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2009 Human Rights Report: Lesotho

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Lesotho is a constitutional monarchy with a population of 1.88 million. 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 2007 the governing Lesotho Congress for Democracy (LCD) party won reelection; domestic and international observers characterized the election as free and peaceful. Some other observers, including members of the leading opposition parties and some nongovernmental organizations (NGOs), felt it was not entirely fair. Many of the complaints were due to the complicated manner of allocating proportional parliamentary seats. The mediation begun by the Southern African Development Community (SADC) in 2007 continued through the efforts of Ketumile Masire, the former president of Botswana. From October 2008 until July, mediations were at a standstill. On July 9, Masire returned to Lesotho to deliver a report on his findings. The report sparked civil society organizations to begin a new round of talks under the mediation of the Christian Council of Lesotho. On August 19, talks were again postponed after the LCD party and opposition parties disagreed about interpretation of the 2007 case of the Independent Electoral Commission (IEC) vs. the Marematlou Freedom Party (MFP). Although civilian authorities generally maintained effective control of the security forces, there were unconfirmed reports of instances in which elements of the security forces acted independently.

The government generally respected the human rights of its citizens. However, the following human rights abuses were reported: torture and physical abuse; poor prison conditions; and lengthy pretrial detention and long trial delays. Societal abuses included abuse of spouses and children; restrictions on women's rights; discrimination against women and persons with disabilities or HIV/AIDS; and child labor.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings during the year.

However, during the first eight months of the year, the Police Complaints Authority (PCA), which monitors and investigates reports of police abuse, received six complaints of murder and three of deaths of detainees. Those cases were ongoing at year's end.

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 complaints that security forces tortured and abused persons. Newspapers and radio stations reported several cases of alleged torture by police. For example, in August local newspapers and private radio stations reported that several male residents in the rural village of Nokong, Berea District accused police of torture and unlawful detention. They alleged that police conducted a raid on the village searching for illegal guns at selected homes. After failing to find any illegal weapons, police allegedly took the men from their homes to a plateau overlooking the village and beat them. The claims were being investigated by the Police Inspectorate, Complaints and Discipline Division, at year's end, but no formal charges had been filed.

At year's end there was no official report available concerning the 2007 case in which three street vendors accused of selling marijuana filed complaints of assault, unlawful detention, and theft against the Lesotho Mounted Police Service (LMPS).

In 2007 Lesotho Defense Force (LDF) soldiers detained several men in connection with an alleged coup plot and a search for weapons that allegedly had been forcibly taken from military guards at ministerial residences. Some of the men later gave media interviews in which they claimed to have been held in secret and incommunicado detention. They further stated the LDF interrogated them about their connections to the opposition All Basotho Convention (ABC) party.

In late 2009 the magistrate court dismissed treason charges against the three soldiers, Major Mokhantso, Captain Ramotso, and Corporal Majalle. Two remained active duty soldiers in the LDF at year's end. One was demoted to the rank of captain (from major) following a court martial; he subsequently retired.

Of the six other men who were granted political asylum in South Africa in 2007, four returned to Lesotho and two died in exile, including Makotoko Lerotholi, who died in October. On April 22, there was an unsuccessful attempt to kill the prime minister. Lerotholi was the suspected mastermind of the assassination attempt; he died before the government completed an extradition request.

In March Motlomelo Elias Motlomelo, Mokherane Tsatsanyane, Thabo Thants'I, and Khotso Lebakeng returned to the country voluntarily and turned themselves in to police, who questioned and subsequently released them. On May 4, they held a press conference in Maseru, stressing that they would be "staying out of politics." No charges were filed against them.

Prison and Detention Center Conditions

Prison conditions were poor, and facilities were overcrowded and in disrepair. Sanitation and nutrition were poor, and prison facilities lacked bedding. Some improvements were made in 2008, and renovation of the Maseru Central and Thaba Tseka District prisons was ongoing. 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.

The Lesotho Correctional Service (LCS) reported that the total prison population was 2,276, including juveniles. There were 61 juveniles, 50 boys and 11 girls. Under the law, a juvenile is anyone under 18 years of age. A total of 97 percent of prisoners were male. When the prison facilities were built, there was no rule about maximum occupancy. The LCS was

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uncertain what the maximum number of prisoners per facility should be. Males are held separately from females. Juveniles are held in different detention centers, and males are separated from females within the juvenile detention centers.

The law provides that pretrial detainees and convicted prisoners be held in separate facilities; however, due to lack of space, pretrial detainees--who constituted 18 percent of the prison population--were held with convicted prisoners. Security and military prisoners were held in a separate facility.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees are authorized to visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committees reported their findings to the prison director as well as to the general public. Officials from the International Committee of the Red Cross (ICRC) visited in December.

International human rights groups were permitted to monitor prison conditions. During the year a committee composed of government officials and the Lesotho Red Cross visited a number of correctional facilities to evaluate the level of professional training and activities available for inmates. The committee concluded that the inmates received satisfactory professional training and guidance.

Lesotho Red Cross officials visited facilities in December and concluded that inmates received satisfactory professional training and guidance.

No further action was taken against prison officials implicated in the 2007 case involving mistreatment of inmates in the Quthing District.

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 LDF, LMPS, and National Security Service (NSS). The prime minister is the minister of defense and national security, with direct authority over the LDF and NSS. The LMPS falls under the authority of the Ministry of Home Affairs and Public Safety.

The LMPS is nationally managed. The country is divided into three police regions, which are further divided into districts. An assistant commissioner of police heads each region; senior superintendents head the districts. Other assistant commissioners are based at police headquarters. A shortage of human and financial resources limited the LMPS's effectiveness.

Prison staff are part of the Lesotho Correctional Service, headed by a commissioner.

The internal affairs organs that address corruption and other offenses by police are the LMPS Inspectorate, Complaints, and Discipline Unit and the Police Complaints Authority (PCA). The PCA, an independent oversight body, monitors police behavior and addresses grievances against police. These bodies prosecuted some members of the security forces. Commonly imposed forms of disciplinary action include fines, suspension, demotion, or dismissal from service.

Current legislation does not grant the PCA powers of search and seizure or the authority to summon police officers. Also, local NGOs have complained that the PCA's inability to initiate cases based on public complaints limits its effectiveness. Cases are initiated only at the request of the minister of home affairs and public safety.

Corruption was a problem, as confirmed by LMPS authorities. In addition to "theft of exhibits" (theft or disappearance of evidence related to a trial proceeding), private transport operators claimed that police solicited bribes from drivers of taxis and buses who violated traffic laws. However, no formal charges of police corruption were made during the year. According to the LMPS Inspectorate, Complaints and Discipline Unit, from January to August there were six complaints of abuse, one of unlawful arrest, one of unlawful search, one of "theft of exhibit," and three of failure to attend to public reports. Lack of accountability was sometimes a problem. The process of enforcing police accountability was slow, but internal affairs organs prosecuted some members of the security forces. More serious offenses, such as murder, were sent to the High Court via the Office of the Director of Public Prosecutions.

PCA data indicated that, between January and August, the PCA received a total of 14 cases. These included six alleged murder cases; three cases of alleged death in custody; two cases alleging assault; one unlawful auction of a complainant's vehicle; unlawful release of a vehicle at an accident scene; and one case of harassment. Seven of the complaints were submitted to the police; the other seven were under investigation.

The case against former police superintendent Ramoeletsi, accused of extorting 980 maloti (\$123) from a local woman in 2007 and suspended that year from the LMPS, was proceeding at year's end.

On June 18, the High Court issued a not guilty verdict in the 2007 case of a deputy police commissioner accused of filing fraudulent per diem claims. The government appealed, and its appeal was pending at year's end.

Arrest Procedures and Treatment While in Detention

The law requires police to obtain a warrant prior to making an arrest. Suspects were apprehended openly and 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 in practice. 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; lawyers are provided for indigents. 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 ability to be effective. NGOs maintained a few legal aid clinics.

Pretrial detention could last months or even years. The backlog was due to lack of resources, judicial staffing shortages, delay tactics by defense counsel, and unavailability of legal counsel. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. The Speedy Trial Act of 2002 provides that a suspect cannot be held in custody for more than 90 days before a trial except in exceptional circumstances.

Amnesty

The government occasionally granted amnesties on the king's birthday, Independence Day, or Christmas Day. On July 17, the King's Birthday, 41 inmates were released early. On September 17, the Pardons Committee decided how many inmates would be freed during Independence Day celebrations on October 4; the LCS stated that 245 were released in October.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. There was a large case backlog, which resulted in delayed trials.

Trial Procedures

Defendants are presumed innocent. There is no trial by jury. Trials are public, but in civil cases judges normally hear cases alone. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner; however, there have been some instances in which authorities did not advise accused persons of their right to legal representation. Free legal counsel was available, either from the state or a legal NGO. Defendants may confront and question witnesses against them and present witnesses on their own behalf. A defendant is allowed to present evidence on his own behalf at the magistrate court, but at the High Court legal representation is required. Defendants have the right to access unclassified government evidence during a trial. 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 have access. Defendants have the right to appeal. A defendant may either be held or released on bail until sentenced.

In the formal court system, women and men are accorded equal rights. The 2006 Legal Capacity of Married Persons Act improved the status of married women, whether married under formal or customary law, by ensuring that they are no longer legally considered minors. However, in practice women were sometimes still not accorded their full rights under the law.

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 resulting from such acts. Some administrative remedies are available from the Labor Court, as stipulated by the Public Services Act. Judicial remedies for such wrongs are addressed in the constitution. However, in some cases, the government failed to produce evidence in court and sequester witnesses. This could damage the claims of the plaintiffs, leading to dismissal of cases.

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

The constitution states that "every person shall be entitled to respect for his private and family life and his home." Although search warrants were required under normal circumstances, the law provides police with the power to stop and search persons and vehicles and enter homes and other places without a warrant if the situation is considered life threatening, if there are security concerns, or in the case of an emergency. The general public reportedly did not know that police are required to have a search warrant. A government source stated that police were known to flaunt their power, even when in possession of a warrant, and neglected to show warrants to homeowners. The Criminal Procedure and Evidence Act of 1981 states that any police officer of the rank of inspector and above can conduct a search without a warrant.

The *Lesotho Times* reported that, in May and September, police raided the homes of three ABC supporters to search for illegal arms but found none. The men, including one member of Parliament, claimed they were being harassed because of their affiliation with the ABC. Police claimed that they had received a tip that the ABC supporters had weapons.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, effective judiciary, and a functioning democratic political system combined to

ensure freedom of speech and of the press. However, some journalists practiced self-censorship because the government employed libel suits in previous years. Media outlets risked being sued by the government for slander or libel. Further, state-owned media outlets reflected positions of the ruling party.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was not widely available and almost nonexistent in rural areas, due to a lack of communication infrastructure and the high cost of access. The Lesotho Communications Authority (LCA) estimated that 5.1 percent of inhabitants used the Internet during the year.

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 freedom of assembly and association, and the government generally respected these rights in practice.

On October 22, students rioted at the National University of Lesotho over nonpayment of housing allowances for off-campus students. Police were called in: they opened fire on a group of students. One student, reportedly not involved in the riot, was killed. Statements released by the police immediately afterward claimed that she had been trampled to death, but an autopsy report showed that she was killed by gunfire. Investigations into the killing began, but there were no charges filed.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

There were no reports of societal violence, harassment, or discrimination against members of religious groups.

There were a small number of Jews, but no practicing Jewish community. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

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

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

According to the Ministry of Home Affairs, the government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the government did not use it in practice.

Protection of Refugees

The laws provide for the government's granting of refugee status or asylum in accordance with the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, and the government has established a system to provide protection to refugees. The country is a party to the 1969 AU Convention Governing the Specific Aspects of the Refugee Problem in Africa. In practice, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

Elections and Political Participation

In 2007 the LCD party won reelection, claiming 61 of 80 constituency-based seats in the National Assembly; domestic and international observers characterized the election as free and peaceful, but major opposition parties and some NGOs claimed it was not entirely fair due to the complicated manner of allocating parliamentary seats. Through a preelection alliance with the National Independent Party, the LCD controlled a further 21 of 40 proportional representation seats, bringing its majority to 82 out of 120 seats. The largest opposition party, the ABC, won 17 constituency-based seats and 10 proportional seats through its own preelection alliance with the Lesotho Workers Party.

Although both major political parties created alliances in an attempt to gain more seats in the 2007 election, the most contested issue was that the ruling LCD party gained an additional 21 seats. Despite the fact that some legal experts, including those associated with the SADC mediation process, stated that the memoranda of understanding clearly circumvented the intent of the constitution, the Independent Electoral Commission (IEC) accepted the informal alliances.

In July Ketumile Masire returned to Lesotho to deliver his report on the outcome of the SADC mediation--at a standstill since late 2008. Masire stated that the "approach to the matter now taken by the Government of Lesotho" was the reason he could no longer continue to mediate the disagreement. He further stated that the alliances entered into by the LCD and ABC were wrongly allowed, undermining the mixed-member proportional electoral model and making it ineffectual. He added that the LCD's main position--that the High Court has already decided the question of alliances--was not actually true, that the High Court had "decided not to decide," and that the court's judgment was unhelpful.

Masire's report reignited the desire of the opposition parties to revisit the 2007 allocation of parliamentary seats. On August 5, local civil society organizations led by the Christian Council of Lesotho (CCL) and the Lesotho Council of NGOs (LCN) intervened and brought the opposing sides together for further dialogue.

The talks broke down on August 19, because the two sides still held different views about the High Court's judgment pertaining to the case filed by the MFP in 2007, a point of contention central to the dispute. Other outstanding challenges included the disputed allocation of proportional representation seats and the status of the official leader of the opposition in the National Assembly.

The SADC Summit of Heads of State and Government held in Kinshasa, Democratic Republic of the Congo, in September urged all Basotho stakeholders to continue to be engaged and mandated the SADC Troika of the Organ on Politics, Defense, and Security Cooperation, composed of Swaziland (outgoing chair), Mozambique (current chair), and Zambia (incoming chair), to monitor the ongoing discussions.

There were 31 women in the 120-seat National Assembly and six women in the 33-seat Senate. The speaker of the National Assembly, six of 19 government ministers, three of five assistant ministers, five of 10 judges on the High Court, and the commissioner of police were women.

Approximately 98.5 percent of the population is ethnic Basotho. There were no members of minorities in the National Assembly, the Senate, or the cabinet.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. There were isolated reports of government corruption during the year, but no new high-profile cases of corruption.

The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The DCEO reported that public officials were not subject to financial disclosure laws. The DCEO's official statistical report stated that during the year it received a total of 115 reports on subjects including bribery, fraud, abuse of power, embezzlement of public funds, and tender manipulation. Of these reports, nine were closed, 11 were under preliminary investigation, 22 were referred to the police, 29 were referred elsewhere (to the Directorate of Dispute Prevention and Resolution or the Labor Court), 32 reports were pending preliminary investigation, and 13 were referred to the DCEO investigatory division.

In January 2008 the auditor general released an audit of the country's 2003-04 public accounts. The report stated that the public accounts suffered from serious errors and omissions which led to misrepresentation of the government's financial position. Errors included expenditure misappropriation, lack of ledger accounts reconciliations, lack of ministerial expenditure and revenue reports reconciliations, unauthorized excess expenditures, and nondisclosure of some capital projects. The auditor general stated that the government needed to confront a weak financial system and address extended delays in releasing public financial information.

In April the government introduced the Integrated Financial Management Information System (IFMIS) to help manage government funds more effectively and ensure accountability. The system encountered multiple problems; critics said it was introduced too early, before officials had received the requisite training to operate it. However, in the fall, a visiting International Monetary Fund team stated that the problems were minor, the IFMIS rollout was normal, and the system was functioning correctly.

Although there are no laws providing for access to government information, and access was limited, Web sites of government ministries, parastatal companies, and private organizations provided some information on governmental activities. The *Government Gazette* and other publications could be requested from the Government Printers' Office. There were also media releases from government ministry information officers. Researchers at institutions such as the Institute of Southern African Studies, NGOs, and the media complained about the lack of access to government information.

On August 19, Lesotho's first female police commissioner, Malejaka Letoane, was sentenced to six months in jail for contempt of court. According to the magistrate's judgment, Letoane had authorized the release of a vehicle from police custody contrary to the order of the magistrate court. Local media reported that the commissioner failed to appear in court when summoned to explain why she released the vehicle. The chief justice granted the commissioner the right to appeal to the High Court. In October the chief justice overturned the sentence and reportedly dismissed the case altogether. However, the case concerning the vehicle release was proceeding in the magistrate court at year's end.

In January the High Court sentenced the principal secretary for the Ministry of Justice and Human Rights, Pontso Lebotsa, to five years in prison or a fine of 10,000 maloti (\$1,250) for contravening government procurement regulations in 2007. The defendant appealed, the Court of Appeal confirmed the High Court judgment, and Lebotsa paid the fine.

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. Government officials were generally cooperative and responsive to their views.

The major human rights NGOs were the Transformation Resource Center, LCN, the Development for Peace Education, and the Catholic Church Justice and Peace Commission. According to LCN, there was regular collaboration between the government and NGOs at the ministerial level. NGOs participated regularly and made policy recommendations to the government. These NGOs operated independently, without government restrictions. The government cooperated with international governmental and humanitarian organizations, such as the ICRC. The government did not block release of any reports, and there were no reports that any international body criticized the government during the year.

The independent Office of the Ombudsman exists to protect citizens against infringement of their rights by public and private sector organizations. The office appeared to function without undue governmental or political interference. However, the ombudsman was constrained by a shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries, reinstatement of employees illegally suspended from their jobs, compensation for persons relocated to new areas in connection with Lesotho Highland Water Project activities, and compensation for and repairs of houses in communities close to large-scale development projects.

Section 6 Discrimination, Societal Abuses, and Trafficking in

Persons

The constitution and the formal legal code 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, contracts, and succession rights.

Women

The law prohibits rape, including spousal rape, and mandates a minimum sentence of five years' imprisonment, with no option for a fine. Rape was reportedly commonplace; an estimate based on police national crime statistics indicated that in 2008 there were 1,300 reported cases of rape. Courts heard a number of rape and attempted rape cases, several of which resulted in convictions.

Domestic violence against women was widespread. An estimate based on police national crime statistics indicated there were 7,700 reported cases of domestic violence in 2008. Domestic violence and spousal abuse are criminal offenses defined as assault; however, few domestic violence cases were brought to trial. The law does not mandate specific penalties, but an offender can be cautioned and released, given a suspended sentence, fined, or imprisoned. Punishment depends on the severity of the assault, and judges have a wide degree of discretion in sentencing. Violence against women and children was increasingly considered socially unacceptable due to the government advocacy and awareness programs by the Child and Gender Protection Unit (CGPU) of the police, the Department of Social Welfare, and the Ministry of Gender and Youth, Sports, and Recreation. This work was bolstered by local and regional organizations, such as the Women and Law in Southern Africa Trust, the Federation of Women Lawyers, the Lesotho Child Counseling Unit,

other NGOs, and broadcast and print media campaigns. Activities include teaching young persons and parents how to report such offenses and how to access victim services.

The legal code does not address prostitution. It was known to occur in urban areas, but its pervasiveness was unclear.

The law does not specifically prohibit sexual harassment, and sexual harassment was known to occur in places of work and to be commonplace elsewhere. The Law Office stated that complaints involving sexual harassment were not often reported through official channels and tended to be handled internally, if reported at all.

The Legal Capacity of Married Persons Act 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. Government hospitals and clinics provided equitable access for all, regardless of status, to reproductive health services. This included diagnosis and treatment of sexually transmitted infections, including HIV. In addition, the independent Lesotho Planned Parenthood Association worked in partnership with the government to provide such services.

Women and men are accorded equal rights in civil and criminal courts. The 2006 Legal Capacity of Married Persons Act effectively eliminated de jure discrimination against women under formal law except in the area of inheritance, which it does not cover. The act further extends to traditional law and custom and grants women married under custom equal rights, similar to those married under common law. The previous statutory and customary laws limited the rights of women in areas such as property rights, inheritance, and contracts. Under the dual legal system, women have the legal and customary right to make a will and sue for divorce; however, under traditional (customary) law, a married woman was considered a minor during the lifetime of her husband and could not enter into legally binding contracts without her husband's consent. Since passage of the new law, the rights of women have substantially improved. Married women can obtain loans without the consent of their husbands and enjoy full economic rights under the law. However, the law does not provide for women's inheritance and custody rights. A woman married under customary law has no standing in civil court unless she has her marriage legalized in the civil system. Government officials publicly criticized customary practice regarding marriage.

Women's rights organizations took a leading role in educating women about their rights under traditional and formal law, highlighting the importance of women's participation in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation is charged with promoting the legal 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 the traditional legal system by a small minority.

Women were not discriminated against in access to employment, credit, or pay for substantially similar work. Some of the highest paid positions are held by women, including speaker of parliament, cabinet ministers, judges, ambassadors, the commissioner of police, government principal secretaries, the auditor general, certain directors of government ministries, and the chief executive officers of some public enterprises.

Children

According to the Ministry of Home Affairs, citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths in the district administrator's office, 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 law provides for the protection of children; however, limited resources hampered the government's ability to enforce the law fully. In addition, the rapid rise in the number of AIDS orphans contributed to child prostitution, child homelessness, child-headed households, and children at risk of exploitation for labor or other purposes. The problem of parents getting sick or dying from AIDS was the most troubling issue facing children in the country.

By law education is universal, although not compulsory, and as of 2006 was tuition-free for grades one through seven. Secondary education is not free, but the government has scholarships for orphaned and vulnerable children. The education bill, making free primary education compulsory for children in grades one through seven, was passed by both houses of Parliament on November 18.

The UN Children's Fund (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 those involved in supporting their families through subsistence activities or those whose families could not afford fees for the purchase of uniforms, books, and school materials. According to UNICEF statistics for 2009, 80 percent of boys and 88 percent of girls attended primary school. More boys failed to attend school than girls due to the tradition of livestock herding by young boys.

Child abuse was a problem, especially for children orphaned by HIV/AIDS. The CGPU indicated that, from January to August, 190 cases of abuse were reported. These cases included 12 child neglect cases, 15 common assault cases, 20 abduction (forced elopement) cases, and 143 cases of sexual assault. The true number of child abuse cases was thought to be much greater. The CGPU was active in fighting abductions for forced marriage.

During the year the news media frequently published reports of violence at traditional initiation schools, attended mainly by rural youth. While the activities of these initiation schools were kept secret, violence against students, teachers, and members of surrounding communities was reported in newspapers, on the Internet, and on the radio.

According to media reports, child prostitution was a problem. Young girls and boys, many of whom were orphans, moved to urban areas to engage in prostitution. A 2001 UNICEF assessment concluded that child prostitution in the country was driven by poverty and undertaken only as a last resort. The study also noted that prostituted children most often acted on their own and were apparently not controlled by organized criminal syndicates or any other third party. However, UNICEF and the government agreed that while the numbers remained small, the trend toward the commercial sexual exploitation of children in prostitution was a growing problem. There were not enough resources within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

There is no legislation specifically addressing child prostitution or child pornography, but the Child Protection Act of 1980 and the Sexual Offenses Act of 2003 can be used to prosecute offenders. The Sexual Offenses Act sets the minimum age for consensual sex at 18.

Familial stress, poverty, the virulent spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment. Consequently, according to UNICEF, an estimated 180,000 orphans and vulnerable children were living on the streets. Street children were hampered by lack of access to government services, such as medical care and schooling, and were not informed about their right to receive such services.

The CGPU had branches in all 10 districts, but lack of resources restricted its ability to be effective. The CGPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of the property rights of orphans.

Trafficking in Persons

The law does not prohibit all forms of trafficking in persons; however, the constitution prohibits slavery and forced labor, and provisions in several other laws could be used to prosecute trafficking-related offenses. Persons were trafficked to, from, through, and within the country.

According to a foreign government's current trafficking in persons report, the country was a source for women and children trafficked for the purposes of sexual exploitation and forced labor. Victims were trafficked internally and to South Africa for domestic work, farm labor, and commercial sexual exploitation. Women and girls were also brought to South Africa for forced marriages in remote villages. Nigerian traffickers acquired Basotho victims for involuntary servitude in households of Nigerian families living in London. Chinese organized crime units acquired victims while transiting Lesotho and trafficked them to Johannesburg, where they "distributed" them locally or trafficked them overseas. Identified traffickers in Lesotho tended to be white, Afrikaans-speaking men and long-distance truck drivers. Women and children attempting to support families impacted by HIV/AIDs and Basotho looking for better employment prospects in South Africa were most likely to be lured by a trafficker's fraudulent offer of a legitimate job.

Trafficking offenders could be prosecuted under relevant provisions of the Child Protection Act of 1980, the Aliens Control Act, and the Sexual Offenses Act of 2003. They could also be prosecuted for kidnapping, which is an offense under common law and the Labor Code Order of 1981, as amended. The government supported women's rights, and the constitution provides for freedom from slavery and forced labor.

The Ministry of Home Affairs and Public Safety and the CGPU are responsible for monitoring trafficking in persons. Despite the lack of legislation, the Ministry of Health and Social Welfare, some NGOs, immigration officers, and police offered assistance during the year to suspected victims of trafficking.

The Ministry of Health and Social Welfare offered assistance to victims of abuse, orphaned and vulnerable children, and suspected or identified trafficking victims. Domestic and international NGOs provided some orphanages with supplies and funds to build new shelters or expand existing shelters, which could also be used to protect and assist child victims of trafficking.

On July 2, the government established an committee, led by the Ministry of Home Affairs and Public Safety, to prepare draft antitrafficking legislation. The committee included representatives from the Ministry of Foreign Affairs; the Ministry of Gender and Youth, Sports, and Recreation; the police Child and Gender Protection Unit; and local NGOs such as Women and Law in Southern Africa, among others.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, access to health care, or provision of other state services. The government enforced these laws within its limited ability. Although societal discrimination was common, the tradition of hiding children with disabilities from the public was no longer commonly accepted. 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, and such buildings completed after 1995 generally complied with the law.

Election law provides for assisted voting for persons with disabilities, which is respected in practice. They are allowed to have anyone of their choice 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. In partnership with the NGO Skillshare International, the government provided leadership training workshops for persons with disabilities and community-based rehabilitation (training community members to provide services to persons with disabilities). The community-based training also trains teachers to work with students with disabilities. The Skillshare-government partnership also supported 20 income-generating projects with a minimum starting capital of 10,000 maloti (\$1,250). There was also advocacy and awareness training about the rights of persons with disabilities. These events usually centered on international events, such as Sign Language Day, White Cane Day, and Braille Day. The partnership also provided aids such as prescription eyeglasses, wheelchairs, and canes.

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

The law does not address sexual orientation, and general discrimination against gay persons was not present in the workplace, housing, statelessness, or access to health care or education. Homosexual conduct is taboo in society, and is not openly discussed. There were no reports of violence against gay persons during the year.

Other Societal Violence or Discrimination

There continued to be media reports that children orphaned by AIDS, persons with AIDS, and their immediate families were stigmatized.

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. Each government ministry or department provided subsidized medicine and food to its employees with HIV/AIDS, and such assistance was available to all 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 retired or separated. The soldier is provided counseling and testing, and duties are adapted as appropriate.

Section 7 Worker Rights

a. The Right of Association

Under the law workers have the right to join and form trade unions without prior authorization or excessive bureaucratic requirements. Workers exercised this right in practice. All trade unions must register with the registrar of trade unions. The law prohibits civil servants and police from joining or forming unions but allows them to form staff associations; both police and civil servants have established such associations. The law allows unions to conduct their activities without interference, and the government generally protected this right. 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. However, civil servants are not allowed to strike and therefore all public sector industrial actions are unauthorized. Both locally and foreign-owned businesses still lacked a full understanding of the labor code's provisions regarding the right to form labor unions.

b. The Right to Organize and Bargain Collectively

The law protects collective bargaining and it is freely practiced.

There are no restrictions on collective bargaining; unions are allowed to bargain for wages above the minimum wage set by the Wage Advisory Board. However, 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 unions were too weak to bargain effectively. Government approval was not required for collective agreements to be valid.

The law prohibits antiunion discrimination and other employer interference in union functions, and the government generally enforced this prohibition. Textile and apparel unions claimed that members are sometimes treated unfairly to compel them to leave. The Ministry of Labor and Employment claimed workers often believed they were dismissed for union involvement, but investigation revealed that often they were dismissed on grounds other than for union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor; however, there were reports that men and women were forced to work in domestic work, farm labor, and commercial sexual exploitation, according to the trafficking in persons report mentioned in the trafficking subsection. Sources within the Ministry of Labor and Employment's inspectorate reported that such practices occurred in private dwelling houses and on small farms or cattle posts which are outside the scope of the labor code, making them impossible to inspect.

Children often worked in herding, street vending, car washing, and domestic servitude, and sometimes as sex workers.

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the workplace; however, these laws only apply to labor in the formal economy. The labor code contains prohibitions against the employment of children and young persons in commercial, industrial, or other nonfamily enterprises involving hazardous or dangerous working conditions. The government and its agents generally enforced these statutes. However, officials in the Ministry of Labor and Employment's inspectorate stated that child labor is a problem in the agricultural and other informal sectors, which child labor laws do not cover. The inspectorate has no mandate to inspect informal establishments, which are outside the scope of the labor code.

The labor code defines a "child" as a person under the age of 15, and according to the Bureau of Statistics (BOS) the legal minimum age for employment in commercial or industrial enterprises is 15 years, or 18 years for hazardous employment. Although the labor code prohibits child labor in the formal sector, the high unemployment rate, which the BOS estimated at 22.7 percent, increasing levels of poverty, and the high prevalence of HIV/AIDS (23 percent) all contribute towards children working at an early age in order to support themselves and their families. The majority of trade unions estimated unemployment to be between 40 and 50 percent. They attributed that to the loss of jobs in the textile and garments sector, which is the largest formal employer after the government.

The 2008 Integrated Labor Force Survey preliminary report published by the BOS stated that 3 percent of children aged 6-14 years were participating in economic activities, i.e., being paid in cash or in kind for their labor; this statistic did not include children aiding their families or others without such compensation. Two of every three of these children were engaged in subsistence farming, while the rest were engaged in other economic activities, mainly in private households. Child labor was higher among male children (86.6 percent of child workers) than their female counterparts (13.4 percent). This was true regardless of the type of economic activity considered. In traditional rural society, rigorous and occasionally dangerous working conditions for young herd boys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws.

According to the 2000 and 2004 reports produced by the Ministry of Labor and Employment in collaboration with UNICEF and other partners, the worst forms of child labor occur in herding, street work, domestic work, and sex work. Most jobs performed by children were often gender-specific: boys were livestock herders, carried packages for shoppers, washed

cars, and collected fares for minibus taxis; girls were domestic servants; teenage girls (and a few boys) were involved in prostitution; and both boys and girls worked as street vendors.

Unlike in the past, there were no reports that young children, mostly orphaned or deserted, were forced to work very long hours at cattle posts and were poorly fed.

The labor survey indicates that children working in the streets typically start at the age of 12. The most common work they do is selling fruits and vegetables. Children work more than eight hours a day, which is the maximum stipulated in the law for an adult. They also work without breaks six or seven days a week. Domestic workers also start as young as 12 years.

The Ministry of Labor and Employment and the CGPU are responsible for investigating child labor. However, the Labor Commissioner's Office indicated that it is difficult to track cases of child labor because the country does not have any program or strategy specific to child labor.

The Labor Commissioner's Office indicated that the Ministry of Labor and Employment, the CGPU, and the Ministry of Gender and Youth, Sports, and Recreation generally disseminated information on prevention of child labor as part of their other programs.

e. Acceptable Conditions of Work

There is a sector-specific national minimum wage and a general minimum wage.

The general minimum monthly wage varies from 812 to 844 maloti (\$101 to \$105). Examples of minimum monthly wages for other job categories include textile worker, 741 maloti (\$93); construction worker, 990 maloti (\$124); security guard, 982 maloti (\$123); food service worker, 946 maloti (\$118); and domestic worker, 304 maloti (\$38).

Minimum wages are updated every October 1, through the amended labor code minimum wage schedule. The national minimum wage did not provide a decent standard of living for a worker and family. In September textile workers asked the parliamentary portfolio committee (the committee responsible for labor issues) to request that parliament urgently intervene and help improve their "miserable working conditions and meager wages," stating that the minimum wage should be increased to 1,500 maloti (\$188) per month.

The Wage Advisory Board determines the minimum wage for different occupation groups annually. The board includes representatives from the government, trade unions, and the Employers Association. The minimum wage is negotiated, taking into consideration the economic situation, exchange rate, trade matters, and inflation for the year.

Many locally owned businesses did not keep records of employees' salaries to facilitate labor inspections as required by law. Many wage earners supplemented their income through subsistence agriculture or remittances from relatives in South Africa, although these remittances had declined.

The law stipulates standards for hours of work, including a maximum 45-hour work week, 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 was legal as long as overtime wages were paid for work in excess of the standard 45-hour workweek. The maximum overtime allowed was 11 hours per week; however, there were exemptions under special circumstances. Labor laws do not, however, cover the agricultural and other informal sectors, where most workers are employed. The Ministry of Labor and Employment's inspectorate stated that employers did not always enforce these standards. According to the labor commissioner, employers in the retail sector were the worst violators. The most common allegations involved ignoring labor regulations mandating ordinary hours of work, overtime, and public holidays.

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; larger employers generally followed these regulations. However, health and safety violations were common in smaller establishments and some factories. For instance, textile workers from five factories petitioned the parliament in September for urgent intervention to improve their "miserable working conditions" in the factories. Among their concerns was an allegation that factories did not provide face masks, which exposed them to a health risk.

The labor code requires employers to appoint a registered health and safety officer to supervise and promote safe conduct at work. They are also required to have first aid kits and safety equipment and to provide protective clothing. According to health and safety inspectors in the Ministry of Labor and Employment, most employers failed to appoint or train registered health and safety officers. Also, the law does not specify the contents of first aid kits. With the exception of the mining establishments, employers' compliance on health and safety was generally low. In addition, health and safety inspectors stated that employers in the retail sector were not in full compliance with health and safety standards, as they had no registered health or safety officers, complete first aid kits, or protective clothing.

The labor code empowers the Ministry of Labor and Employment to issue regulations on work safety, and the ministry did so. The labor code 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. 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.

The government and private sector implemented voluntary HIV/AIDS counseling and testing programs in line with Labor Code Act Number 5, which strengthened existing programs. The Labor Code Amendment Act of 2006 provides for the further development of HIV/AIDS policies in the workplace. The Ministry of Labor and Employment's HIV/AIDS Support Group was responsible for the rollout of the Labor Code Amendment Act countrywide and the translation of the act into Sesotho. The support group also provided testing and counseling services to employees in the private sector living with HIV/AIDS through funding support from the National Aids Commission. The target sector was transportation.

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