



Lesotho

Country Reports on Human Rights Practices - [2006](#)

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Lesotho is a constitutional monarchy with a population of approximately two million. Under the constitution, the king is head of state, fills a ceremonial role, has no executive authority, and does not actively take part in political initiatives. In 2002 Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, won reelection, and the LCD won 79 of 80 constituency-based seats. Domestic and international observers concluded that the elections were generally free and fair. In October 18 members of parliament (MPs), including one cabinet minister, resigned from the LCD and formed a new opposition party, leaving the LCD with only 61 seats in the 120-member body. In November the government dissolved parliament, and the Independent Electoral Commission set February 17, 2007, as the date for national elections. While civilian authorities generally maintained effective control of the security forces, some members of those forces committed human rights abuses.

The government generally respected the human rights of its citizens; however, major human rights problems included: unlawful deprivation of life; security force abuse and use of torture; excessive force employed against detainees; official impunity; poor prison conditions; lengthy pretrial detention and long delays in trials; widespread domestic violence; severe restrictions on women's rights; societal discrimination against women and persons with disabilities or HIV/AIDS; and child labor in the agricultural and other informal sectors.

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; however, in August Maseru City Council (MCC) security guards Thabo Lets'ela and Tebello Mahlomola shot three pedestrians, killing two, on Kingsway Road in downtown Maseru. One victim died on the spot, and a second died later in a hospital. The third victim, a high school girl, received only minor injuries. The event was ignited by a confrontation between street vendors and MCC security personnel. According to private radio station MoAfrika, MCC security personnel had begun removing street vendors in an effort to clean the streets ahead of a Southern African Development Community summit. The security guards were charged with murder and attempted murder; at year's end they were in pretrial detention.

In June unknown persons killed Bereng Sekhonyana, an MP from the opposition Basotho National Party (BNP). By year's end there were no arrests in the case.

There were two deaths in custody reported during the year (see section 1.c.).

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law expressly prohibit such practices; however, there were allegations that security forces tortured persons and credible reports that the police at times used excessive force. According to the Human Rights Unit in the Ministry of Justice and Human Rights, in 2005 citizens filed 17 complaints of human rights abuses by the police. These complaints were referred to police authorities, and 15 of the 2005 cases were resolved, while the other two were withdrawn and referred to the Police Complaints and Discipline Division.

Following an alleged assassination attempt on the foreign minister in January, two of his bodyguards, Private Taole Mokhesuoe and Private Phetsetso Motsehli, filed a torture complaint against the police investigating the incident. The Office of the Director for Civil Litigation in the Ministry of Law and Constitutional Affairs stated that the case against the police was before the High Court, where charges were pending at year's end. The two bodyguards were court-martialed and given a severe reprimand for dereliction of duty.

Following the June assassination of Bereng Sekhonyana, an MP from the opposition BNP, the weekly newspaper *Mopheme* reported that

three female BNP members, Mapelesa Moseitse, Karabelo Ratlali, and Mafauli Fauli, claimed that they were physically tortured and verbally abused by male policemen investigating the case. The BNP later repeated the charge at a press conference held by the party's leadership. Lawyers for the BNP filed charges against the police, and the case was pending in court at year's end.

No action was taken against police officers who allegedly abused suspects in connection with the July 2005 killing of a police officer in the Sehlabathebe district. The Ministry of Home Affairs and Public Safety referred the case to the Police Complaints Authority (PCA), and discussions reportedly continued between the police and the PCA at year's end.

Prison and Detention Center Conditions

Prison conditions were poor, and facilities were overcrowded and in disrepair. Women, men, and juveniles were housed separately. After inspecting 51 prisons, the Office of the Ombudsman, an independent statutory body, released a report in August 2005 that criticized conditions including overcrowding, lack of bedding, poor sanitation, and poor nutrition. The report also included recommendations for extensive physical improvements to facilities, more frequent inspections, and separate areas within prisons for ill inmates. Authorities improved nutrition during the year, but no action was taken to address the other problems.

In 2004 the Office of the Ombudsman recommended disciplinary action against the warden of Mohale's Hoek Prison after two prisoners killed themselves following abuse by prison guards; however, no action had been taken by year's end.

The law provides that pretrial detainees and convicted prisoners be held in separate prisons; however, pretrial detainees 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 the general public. International human rights groups were permitted to monitor prison conditions. The British Department for International Development's (DFID) Justice Development Sector's program personnel worked in prisons and conducted regular inspections. After receipt of DFID's recommendations, the nutritional standards and living conditions of prisoners improved.

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), the Lesotho Mounted Police Service (LMPS), and the National Security Service (NSS). The prime minister is the minister of defense and national security, with direct authority over the LDF and the NSS. The police force is under the minister of home affairs and public safety.

The LMPS is nationally managed, with the country divided into three police regions, which are further divided into districts. An assistant commissioner of police heads each region; senior superintendents head the districts. The LMPS suffered from a significant shortage of resources, which limited its effectiveness.

Corruption was a problem; however, the government continued its reform efforts. Police authorities confirmed allegations that some police officers solicited bribes to overlook traffic and other offenses. Police authorities and media reported that police and army personnel may have been involved in a spate of armed robberies during the year. In January a court sentenced a police officer to eight years' imprisonment for involvement in armed robberies in 2005.

The process of carrying out justice was slow, but members of the security and police forces were prosecuted and sentenced. Impunity is a problem, but to a limited extent.

The PCA is an independent oversight body that monitors questionable behavior by police officers and addresses public grievances against the police; the Police Act does not accord the body powers of search and seizure or the power to summon police officers. PCA commissioners have requested that the Ministry of Home Affairs and Public Safety pursue amendments to the act to enhance PCA powers, but no amendments were passed by year's end.

From January to August, the PCA received 50 complaints involving assault, poor service, extortion, and unfair dismissal from the LMPS. Ten cases were opened, and 32 referred to the ombudsman, Legal Aid, and the police. Five were advisory matters and were referred to the relevant organs of state, while three were settled to the satisfaction of the complainant and officially closed.

The LMPS Inspectorate, Complaints and Discipline Unit reported that it was investigating 25 complaints of unlawful detention, assault, corruption, failure to investigate cases, and abusive language and intimidation filed against the police between January and August. The nine complaints filed in 2005 also continued under investigation. Of the 48 complaints received in 2005 and referred to the minister of home affairs and public safety, 26 cases were closed; the remainder were still under investigation at year's end. Disciplinary action was taken against certain police officers on the basis of these proceedings.

Arrest and Detention

The law requires police to obtain a warrant prior to making an arrest. Suspects must be informed of charges within 48 hours, and their families must be notified of any imprisonment. The law also allows family members to visit inmates. However, in practice the police did not always comply with these provisions. The law provides for granting bail, which the authorities granted regularly and in general fairly. Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel. 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. Non-governmental organizations (NGOs) maintained a few legal aid clinics.

Pretrial detainees constituted approximately 16 percent of the prison population, and pretrial detention could last months or even years. The backlog was due to lack of resources, delay tactics by defense counsel, and unavailability of legal counsel. In November 2005 *The Mirror* newspaper published an article reporting that judges granted postponement of cases without proper cause, and attorneys failed to appear without explanation. The article also reported that 6,000 cases were pending in magistrates' courts.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the judiciary was generally independent in practice.

The judiciary consists of the Court of Appeal (which meets semiannually), the High Court, magistrates' courts, and traditional courts, which exist chiefly in rural areas to administer customary law. The High Court also provides procedural and substantive guidance on matters of law and procedure to military tribunals; however, it does not participate in adjudication.

A single high court judge normally adjudicates criminal trials with two assessors who serve in an advisory capacity. The authorities generally respected court decisions and rulings.

Trial Procedures

There is no trial by jury. Trials are public, but in civil cases judges normally hear cases alone. There was a large case backlog, which led to lengthy delays in trials (see section 1.d.). Defendants have the right to legal counsel; however, government sources stated that in the magistrates' courts, some accused persons were not advised of their right to legal representation, and some cases proceeded without representation for the accused. Free legal counsel was available, either from the state or a legal NGO. A defendant may be either held or released on bail until a sentence is passed. Defendants are presumed innocent and have the right to appeal. Defendants have the right to access nonconfidential government information during a trial.

In civil and criminal courts, women and men are accorded equal rights. However, in traditional (customary) courts, certain rights and privileges were denied to women, and they were greatly disadvantaged (see section 5). However, in October the parliament passed the Legal Capacity of Married Persons Act, which effectively eliminated de jure discrimination against women in the customary law system.

When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgment by a principal chief rather than a civil court, and the judgment would be legally binding.

Military tribunals have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which is composed of two judges from the High Court--one retired military officer with a legal background and the registrar of the High Court.

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, a failure by the state to produce exhibits in court and to sequester witnesses, especially in high-profile cases, were substantial obstacles to the enforcement of domestic court orders.

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

The constitution and law do not fully protect citizens' privacy rights; however, the constitution contains a section on the "Right to respect for private and family life," which states that "Every person shall be entitled to respect for his private and family life and his home." During the year there were no reports that authorities infringed on those rights. Although search warrants were required under normal circumstances, the law provides police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant.

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. However, many journalists admitted to practicing self-censorship to avoid libel suits as well as problems from their editors.

Citizens and residents enjoy broad rights of freedom of speech, which in general the government respects.

Several independent newspapers routinely criticized the government. There were seven private radio stations but no private television station. The media was free to criticize the government, but risked being sued for slander or libel. The official state-owned or state-controlled media consisted of two radio stations, a television station which broadcast a two-hour daily newscast, and two weekly newspapers. All reflected official positions of the ruling party. South African and global satellite television and radio broadcasts were widely available.

Government ministers and other officials initiated a number of libel and defamation suits against members of the independent media, some of which led to out-of-court settlements.

In one of them, an English-language weekly newspaper, *The Mirror*, succumbed to financial pressure as a result of libel suits and closed in May.

In September the High Court summoned the chief reporter of *Public Eye* to appear on contempt charges following his newspaper's reports on a controversial scheme through which high-level government officials and judges obtained luxury cars at a fraction of their market value. In its report the newspaper had criticized the participation of members of the judiciary in the scheme, suggesting that it could cloud their impartiality in judging cases. The editors of *Public Eye* refused to accept an official reprimand and print a retraction as suggested by the court, and the case remained open at year's end.

In February the prime minister and two other cabinet ministers filed a case against three former members of their party for crimea injuria, defined as impairing someone's dignity (it is a criminal offense, while defamation is a civil offense). The government officials accused the three former party members of distributing leaflets accusing the prime minister of despotic tendencies and stating that he and the foreign minister were involved in adulterous relationships. Hearings began on October 16, but were later postponed until March 2007.

The defamation suit filed in November 2005 by retired Major General Thibeli against the Catholic newspaper *Moelets'i a Basotho* was still pending at year's end.

At year's end the 2004 case in which an MP sued the newspaper *Mololi* for libel was still pending.

In November the acting minister of communications directed state-owned broadcast media to cease playing the music of traditional artists who had participated in opposition political party rallies.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals or groups could engage in the peaceful expression of views via the Internet, including by electronic mail. The Internet was not widely available, due to a lack of information infrastructure, the government's position as monopoly carrier from which any other Internet service provider would have to purchase bandwidth, and the high cost of access. Access was almost nonexistent in rural areas.

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.

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 was a very small Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

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

The constitution and law provide for these rights, and the government generally respected them in practice.

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

Protection of Refugees

The laws provide for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system to provide protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The government continued to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees. There were reportedly an estimated 60 refugees resident in the country from Sudan, Uganda, Rwanda, the Democratic Republic of the Congo, Ethiopia, and Eritrea. Other refugees have sought relocation from the country to South Africa to take advantage of better living conditions and opportunities there. There is a commissioner for refugees in the Ministry of Home Affairs and Public Safety.

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

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

Elections and Political Participation

In the 2002 elections the LCD party won 79 of the 80 constituency-based seats; the opposition Lesotho People's Congress party won the remaining constituency seat; and the 40 proportionally elected seats were divided among nine opposition parties. Prime Minister Mosisili, the leader of the LCD party, won reelection. Domestic and international observers concluded that the elections were generally free, fair, peaceful, lawful, and transparent. International observers characterized the first post independence local government elections, held in April 2005, as generally free and fair.

There were 15 women in the 120-member National Assembly and 12 women in the 33-member Senate. The speaker of the National Assembly, five government ministers, one assistant minister, four judges of the High Court, and the commissioner of police were women. Female candidates captured 53 percent of seats in the April 2005 local elections.

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

A provision in the constitution requires that members of parliament possess the physical faculty of speech; however, this provision was not enforced.

Government Corruption and Transparency

There were isolated reports of government corruption during the year. The World Bank Institute gave the government an above-average rating for control of corruption. However, according to the NGO Transparency International, corruption was a serious problem.

In September the High Court fined the Impregilo Company approximately two million dollars (15 million maloti), after the construction company admitted use of bribery to influence a government investigation. In a February 2005 case brought before the High Court, Impregilo was charged with bribing a former chief executive of the Lesotho Highlands Water Project (LHWP); the chief executive continued to serve a 15-year sentence for a separate LHWP-connected bribe.

Although there are no laws providing for access to government information, and access to government information was incomplete, Web sites of government ministries, parastatal companies, and private organizations provided significant information on governmental activities.

Section 4 Governmental Attitude Regarding International and Non-governmental 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 generally were cooperative and responsive to their views.

An independent Office of the Ombudsman exists to protect citizens against infringement of their rights by public and private sector organizations. The Office of the Ombudsman appears to function without undue governmental or political interference. The ombudsman was constrained by a shortage of staff, financing, and equipment. The ombudsman intervened in issues such as 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 LHWP activities; and compensation for and repair of houses in communities close to large-scale development projects. Some of the ombudsman's reports, which were publicly released, were successful in bringing attention to various issues.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth,

or other status; however, the constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were severely restricted under this system.

Women

Although dependable statistics were not available, domestic violence against women was believed to be widespread. Traditionally, a wife may return to her "maiden home" if physically abused by her husband. Under common law (the formal legal system), domestic violence or spousal abuse is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. The law does not mandate specific penalties; however, 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. Such behavior was increasingly considered socially unacceptable due to advocacy and awareness programs of the Gender and Child Protection Unit (GCPU) of the LMPS, the Federation of Women Lawyers, the NGO Lesotho Child Counseling Unit (LCCU), other NGOs, and broadcast and print media campaigns.

The law prohibits rape, including spousal rape, and mandates a minimum sentence of five years' imprisonment, with no option for a fine. The rape of young children, older girls, and women was common. Courts heard a number of rape and attempted rape cases, and sentences were imposed and carried out. There were numerous cases of rape involving very young girls, as a result of the ill-informed belief among some men that such intercourse could cure HIV infections. Although there were convictions in several cases, sentences tended to be minimal. The organizations involved in combating the problem included the GCPU, the LCCU, and other NGOs. Their activities included teaching young persons and parents about the Sexual Offenses Act of 2003, in schools, churches, and in village gatherings; and teaching persons how to report such offenses and how to access victims' services.

The law does not address prostitution, and it was a problem (see section 5, Children). Prostitution was driven by poverty, and anecdotal evidence indicated that it was a growing problem. No accurate statistics on prostitution were available.

The law does not specifically prohibit sexual harassment, which was believed to be widespread.

Traditional law and custom severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary (traditional) law, a married woman was considered a minor during the lifetime of her husband, and she could not enter into legally binding contracts without her husband's consent. However, in October parliament passed the Legal Capacity of Married Persons Act, which effectively eliminated de jure discrimination against married women in the customary law system. A woman married under customary law has no standing in civil court. Under the country's dual legal system, marriages which occur under customary law must be legalized in the civil system to have legal standing. Government officials publicly criticized customary practice regarding marriage.

The tradition of paying a bride price (*lobola*) was frequent. There was no evidence that lobola contributed to abuses against women's rights. Lobola, if not paid to the bride's family, allows the family the right to end a marriage and the right to challenge custody of any offspring. Polygamy was practiced by a very small percentage of the population. Women were not discriminated against in access to employment, credit, or pay for substantially similar work.

Women's rights organizations took a leading role in educating women about their rights under customary (traditional) and formal law, highlighting the importance of women participating in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation funded efforts by women's groups to sensitize society to respect the status and rights of women.

Children

The Child Protection Act (CPA) and the Sexual Offenses Act provide for the protection of children; however, limited resources hampered the government's ability to fully enforce these laws.

The government devoted substantial resources to primary and secondary education. Education by law was universal; however, it was not compulsory, even at the primary levels. Tuition-free primary education, which was introduced in 1999, has been extended to one additional grade annually. The seventh and last class was made tuition-free during the year, and the government inaugurated 17 new primary schools to accommodate increased pupil intake.

A substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsistence activities to help support their families, or where families could not afford fees for the purchase of uniforms, books, and school materials. In 2002 the United Nations Children's Fund (UNICEF) estimated that 62 percent of boys and 68 percent of girls attended primary school. During the year, according to UNICEF, these figures had increased to 80.6 percent of boys and 85.7 percent of girls. More boys failed to attend school than girls, due to the tradition of livestock herding by young boys (see section 6.d.).

Boys and girls had equal access to government-provided health care.

Child abuse was a common problem, especially for children made vulnerable by HIV/AIDS. There were few official reports or statistics. During the year the Ministry of Gender, Youth, Sports, and Recreation stated on a number of occasions that there was a need to fight child abuse.

Child prostitution was also a problem. According to media reports, young girls and boys, many of whom were orphans, moved to urban areas to work as prostitutes. A 2001 UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather

than a commercial enterprise, and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the government agreed that while the numbers remained small, the more recent trend toward commercial prostitution by children was a growing problem. There was little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

Child labor was a problem (see section 6.d).

Familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children and families headed by children; their number totaled an estimated 100,000 to 200,000. Street children were hampered by lack of access to government services, such as medical care and schooling, and were not informed about their rights to such services. There were no reports of abuse of street children by security forces.

The GCPU within the LMPS had branches in all 10 districts, but lack of resources restricted their ability to be effective. The GCPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of property rights for orphaned children. The GCPU also has a mandate to address child labor issues, although it has stated that it has not dealt with such cases.

Trafficking in Persons

Neither formal nor traditional law addresses trafficking in persons. There were reports that people were trafficked to, from, and within the country; however, official statistics were lacking. In 2005 the minister of gender and the assistant minister of education publicly stated their concern over six cases of child trafficking and the possible increase of trafficking-related activities; however, there were no known developments in the six cases by year's end. There were no official statistics on trafficking, since it is not a specific category of crime. Police can charge persons suspected of trafficking under the labor code, the CPA, and kidnapping statutes contained in the constitution. The Ministry of Home Affairs and Public Safety and the GCPU are responsible for monitoring trafficking. Although there is no specific legislation on trafficking, the Ministry of Health and Social Welfare, some NGOs, and the police continue to offer assistance to suspected victims of trafficking.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical disabilities in employment, education, or provision of other government services, and the government enforced these laws within its limited ability. Although societal discrimination was common, the tradition of hiding disabled children from the public was no longer commonly accepted. The Association of the Disabled actively promoted the rights and needs of disabled persons.

Laws and regulations stipulate that persons with disabilities have access to public buildings, and such buildings completed after 1995 generally complied with the law. The election law provides for assisted voting for persons with disabilities.

National/Racial/Ethnic Minorities

Minorities constituted less than 2 percent of the population. There were small groups of ethnic Indians, Europeans, Chinese, and mixed-race persons. Economic and racial tension between the Chinese business community and the Basotho remained a problem.

Other Societal Abuses and Discrimination

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

In 2004 the prime minister took an HIV/AIDS test and started an HIV/AIDS awareness campaign.

In June parliament amended the labor code to include an HIV/AIDS workplace policy. On July 17, King Letsie III recognized the work of an HIV/AIDS activist with an award. Each government ministry or department provided subsidized medicine and food to its employees with HIV/AIDS (such assistance was available to all citizens at subsidized prices at all government hospitals).

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

Section 6 Worker Rights

a. The Right of Association

Under the law, workers have the right to join and form trade unions without prior government authorization and without excessive bureaucratic requirements, and workers exercised this right in practice; however, some employers in the textile sector did not observe trade union rights. Both locally and foreign-owned businesses displayed a lack of full understanding of the labor code's provisions regarding the right to form labor unions. During the year there were six reported cases of unfair labor practices. The labor code prohibits civil servants from joining or forming unions but allows them to form staff associations. The Mounted Police Service Act also specifically prohibits members of the police from belonging to trade unions but allows them to establish a staff association charged with promoting professional efficiency and the interests of its members, and they have done so.

The government regarded all civil servants as essential employees; therefore, they did not enjoy general labor rights, such as the rights to strike or negotiate collectively. In 2004 civil servants established a professional association.

The Ministry of Employment and Labor stated there were 13 functional trade unions with a combined membership of 25,411. The ministry indicated that 25 trade unions had been deregistered as a result of their failure to submit annual reports. Women were dominant in textile union employment.

A majority of Basotho mineworkers were members of the South African National Union of Mineworkers (NUM). While the NUM, as a foreign organization, was not allowed to engage in most union activities in the country, it provided training, developed agricultural projects, and performed other social services for retrenched mine workers and families of deceased miners.

The law prohibits antiunion discrimination, and in practice the government generally enforced this prohibition; however, there were reports that some employers harassed union organizers, intimidated members, and fired union activists, particularly in locally owned companies.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and in practice the government generally protected this right; however, some private sector employers tried to restrict these rights (see section 6.a.). Collective bargaining is protected by law and freely practiced. The law provides for a limited right to strike; however, civil servants were not allowed to strike, and, by definition, all public sector industrial actions were unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized.

There are no export processing zones.

The commissioner of labor was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages but did not have the authority to impose criminal fines.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. The government effectively enforced this prohibition.

d. Prohibition of Child Labor and Minimum Age for Employment

The labor code contains statutory prohibitions against the employment of minors in commercial, industrial, or other nonfamily enterprises involving hazardous or dangerous working conditions. The government effectively enforced these statutes. However, child labor was a problem in the informal and agricultural sectors, which child labor laws do not cover, and the government had no mechanism for inspection of those sectors. The legal minimum age for employment in commercial or industrial enterprises is 15 years or 18 years for hazardous employment; however, children under 14 years old reportedly were employed in family-owned businesses. Children under 18 may not be recruited for employment outside the country. Many urban street children worked in the informal sector. Most jobs performed by children were often gender-specific: boys as young as four 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 (see section 5); and both boys and girls worked as street vendors.

In traditional society rigorous and occasionally dangerous working conditions for young herdboys 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. Reportedly the age of initiation into herding continued to drop. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth.

The Ministry of Employment and Labor is responsible for investigating child labor allegations; however, inspections were minimal.

e. Acceptable Conditions of Work

A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity consisting of representatives of the government, trade unions (employees), and employers. In 2004 the government introduced a schedule of basic minimum wages for different sectors, such as manufacturing, construction, retail, service, and mortuary services. For example, authorities set the minimum wage for a beginning machinist in the textile industry at approximately \$87 (643 maloti). During the year textile workers earned an average of \$95 (660 maloti) per month, and machine operators received an average of \$110 (770 maloti) per month. The national minimum wage for workers in lower-skilled jobs did not provide a decent standard of living for a worker and family.

Most wage earners supplemented their income through subsistence agriculture or remittances from relatives in South Africa.

The labor code provides for 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 sick leave and public holidays; however, these regulations exclude the informal and agricultural sectors. Employers did not always respect these rights in practice. Required overtime was legal as long as overtime wages were paid for work in

excess of the standard 45-hour workweek. According to the commissioner of labor, employers in the security sector were the worst violators of the labor code. They regularly worked employees beyond the statutory hours, did not insure their workers against injury or death, and paid them less than the minimum wage. In October the labor code was amended to give workers in the security sector permission to work 60 hours per week. Work beyond 60 hours per week constitutes overtime.

The labor code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize the risk of injury; employers generally followed these regulations. The labor code also empowers the Ministry of Employment and Labor to issue regulations pertaining to work safety in specific areas, and the ministry has exercised this right. There were no known instances of the ministry ineffectively or improperly enforcing health and safety standards. The labor code does not protect explicitly 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 implied 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, who functions as part of the Ministry of Employment and Labor, was charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections of a random sample of employers each quarter.

The government and private sector implemented voluntary HIV/AIDS counseling and testing programs in line with Labor Code Act Number 5, passed in June, which strengthened existing programs.