stay-away. From August 18, only a small percentage of workers continued to stay away from work.

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

The law prohibits all forms of forced or compulsory labor, although there were reports that such practices occurred. Women and children were subjected to involuntary domestic servitude. Forced and compulsory labor practices usually occurred in isolation. Cases of domestic work mostly involving girls were reported from remote private homes. Cases of crop farming and herding animals mostly involving boys were reported from remote small farms and herding outposts, respectively. These fell outside the scope of the labor code and were nearly impossible to inspect. According to Lesotho Save the Children, children often worked as herd boys, street vendors, car washers, and domestic servants.

Basotho were also coerced into committing crimes, including theft, drug dealing, and drug smuggling under threats of violence, through forced drug use, or with promises of food.

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

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

The CPWA and labor code define the legal minimum age for employment as 15 years, or 18 for hazardous employment. Hazardous work includes mining and quarrying; carrying of 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. Any employer who breaches these provisions is liable to a fine or imprisonment or both. However, these laws were not effectively enforced outside the formal economy.

The Ministry of Labor and Employment, in collaboration with CGPU, is responsible for investigating cases of working children. Child labor inspections were done as part of general labor inspections. Approximately 1,000 labor inspections were completed during the year. No child labor cases were reported and hence no prosecutions, convictions, or penalties imposed. Labor inspections were hindered by scarce resources; the labor commissioner noted the difficulty of tracking child labor because the government had no child-labor-specific strategy or program. However, the Ministry of Labor and Employment, CGPU, and Ministry of Gender and Youth, Sports, and Recreation generally disseminated information on prevention of child labor as part of their other programs but did no child-labor-specific outreach.

Child labor remained widespread. The high unemployment rate, high levels of poverty, and high prevalence of HIV/AIDS pressured children to work in order to support themselves and their families.

The Bureau of Statistics stated that 3 percent of children ages 6-14 years participated in economic activities; this statistic did not include children aiding their families or others without compensation. UNICEF estimated 23 percent of children between 5 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 male children (86.6 percent of child workers) than their female counterparts (13.4 percent).

Herd boys were sometimes attacked by armed stock thieves, caught in fights over ownership of animals, and subject to harsh weather conditions. In traditional rural society, these rigorous and occasionally dangerous working conditions were considered a prerequisite to manhood, essential to the livelihood of families, and beyond the reach of labor laws.

Children also were subject to commercial sexual exploitation. Children who had lost at least one parent to HIV/AIDS were more vulnerable to such exploitation.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <http://www.dol.gov/ilab/programs/ocft/tda.htm>.

#### **d. Acceptable Conditions of Work**

There is a sector-specific national minimum wage and a general minimum wage. The general minimum monthly wage varied from 878 maloti to 958 maloti (\$109 to \$119). Minimum wage provisions did not cover significant portions of the workforce. Workers in agriculture or other informal sectors are not covered by labor laws.

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 are paid for work in excess of the standard 45-hour workweek. The maximum overtime allowed is 11 hours per week; however, there are exemptions under special circumstances. The laws require that the premium pay for overtime be at a rate not less than one-and-one-quarter times the employee's normal wage; any employer who requires excessive compulsory overtime shall be liable to a fine, imprisonment, or both.

The law empowers the Ministry of Labor and Employment to issue regulations on work safety. The law requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize injury. It also requires a registered health and safety officer that promotes safe conduct. Employers must provide first aid kits, safety equipment, and protective clothing. The law does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections of the code on safety in the workplace and dismissal imply that such a dismissal would be illegal. The law also provides for a compensation system for industrial injuries and diseases related to employment. The commissioner of labor is charged with investigating allegations of labor law violations.

The Ministry of Labor and Employment is responsible for enforcing these laws and standards; however, budget resources limited the enforcement of the law. In practice businesses operating in the formal sector, including the apparel industry, were subject to more enforcement than businesses operating in the informal sector. The ministry's inspectorate reported that many locally owned businesses did not keep records of employees' salaries to facilitate labor inspections as required by law. Labor inspectors generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Inspections in mountain districts,

however, were done on a quarterly basis. Labor laws do not cover the agricultural and other informal sectors, where most workers are employed. The Labor Inspectorate stated that employers did not always observe these standards.

According to the labor commissioner, employers in the retail sector were the worst violators. The most common allegations involved ignoring labor regulations for ordinary work hours, overtime, and public holidays. BWL also reported that some employers made incorrect lower than required overtime payment to workers.

Part-time workers of all Shoprite supermarkets complained that most were paid 610 maloti (\$75), below the 1,228 maloti (\$152) per month minimum wage stipulated for full-time workers in the retail sector. After these workers went on strike on October 5, their employer increased the wages by 210 maloti (\$26) to 820 maloti (\$101).

According to health and safety inspectors in the Ministry of Labor and Employment, larger employers generally followed health and safety regulations, but smaller employers failed to appoint or train registered health and safety officers. With the exception of the mining industry, employers' compliance with health and safety regulations generally was low. Inspectors stated that employers in the retail sector were not fully compliant with standards, as they had no registered health or safety officers, complete first aid kits, or protective clothing.

Trade union representatives described textile sector working conditions as poor or even harsh but not dangerous. Unions said that most textile factories were in prefabricated metal buildings with improper ventilation and air conditioning. Unions stated, however, that conditions were not detrimental to workers' health and cited few examples of serious safety violations. 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.

Many workplace policies cover employees with HIV/AIDS. For example, the Apparel Lesotho Alliance to Fight AIDS (ALAFA) described HIV/AIDS as the primary occupational health risk in the apparel sector. ALAFA reported that 85 percent of workers were women and 43 percent of all workers were infected with HIV. Employers provided space for examinations and time off to see doctors, receive counseling, and participate in educational and antistigma programs.

The government supported the implementation of BWL and announced that participation in the program was to be mandatory for the textile industry. BWL supported Ministry of Labor and Employment inspection efforts by sharing crucial

noncompliances and inconsistent labor law application instances to ensure that inspectors raise them with employers. BWL also shared experiences and knowhow on assessment findings with the ministry on a regular basis with a view to work towards industry-wide improvements.

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