



2008 Human Rights Report: Lesotho

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 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 February 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 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 during the year. While civilian authorities generally maintained effective control of the security, 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; lengthy pretrial detention and long trial delays. Societal abuses included abuse of spouses and children, widespread restrictions on women's rights, societal 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; however, there was one death in custody and one killing due to police shooting reported to the Police Complaints Authority (PCA) during the year. The PCA indicated that the cases were fully investigated, and the reports with recommendations were handed over to the minister of home affairs and public safety.

The Lesotho Mounted Police Service (LMPS) issued a statement concerning the July 2007 killing of Setsoto Ranthimo. In the statement they stated that the security forces who carried out the operation were acting in self-defense in reaction to Ranthimo's belligerent behavior.

The 2006 case of the killing of Bereng Sekhonyana, a member of parliament from the opposition Basotho National Party (BNP), was still under investigation. The Ministry of Foreign Affairs had earlier indicated that police were in hot pursuit of suspects. However, the case was dormant at year's end, and the suspects were no longer under suspicion.

The 2006 case in which two Maseru city council security guards were charged with killing pedestrians was pending at year's end.

There were no new developments in the investigation of reported deaths that took place in traditional initiation schools in 2007. Police investigations are difficult due to the secret nature of initiation schools. There were no reports of new incidents during the year.

b. Disappearance

There were no reports of politically motivated disappearances.

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

Although the constitution and law expressly prohibit such practices, there were complaints that security forces tortured and abused persons.

From January to August, the LMPS Complaints and Discipline Unit received nine complaints of torture, and the PCA received four complaints of assault and torture.

At year's end no official report had been released on the August 2007 case in which three street vendors accused of selling marijuana filed complaints of assault, unlawful detention, and theft against the LMPS.

The June 2007 case involving several men detained by Lesotho Defense Force (LDF) officials was unresolved at year's end. In various media outlets the men claimed to be held in secret and incommunicado. The men further stated that they were interrogated about their connections to the opposition All Basotho Convention (ABC) party. Three of the men, Motlomelo, Thantsi, and Lerotholi, fled to South Africa in July 2007 and sought political asylum. Basotho businessmen Khotso Lebakeng, Mokherane Tsatsanyane and the late Semoli Semoli joined them, having fled the country in July after rumors that the army was looking for them. The South African government granted all of the men political asylum.

There was no further action in the case of the three soldiers accused of involvement in coup plotting who also claimed to have been tortured in June 2007. At year's end they were on suspension and half-pay. In July 2007 the local newspaper Public Eye showed pictures of the torture victims and later carried interviews in which they again stated they were tortured. The SADC Lawyers' report in August 2007 and the Civil Society Statement of July 2007 contained other reports corroborating the claims of torture.

The BNP office reported that the 2006 case of torture and abuse of three female BNP opposition party members by male police officers was still pending in court at year's end.

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. However, some recent improvements were made, such as the electrification of two correctional institutions and the refurbishment of two others, including a maximum security facility. Prisoners get free medical care from government hospitals and are eligible to vote in elections. All prisons had a nurse and a dispensary to attend to minor illnesses. Some correctional facilities own ambulances to transport inmates for emergency medical care.

The law provides that pretrial detainees and convicted prisoners be held in separate facilities; however, due to lack of sufficient facilities, 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. A committee visit took place in November.

The government permitted international human rights groups to monitor prison conditions. During the year an intersectoral 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.

The 2007 Ombudsman's Report on the Quthing Correctional Institution Inquiry revealed that the commanding officer of the Quthing correctional facility was transferred. No action was taken against other prison officials implicated in the August 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 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 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. A shortage of human and financial resources limited the LMPS's effectiveness.

Unlike in the previous year, there were no reports that police were involved in armed robbery.

The internal affairs organs that address problems of corruption and other offenses by the police are the LMPS Inspectorate, Complaints, and Discipline Unit and the PCA. The PCA, an independent oversight body, monitors police behavior and addresses grievances against the police. The Directorate on Corruption and Economic Offenses (DCEO) serves the same purpose for the public sector. These bodies prosecuted some members of the security forces. Traditional 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. Currently, 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; they noted that some police officers solicited low-level bribes to overlook traffic and other offenses. In 2007 there were 108 pending cases filed with the LMPS inspectorate. Those cases were carried over to January 2008. From January to August 2008, the LMPS inspectorate received 10 complaints of torture and 12 complaints of failure to attend to reports. Of the 22 reported cases, 14 were closed and eight were under investigation.

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 are sent to the High Court via the Office of the Director of Public Prosecutions.

According to PCA statistics, between January and August the PCA received 15 cases, including four cases of complaints involving assault and torture or murder and attempted murder, nine cases of poor service delivery, one case of death in police custody, and one murder due to police shooting. These cases were still under investigation at year's end.

According to DCEO statistics, between January and August the DCEO received a total of 59 reports ranging from bribery and embezzlement of public funds to tender manipulation. Of these reports, 10 were closed, six were referred to the police and the Directorate of Dispute Prevention and Resolution, and 43 were pending at year's end.

The case of Ramoeletsi extorting 980 Maloti (\$100) from a local woman was proceeding in court at year's end. Ramoeletsi was suspended in January 2007; a hearing is scheduled for February 4, 2009.

The 2007 case of a deputy police commissioner accused of filing fraudulent per diem claims and stealing meat from the Police Training College cafeteria was heard in court in October. A new hearing was expected and the case continued. The deputy commissioner remained suspended at year's end.

Arrest and 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 the commanding officer of the LMPS inspectorate, police did not always comply with these provisions in practice. The law provides for granting bail, which the 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.

Lesotho Correctional Service (LCS) stated that pretrial detainees constituted 18 percent of the prison population. 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 is 60 days, after which pretrial detainees normally get released on bail pending their trials. The Speedy Trial Act of 2002 states that a suspect cannot be held in custody for more than 90 days before a trial except in exceptional circumstances.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the judiciary was generally independent in practice. There was a large case backlog, which resulted in delayed trials. This backlog was attributed in part to the severe shortage of judges.

The judiciary consists of the Court of Appeal, the High Court, magistrates' courts, and traditional courts, which exist chiefly in rural areas to administer customary law. The High Court also provides guidance on law and procedure to military tribunals but 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.

Military tribunals have jurisdiction over military cases only. Tribunal decisions can be appealed only to the 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. Military tribunals provide the same rights as civil criminal courts. Military tribunals cannot try civilians.

There are also specialized courts. The labor court is a civil court with jurisdiction over labor, employment, and certain human rights matters when they intersect with labor law. The Judicial Commissioner's Court brings in foreign magistrates as appropriate for cases requiring a high level of subject-matter specialization.

Trial Procedures

There is no trial by jury. Trials are public, but in civil cases judges normally hear cases alone. Defendants have the right to legal counsel; however, there have been limited instances where accused persons were not advised of their right to legal representation. Free legal counsel was available, either from the state or a legal NGO. Defendants have the right to be present at their trials, to confront and question witnesses against them, and to 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. A defendant may either be held or released on bail until sentenced. Defendants are presumed innocent and have the right to appeal. 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 should have access.

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 by ensuring that they are no longer legally considered minors. However, in practice women were sometimes still not accorded their full rights as promised under the law.

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 fails to produce evidence in court and sequester witnesses. This can 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. Many reportedly do not know that police are required to have a search warrant. A government source stated that police officers have been known to flaunt their power even when in possession of a warrant and neglect to show the warrant to the homeowner. 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.

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, the government suspended one radio station for three months for allegedly making inaccurate statements and inciting persons to resist street vendor removal. In contrast with 2007, no journalists were detained or harassed. A Media Institute of Southern Africa representative stated that there have been instances of journalists practicing self-censorship to avoid libel suits or problems with their editors. Private individuals could criticize the government without reprisal.

Several independent newspapers routinely criticized the government. There were seven private radio stations but no private television station. The media criticized the government, but risked being sued for slander or libel. State-owned or state-controlled media consisted of two weekly newspapers, two radio stations, and a television station. State-owned media outlets reflected positions of the ruling party. South African and global satellite television and radio broadcasts were widely available.

On July 18, independent radio station Harvest FM closed for three months due to a suspension order by the Lesotho Communications Authority (LCA). The LCA (a regulatory body) reportedly received complaints from the commissioner of police that the station had made inaccurate statements and complaints from the principal secretary of communications, science, and technology that the station had incited persons to resist the removal of street vendors from downtown areas. LCA claimed that Harvest FM responded by sending a letter after the specified deadline for reply denying the allegations leveled against them instead of addressing the charges. According to LCA, this infringed Condition 15 of its sound broadcasting license and Rule 20 of the LCA Broadcasting Rules of 2004. On October 22, Harvest FM returned to the airwaves.

On September 2, former Harvest FM radio presenter Thabo Thakalekoala was found guilty on a June 2007 charge of sedition. He was acquitted on three other charges of subversion, criminal defamation, and crimina injuria (impairing an individual's dignity, a criminal offense). On October 22, the High Court sentenced Thakalekoala to either serve two years in prison or pay a fine of 200 Maloti (\$18); Thakalekoala paid the fine.

In May and July, the High Court dismissed the September 2007 charges of contempt of court against the leaders of the Marematlou Freedom Party and the Lesotho Workers Party.

The government appealed the November 2007 case of Pastor Adam Lekhoaba. On April 11, the Court of Appeal of Lesotho overturned the High Court's decision and ruled in favor of the government, which had claimed Lekhoaba was a South African citizen and not a Lesotho national. The Appeal Court indicated that the constitution does not recognize dual citizenship and that Lekhoaba should have renounced his South African citizenship. In the judgment, the Appeal Court stated, "It appears to be obvious that the question of his dual citizenship was raised by the authorities only because he allowed free expressions of opinion to take place over the airwaves of a local radio station. His deportation order, which was set aside by the Court a quo, was issued by the appellant for the same political reason." The Appeal Court further advised parliament to give urgent consideration to enacting legislation permitting Lesotho citizens who acquire South African nationality to hold dual citizenship in appropriate circumstances.

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 or groups could engage in the peaceful expression of views via the Internet,

including by e-mail. The Internet was not widely available and was almost nonexistent in rural areas, due to a lack of communication infrastructure and the high cost of access.

Academic Freedom and Cultural Events

Unlike during the previous year, there were no reports of government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, there was one occasion during the reporting period when the government restricted these rights. This incident stemmed from a disagreement between the government and private taxi and bus operators. The government had purchased 20 buses with the expressed goal of providing less expensive transportation to low-income workers and preventing taxi drivers from being able to shut down the city with their protests. On May 20, when the government began operating the buses, taxi drivers and private bus conductors staged a strike and blocked roads. They argued that the government did not have proper bus permits, had not consulted with them about bus routes, and was competing with them unfairly, which would result in thousands of jobs being lost. Police attempted to clear a path through the roadblocks using tear gas and rifle fire. During the clashes government bus conductors shot and wounded an employee of a private taxi operator, and a government bus conductor reportedly stabbed a taxi owner. Some critics claimed that the government's decision was politically motivated. Following a period of mediation, the government agreed to operate only 10 buses temporarily, only between the hours of 6:00 a.m. and 5:00 p.m.

Freedom of Association

The constitution and law provide for freedom of 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.

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 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

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.

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 the expulsion or return of refugees to countries where their lives or freedom would be threatened 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.

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 generally fair elections based on universal suffrage.

Elections and Political Participation

In February 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 pre-election alliance with the National Independent Party, the LCD controlled a further 20 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 pre-election 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 20 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.

The allocation of proportional seats remained contentious, and governing and opposition parties agreed that outside experts should evaluate the mixed member proportional parliamentary system. In May 2007 the government invited the Southern African Development Community to mediate the political impasse, an effort led by the former president of Botswana, Ketumile Masire.

During Masire's visit to Lesotho in February, it was agreed that all election-related court cases should be dealt with before the postelectoral political dialogue could resume.

The last election-related case was concluded on July 2, when the High Court ruled that the Marematlou Freedom Party (MFP) had lodged an election petition but had no legal right to do so. The court also ruled that it had no jurisdiction to make a decision concerning the petition, which requested orders invalidating the allocation of proportional seats and directing the IEC to reallocate the proportional seats in the National Assembly.

As previously agreed, Masire returned and held talks with stakeholders from August 25 to 31. Stakeholders included the IEC, political parties, the government, the Christian Council of Lesotho, the Lesotho Council of NGOs, and members of the diplomatic corps.

The issue of the legitimacy of ABC leader Thomas Thabane as an official opposition leader was still outstanding, but on August 31, Masire asked all the stakeholders to settle this matter by the end of October. Despite Masire's request, neither side took action.

Informed observers stated that the negotiation had come to a frustrating crossroads and that opposition political parties considered themselves disenfranchised by the existing interpretation of the electoral rules.

Masire's last visit was in late September, and there was no progress by year's end.

There were 30 women in the 120-member National Assembly and nine women in the 33-member Senate. The speaker of the National Assembly, six of 19 government ministers, three of six 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.

Government Corruption and Transparency

There were isolated reports of government corruption during the year. The World Bank's Worldwide Governance Indicators reflected that there was a corruption problem.

The Directorate on Corruption and Economic Offenses was the primary anticorruption organ.

In January the auditor general released an audit of the country's 2003-04 public accounts. The auditor general stated that the public accounts suffer from serious errors and omissions which lead to misrepresentation of the government's financial position. The errors include expenditure misappropriation, a lack of ledger accounts reconciliations, a lack of ministerial expenditure and revenue reports reconciliations, unauthorized excess expenditures, and nondisclosure of some capital projects. According to the auditor general, the government not only must confront a weak financial system but also the extended delays in releasing public financial information.

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 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. There were continuing complaints about the lack of access to government information from researchers at institutions such as the Institute of Southern African Studies, NGOs, and the media.

The 2007 case of alleged procurement fraud by the principal secretary of justice and human rights was heard on September 18. The High Court found her guilty of contravening the government's procurement regulations. However, she was acquitted on the main charge of corruption in the acquisition of an information technology networking system. Sentencing was postponed to early 2009.

Section 4 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 generally were cooperative and responsive to their views.

An independent ombudsman's office exists to protect citizens against infringement of their rights by public and private sector organizations. It appeared to function without undue governmental or political interference; however, it 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 Lesotho Highland Water Project activities; and compensation for and repairs of houses in communities close to large-scale development projects.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and the formal legal code prohibit discrimination based on race, color, gender, religion, disability, 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 under it, women remain disadvantaged with regard to inheritance 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 there were 1,300 reported cases of rape during the year. Courts heard a number of rape and attempted rape cases, several of which resulted in convictions. Unlike in previous years, there were no reports that very young girls were raped as a result of the belief among some men that intercourse with a virgin could cure HIV infections.

Organizations involved in combating the problem included the Gender and Child Protection Units (GCPU) of the LMPS, the NGO Lesotho Child Counseling Unit (LCCU), and other NGOs. Their activities included teaching young persons and parents how to report such offenses and how to access victims' services.

Domestic violence against women was believed to be widespread. An estimate based on police national crime statistics indicated there were 7,700 reported cases of domestic violence during the year. 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 is increasingly considered socially unacceptable due to the advocacy and awareness programs of the GCPU, the Federation of Women Lawyers, the LCCU, other NGOs, and broadcast and print media campaigns.

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 occurred in the workplace. The Law Office stated that complaints involving sexual harassment are not often reported through official channels and tend to be handled internally if reported at all.

In civil and criminal courts, women and men are accorded equal rights. The 2006 Legal Capacity of Married Persons Act effectively eliminated de jure discrimination against women except in the area of inheritance, which it does not cover. Nevertheless, traditional law and custom 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 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 substantively 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.

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 most highly paid positions are held by women, including speaker of parliament, cabinet ministers, judges, the mayor of Maseru, 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.

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 funded efforts by women's groups to sensitize society to respect the status and rights of women.

Children

The law provides for the protection of children; however, limited resources hampered the government's ability to fully enforce the law. 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 due to HIV/AIDS continued to be the most troubling issue facing children in the country.

By law education is universal and as of 2006 was tuition-free through the seventh grade; however, it was not compulsory, even at elementary school levels. The UN Children's Fund (UNICEF) reported that a substantial number of children did not attend school. The problem is particularly prevalent in rural areas where there are few schools. Attending school regularly is 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 figures, 80 percent of boys and 88 percent of girls attended primary school during the year. 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. According to the Child and Gender Protection Unit, 309 cases of child abuse were opened during the year. These cases included child neglect, common assault, sexual assault, and grievous bodily harm.

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 also 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 a poverty-driven phenomenon rather than a commercial activity and that the financial arrangements were casual and not determined by 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 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.

Familial stress, poverty, the virulent spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating numerous street children, of which according to UNICEF's latest figures, an estimated

180,000 were orphans and vulnerable children. 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.

The GCPU 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 the property rights of orphaned children.

Trafficking in Persons

There are no specific laws that prohibit trafficking in persons; however, the labor code, the Aliens Control Act, the Child Protection Act of 1980, and kidnapping statutes contained in the constitution can all be used to charge persons suspected of trafficking. Although there were reports that persons were trafficked to, from, and within the country, there were no official statistics.

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

There were unconfirmed reports that Ugandan police had uncovered at least one trafficking case in which Ugandan children were trafficked to Lesotho.

The State Department's 2008 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, 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 children with disabilities 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 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.

Persons with disabilities are allowed to have anyone of their choice assist them, or they may request the presiding officer at a polling station to help, but there should 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.

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. There were no formal government efforts to address such problems.

Other Societal Abuses and Discrimination

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

The law prohibits discrimination in the workplace on the basis of HIV/AIDS status.

In 2006 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.

The law does not address sexual orientation, and general discrimination against homosexuals was present in the workplace.

Section 6 Worker Rights

a. The Right of Association

Under the law workers have the right to join and form trade unions without prior authorization and without 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; however, civil servants are not allowed to strike and, by definition, all public sector industrial actions are unauthorized. In the private sector, the labor code requires a series of procedures to be followed by workers and employers before a strike action is authorized.

Both locally and foreign-owned businesses continued to lack a full understanding of the labor code's provision regarding the right to form labor unions.

According to the 2008/09 labor commissioner's audit report, trade unions are affiliated under three union federations. These are the Congress of Lesotho Trade Unions, with a membership of 11,797; the Lesotho Congress of Democratic Union, with 11,240 members; and the Lesotho Trade Union Congress, with 2,033 members; producing a combined membership for functioning trade unions of 25,070. The ministry indicated that 25 trade unions were deregistered in 2006, and a further 15 in 2007, for failure to submit annual reports. Each year the government reviews nonfunctioning or noncompliant unions and deregisters them.

A majority of Basotho mineworkers were members of the South African National Union of Mine Workers (NUM). While 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.

There are two unions in the apparel and textile sector: Factory Allied Workers Union, with a membership of 8,897, and Lesotho Clothing and Allied Workers Union, with an estimated 5,000 members.

The labor court reported that during the year there were 31 cases filed alleging unfair labor practices, 197 cases filed petitioning for enforcement of resolutions by the Directorate of Dispute Prevention and Resolution (DDPR), and 70 contested DDPR cases being reviewed by the labor court.

b. The Right to Organize and Bargain Collectively

Collective bargaining is protected by law and 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, the commissioner's office reported that the unions were too weak to bargain effectively.

The law prohibits antiunion discrimination, and the government generally enforced this prohibition. Textile and apparel unions claimed that members are sometimes treated unfairly to compel them to leave; some such cases were pending with the labor court. The Ministry of Labor and Employment (MOLE) 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 compulsory labor, including by children. However, sources within the MOLE'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 and therefore no inspections could take place.

Children were often forced by circumstances to take on jobs such as herding and working on the street, sometimes as sex workers. These children are forced to undertake such work by the economic situation and the fact that many traditional family support networks have been decimated by the HIV/AIDS pandemic.

d. Prohibition of Child Labor and Minimum Age for Employment

The labor code contains 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, officials in the MOLE'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 economy establishments, which are outside the scope of the Labor Code. According to the Bureau of Statistics, the legal minimum age for employment in commercial or industrial enterprises is 15 years, or 18 years for hazardous employment. Children under 18 may not be recruited for employment outside the country.

Although the Labor Code prohibits child labor and sets the minimum age for employment at 18 years, the unemployment rate, which is estimated at 45 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 feed themselves and their families.

The most recent official figures on child labor were reported in 2000 and 2004, products of collaboration between the MOLE and UNICEF, along with other partners. Those studies estimated that 29 percent of children aged 5 to 17 were working. The study also showed that many look after livestock. 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. One four-year-old research participant stated: "I started herding before I was born."

According to the study cited above, many urban street children worked in the informal sector. Children working in the streets carried packages for shoppers and sold water or fruit, for example. Some offered themselves for 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.

According to the same study, the worst forms of child labor occur in herding, street work, domestic work, and sex work. Due to increasing poverty and orphanhood, children have become more vulnerable to these worst forms. Some persons hire young children, mostly orphaned or deserted, as herders and exploit them with meager payments. In mountain areas boys stay at cattle posts working 24 hours a day, seven days a week, and are 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 office of the labor commissioner indicated that it is difficult to track cases of child labor because the country does not have laws and policies specific to child labor. However, the country developed a strategy, the Action Program towards Elimination of Child Labor (APEC), which was launched during the year.

The Ministry of Employment and Labor is responsible for investigating child labor.

e. Acceptable Conditions of Work

The national minimum wage for lower-skilled jobs is 252 Maloti (\$36) per month. This wage did not provide a decent standard of living for a worker and family. Each year the Wage Advisory Board--comprised of representatives from the government, trade unions, and the Employers Association--negotiates the minimum wage for different occupation groups. The MOLE amended the Labor Code minimum wage schedule, effective October 1. Textile machine operator trainees thereafter earned 686 Maloti (\$98) per month, and textile general workers earned 738 Maloti (\$105) a month. 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 have declined.

The law stipulates conditions including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 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. Labor laws do not, however, cover the agricultural and other informal sectors, where most workers are employed. The MOLE's inspectorate stated that employers did not always enforce these standards. For example, some employers in the apparel and textile sectors violated the labor code. According to the commissioner of labor, 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. 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, appointment and training of registered health and safety officers was ignored by most employers. Also, the law does not specify the contents of first-aid kits. Generally, with the exception of the mining establishments, employers' compliance on health and safety was low. In addition, health and safety inspectors stated that the retail sector was not in full compliance with health and safety standards, as they had no registered health or safety officers, did not have complete first-aid kits, and did not provide protective clothing.

The labor code empowers the MOLE to issue regulations on work safety, and the ministry did so. There were no known instances of the ministry ineffectively or improperly enforcing health and safety standards. 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, passed in June 2007, which strengthened existing programs. The Labor Code Amendment Act of 2006 provides for the further development of HIV/AIDS policies in the workplace. The MOLE has an HIV/AIDS support group that carried out campaigns for the implementation of the labor code. The support group also provided testing and counseling services to employees in the private sector living with HIV/AIDS. The target sectors were security companies, construction, and transport.