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## U.S. Department of State

### Lesotho Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

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#### LESOTHO

Lesotho is a constitutional monarchy. Prime Minister Ntsu Mokhehle of the Basotholand Congress Party (BCP) is the Head of Government. Since winning free and fair elections in 1993, the BCP has controlled the Government and Parliament. Under the 1993 Constitution, the King has no executive authority. In 1994 King Letsie III unconstitutionally suspended Parliament and installed a Ruling Council. Local and international pressure led to a rapid return of constitutional government.

The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Mounted Police (LMP), and the National Security Service (NSS). The Government adopted legislation to bring these services under more direct civilian control. The LDF now answers to the Prime Minister, through the Ministry of Defense. The NSS is directly accountable to the Prime Minister and the LMP reports to the Minister of Home Affairs. There were only isolated incidents of human rights abuses and disturbances.

A landlocked country surrounded by South Africa, Lesotho is almost entirely dependent on its sole neighbor for trade, finance, employment, and access to the outside world. A large proportion of the adult male work force is employed in mines in South Africa; miners' remittances account for slightly over one-third of gross national product (GNP). Real GNP grew an estimated 12 percent during 1996, with inflation predicted at less than 7 percent. Per capita GNP was approximately \$790. State-owned organizations predominate in the agroindustrial and agribusiness sectors, but private sector activity dominates in manufacturing and construction. Under the traditional chieftainship structure, land is controlled by the chiefs and owned by the Kingdom, precluding private ownership of land.

The Government generally respected the human rights of its citizens; however, there continued to be problems in some areas. Discipline in the security services improved somewhat, but a few disturbances still occurred. Women's rights continued to be severely restricted, and domestic violence remained common. In September the police opened fire on striking construction workers, killing at least 4 and possibly as many as 15. In addition, the Government failed to prosecute anyone for extrajudicial killings and other abuses committed in previous years.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political killings.

In September the police opened fire on striking construction workers, killing at least 4 and possibly as many as 15 persons. The authorities did not investigate or prosecute any security officials for the extrajudicial or summary killings committed during the political unrest of 1994. They also failed to investigate 1994 reports of police brutality, as well as pre-1994 reports of deaths in police custody of a number of unionists and criminal suspects.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The Constitution expressly prohibits torture or inhuman or degrading punishment or other treatment, and there were no reports of its use. The Government did not investigate the numerous incidents that occurred in 1994 and previous years.

Prison facilities are overcrowded and in disrepair, but conditions do not threaten the health or lives of inmates. Conditions are not monitored independently.

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

The Constitution prohibits arbitrary arrest and detention, and there were no known incidents of these abuses. However, the Government failed to investigate or prosecute anyone for the arbitrary arrests, detentions, and harassment of civilians which occurred during 1995 and previous years. Members of the NSS arbitrarily detained cabinet members and other senior government officials.

Pretrial detainees constitute a significant portion of total prison population, up to one-half in some locations. Because of backlogs, pretrial remand can last several years.

Persons detained or arrested in criminal cases and defendants in civil cases have the right to legal counsel. The 1981 Criminal Procedures and Evidence Act, as amended in 1984, makes provision for granting bail. Bail is granted regularly and generally fairly.

The Government has appealed the provisions of the Internal Security Act (ISA) of 1984 allowing for investigative detention.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The judiciary consists of the Court of Appeal (which meets semiannually), the High Court, magistrate's courts, and customary or traditional courts, which exist largely in rural areas to administer customary law. The High Court Chief Justice's decision in 1994 to swear in a provisional Ruling Council, in defiance of the Constitution, raised new questions about the independence of the judiciary. In particular, magistrates appear susceptible to governmental or chieftainship influence. Accused persons have and use the right to counsel and public trial. The authorities generally respect court decisions and rulings.

There is no trial by jury. Criminal trials are normally adjudicated by a single High Court judge who presides, with two assessors serving in an advisory capacity. In civil cases, judges normally hear cases alone. The High Court also provides procedural and substantive advice and guidance on matters of legal procedure to military tribunals; however, it does not participate in arriving at judgments. Military tribunals have jurisdiction only over military cases, and their decisions may not be appealed. Both law and custom severely limit the rights of women (see Section 5), but court treatment of women is not discriminatory.

There were no trials for political offenses. There were no reports of political prisoners.

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

Although search warrants are usually required under normal circumstances, the ISA provides police with wide powers to stop and search persons and vehicles and to enter homes and other places for similar purposes without a warrant. The security services are believed to monitor routinely telephone conversations of Basotho and foreigners on national security grounds.

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

a. Freedom of Speech and Press

The Constitution provides for these rights, which are generally respected in practice. The independent newspapers, including one each controlled by the Roman Catholic and Lesotho evangelical churches, and two English-language weeklies, routinely criticize the Government. The official media, which consist of one radio station, a 1-hour daily newscast on a local television channel, and two weekly newspapers, faithfully reflect official positions.

The Government has withdrawn all of its advertising from a local newspaper linked to a dissident faction of the ruling BCP. Four government ministers have filed a civil lawsuit against the newspaper, seeking compensation for alleged defamation. In addition Parliament questioned its editors at some length, implicitly threatening another civil lawsuit.

The Government fully respects academic freedom. Although the Government owns and administers the country's only university-level institution of higher learning, academic staff represent the full political spectrum and are unhindered in expressing their views.

b. Freedom of Peaceful Assembly and Association

Under a mid-1993 revision of the ISA, a public meeting, rally, or march no longer requires prior police

permission, only advance notification. The police and local authorities generally respected these rights in 1996, unlike previous years. The Government did not investigate or prosecute any of the security personnel who killed and wounded several protestors at a peaceful 1994 progovernment demonstration.

In addition to the BCP and the Basotholand National Party (BNP), there are several smaller political parties. Political party meetings and rallies occurred regularly throughout Lesotho. There are no restrictions on political parties.

#### c. Freedom of Religion

The Constitution provides for freedom of religion and the Government respects this right in practice.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens generally are able to move freely within the country and across national boundaries. The Government places no obstacles in the way of citizens who wish to emigrate.

In 1994 the Government allowed about 25 refugees to register with the U.N. High Commissioner for Refugees to study in Lesotho. They were expected to return to their countries of first asylum after completing their studies. Other than these students, Lesotho has no resident refugee population.

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

In the first multiparty democratic elections in more than 20 years, the BCP swept into power in 1993 with complete control of the National Assembly. Despite the landslide electoral victory, the BCP Government was forced to contend with a number of challenges to its power in 1994. Those challenges culminated in August of that year when King Letsie III unconstitutionally suspended the Parliament and installed a Ruling Council. Many Basotho responded by demonstrating their support for the democratically elected BCP Government. Organized labor and others held two national "stayaways" to demonstrate support for the ousted Government, and there were numerous rallies at the National University. As a result of both local and international pressure, the King reversed himself, and the BCP regained control of the Government.

The 1994 Memorandum of Understanding between King Letsie III and Prime Minister Mokhehle, which was brokered by South Africa, Botswana, and Zimbabwe, called for reinstatement of the King's father, Moshoeshe II, who had been deposed by the previous military government and exiled in 1990, as well as steps to broaden the political process. In early 1995, Moshoeshe II was reinstated. However, King Letsie once again became king upon the death of his father in January 1996. The 1994 suspension of the Constitution by Letsie, although short-lived, highlighted the fragility of constitutional rule.

There are no legal impediments to women's participation in government or politics, but women remained underrepresented. There are 2 women in the 65-member Assembly and 7 women in the 33-member Senate. A woman serves as the Minister of Transportation and Communication.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

The Government did not hinder the activities of various nongovernmental human rights groups. These groups freely criticized both the Government and the short-lived Ruling Council. The Government was cooperative during an Amnesty International visit in 1994.

## **Section 5 Discrimination Based on Race, Sex, Religion, Language, Disability, or Social Status**

The Constitution prohibits discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, birth or other status, and the Government generally respected these prohibitions in practice.

### **Women**

Domestic violence, including wife beating, occurs frequently. Statistics are not available, but the problem is believed to be widespread. In Basotho tradition a wife may return to her "maiden home" if physically abused by her husband; in common law, wife beating is a criminal offense and defined as assault. Few domestic violence cases are brought to trial. Women's rights organizations, such as the local chapter of the International Federation of Women Lawyers, have taken a leading role in educating women regarding their rights under customary and common law, highlighting the importance of women fully participating in the democratic process.

Both law and custom severely limit the rights of women in such areas as property, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce. However, under customary law, a married woman is considered a minor during the lifetime of her husband; she cannot enter into any legally binding contract, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in court and may not sue or be sued without her husband's permission. Senior government officials have publicly criticized customary practice which discriminates against women. The Government has committed to implement the plan of action from the Fourth International Conference on Women, held in Beijing in September 1995.

### **Children**

The Government has not addressed directly children's rights and welfare, although it has devoted substantial resources to primary and secondary education. There is no pattern of societal abuse against children, but many children work at a young age (see Section 6.d.).

### **People with Disabilities**

Discrimination against physically disabled persons in employment, education, or provision of other government services is unlawful. However, societal discrimination is common.

The Government has not legislated or mandated accessibility to public buildings for the disabled.

### **National/Racial/Ethnic Minorities**

Most citizens speak a common language and share common historical and cultural traditions. Small numbers of Asians (primarily ethnic Chinese and Indians) and South African whites are active in the country's commercial life. Economic and racial tension between the Chinese business community, specifically textile and garment industry employers, and the Basotho remained a problem.

## **Section 6 Worker Rights**

### **a. The Right of Association**

Workers have the legal right to join or form unions without prior government authorization. A large percentage of the male labor force works in gold and coal mines in South Africa. The remainder are primarily engaged in traditional agriculture. There are small public and industrial sectors. A majority of Basotho mine workers are members of the South African National Union of Mineworkers (NUM). However, as a foreign organization, the NUM is not permitted to engage in union activities in Lesotho.

Under the 1993 Labor Code, prepared with the assistance of the International Labor Organization (ILO), all trade union federations require government registration. There are two trade union federations: The Lesotho Trade Union Congress and the Lesotho Federation of Democratic Unions. Unions are not tied political parties. Overall, unionized workers represent only about 10 percent of the work force.

No legally sanctioned strike has occurred since independence in 1966. Legal protection for strikers against retribution has not always been enforced in cases of illegal strikes. Employers dismissed several hundred textile workers following wildcat strikes in 1994, and the Government maintained it could not oblige their employers to reinstate them. The Government was, however, successful in negotiating the reinstatement of employees following several illegal strikes in 1995 and 1996. Security forces violently suppressed some of the strikes in the textile, garment, and construction industries during 1994 and once during 1996.

There were no instances of governmental restrictions on international affiliations or contacts by unions or their members.

#### b. The Right to Organize and Bargain Collectively

All legally recognized trade unions in principle enjoy the right to organize and bargain collectively, but in practice the authorities often restrict these rights. Although there was some bargaining between unions and employers to set wage and benefit rates, employers generally continued to set wage rates through unilateral action.

Lesotho has several industrial zones, in which mostly textile and apparel firms engage in manufacturing for export. All national labor laws apply in these industrial zones.

#### c. Prohibition of Forced or Compulsory Labor

The 1987 Employment Act prohibits forced or compulsory labor, and there is no indication that such labor is practiced.

#### d. Minimum Age for Employment of Children

The legal minimum age for employment in commercial or industrial enterprises is 14. In practice, however, children under 14 are often employed in the textile and garment sector and in family-owned businesses. As much as 15 percent of the textile work force of some 15,000 may be children between the ages of 12 and 15, according to a 1994 study by a foreign government. After visiting all 14 of Lesotho's nonartisan garment producers in 1994, the ILO, responding to a complaint by trade unions in the textile and clothing industry, was not able to confirm the unions' allegation of illegal child labor.

There are prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions, but enforcement is very lax. The Ministry of Labor and Employment's Inspectorate is severely understaffed. Basotho youth under 18 years of age may not be recruited for employment outside of Lesotho. In traditional society, rigorous

working conditions for the country's young "herdboys" are considered a prerequisite to manhood and a fundamental feature of Basotho culture beyond the reach of labor laws.

e. Acceptable Conditions of Work

Wages are low. The monthly minimum wage for unskilled labor is \$68 (320 maloti); for a heavy vehicle operator it is \$131 (616 maloti). Minimum wages in lower skilled jobs are insufficient to ensure a decent standard of living for a worker and family. Most wage earners supplement their income through subsistence agriculture or remittances from relatives employed in South Africa. Many employers now pay more than minimum wages in an effort to attract and retain motivated employees.

The labor code spells out basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid public holidays. The Code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner designed to minimize the risk of injury. In practice employers generally follow these regulations only within the wage economy in urban areas, and the Ministry of Labor and Employment enforces the regulations haphazardly. The Labor Code does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment. However, labor code sections on safety in the workplace and dismissal imply that dismissal in such circumstances would be illegal.

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