

# LESOTHO 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Lesotho is a constitutional monarchy with a democratic parliamentary government. 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 June 2012, the first peaceful transfer of power from one government to another took place, as Prime Minister Motsoahae Thomas Thabane, leader of the All Basotho Convention (ABC) party, took the oath of office. The May 2012 parliamentary elections gave no political party a majority. The ruling Democratic Congress (DC) party won a plurality of the vote, but three other political parties – the ABC, Lesotho Congress for Democracy (LCD), and the Basotho National Party (BNP) – won 61 seats in the 120-seat National Assembly and formed the first coalition government in the country's history. Domestic and international observers characterized the election as peaceful and conducted in a credible, transparent, and professional manner. Authorities maintained effective control over the security forces. Security forces committed human rights abuses.

Cruel, inhuman, or degrading treatment or punishment and torture by police and societal abuse of women and children were the most significant human rights problems in the country.

Other human rights problems included reported deaths in police custody, lengthy pretrial detention, long trial delays, and official corruption. Societal abuses included stigmatization of persons with disabilities, human trafficking, discrimination against persons with HIV/AIDS, and child labor.

The government took some steps to prosecute officials who committed abuses, whether in the security services or elsewhere in the government; however, impunity was a problem.

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

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

There were several reports the Lesotho Mounted Police Service (LMPS) committed arbitrary or unlawful killings. The LMPS is charged with investigating all security force killings and evaluates whether they occurred in the line of duty.

According to the LMPS, three suspects died in police custody during the year.

On January 1, Tsakholo police arrested and interrogated the brother of suspected rapist Moepa Monare in hopes of gaining information about the suspect. According to the LMPS, police tortured the brother until he died. The case remained under joint review by police and the public prosecutor at year's end.

The LMPS Criminal Investigations Department (CID) completed its investigation into the death by beating of a suspect at the Pitso Ground precinct in December 2012, questioning four constables from the precinct. The CID could not make a final determination on whether to charge the four officers based on the evidence and referred the case to the Magistrate Court, which had yet to consider the case by year's end.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

Although the constitution and law expressly prohibit such practices, there were reported instances of torture and cruel, inhuman, or degrading treatment or punishment by police.

The LMPS investigated 24 reported cases of police allegedly torturing suspects. For example, Roma police arrested Kabelo Makateng on June 27 for assault of a police officer but released him after seven days without charge. During his detainment, four police allegedly blindfolded Makateng, burned his arms with an iron rod, poured hot water on his torso, and assaulted him with a knobkerrie (a traditional wooden club used in herding). Police did not allow Makateng contact with family members during his detention. On October 31, Makateng sued the commissioner of police, the commanding officer at the Roma police station, and the attorney general for damages.

Prosecutors proposed a settlement in the case of Seinoli Khongoana and Khotso Ramoshabe, who sued the LMPS for 270,135 maloti (\$26,227) each for humiliation, pain, and suffering stemming from a July 2012 arrest. The two men claimed that, while detained on suspicion of stealing from their employer, Constable Resetse Ramakhetheng of the Lithoteng police station assaulted them with a knobkerrie. The suit remained open at year's end.

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

Prison conditions were poor. Following a visit to Mafeteng correctional facility in March, Minister of Justice and the Correctional Service Mophato Monyake acknowledged conditions were “appallingly unpleasant and that the situation was compounded by the fact the main building is very ancient.” The Lesotho Correctional Service (LCS) closed the facility on October 22 and relocated the prisoners to other facilities.

Physical Conditions: The LCS reported an adult prison population of 2,326 (2,265 men and 61 women), a pretrial detainee population of 474 (466 men and eight women), and a juvenile population of 75 (53 boys and 22 girls). The prisons had a combined capacity of 2,936. Authorities held juveniles in different detention centers and separated males and females within adult and juvenile facilities. The law provides that pretrial detainees and convicted prisoners be held in separate facilities and authorities respected this law.

Officials detained high-threat and military prisoners in a relatively high-security facility. Their conditions were otherwise similar to those of other prisoners.

An LCS official stated there were reports of prisoners (but not guards) brutalizing other prisoners. The head of the nongovernmental organization (NGO) Lesotho Ex-Offenders Association stated prisoners regularly raped other prisoners, putting them at risk of HIV and other sexually transmitted diseases. The LCS commissioner set up a commission of inquiry to investigate the problem of prisoner abuse. To prevent the spread of HIV, the LCS employed a full-time HIV/AIDS coordinator, and HIV testing, counseling, and treatment were available. The LCS provided condoms in all adult male and juvenile facilities. According to LCS nursing staff, 34 percent of female prisoners were HIV-positive, compared with a 27 percent rate in the general female population.

Nine prisoners died in custody: three reportedly from AIDS-related complications; one from tuberculosis; one from cancer; and four from unconfirmed causes.

Although prisons provided potable water, sanitation was poor and facilities lacked bedding. Proper ventilation and heating/cooling systems did not exist, and some facilities lacked proper lighting. There were no reports of food shortages in Maseru Central Prison, but food quality was poor. All prisons had a nurse and a dispensary to attend to minor illnesses, but medical supplies were insufficient to meet prisoners’ needs. Prisons lacked round-the-clock medical wards; as a result, guards confined sick prisoners to their cells from 3 p.m. to 6 a.m. Prisoners received free medical care from government hospitals. Some correctional facilities owned ambulances to transport inmates for emergency medical care.

The LCS did not provide special assistance to prisoners with disabilities, who relied on voluntary assistance from other prisoners. As with many public buildings in the country, prison buildings lacked ramps, railings, and other measures facilitating physical access for prisoners with disabilities.

In August 2012 LCS officers at the Leribe women's correctional facility stripped six inmates naked and locked them in a cell for four days as punishment for fighting among themselves. Guards limited the six inmates to only two meals per day.

Administration: The manual recordkeeping system was outdated and inadequate, according to the commissioner of the LCS. Authorities used warnings and community service as alternatives to prison sentences for nonviolent offenders.

The Office of the Ombudsman received no complaints from prisoners during the year; however, prisoners were often unaware they could submit complaints to this office. Additionally, any complaints must go through prison authorities and prisoners likely feared retaliation if they complained. The ombudsman made assessment visits to prisons, other correctional facilities, and jails from October 2012 through March but by year's end had yet to release a report.

Prisoners had reasonable access to visitors, although a June strike by LCS guards temporarily affected visitor access. Prisoners practiced religious observance freely.

Prisoners and detainees have the right to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions; however, the LCS conducted no investigations during the year. According to a senior prison official, administrators at each prison dealt with complaints and special officers answering directly to the prison wardens conducted investigations. The official knew of only one case in 2012 referred through the police to the magistrate court. The LCS referred no complaints to the magistrate court during the year. Inmates interviewed at the Maseru Central Prison reported authorities were inconsistent in their responses to complaints, with some problems corrected and others not. Most prisoners were not aware of their right to complain to authorities beyond the prison administration level.

Independent Monitoring: Benevolent groups made up of principal chiefs, church ministers, representatives of the business community, advocates of the court, and other citizens visited prisons to provide toiletries, food, and other services. The International Committee of the Red Cross (ICRC), the only independent organization observing prison conditions, visited the country in September. As in

the past, the ICRC limited its visit to Maseru Central Prison and the eight inmates convicted of attempting to assassinate the prime minister in 2009.

#### **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), LMPS, National Security Service (NSS), and LCS. The LMPS is responsible for internal security. The LDF (the army) maintains all external security and assists police when the LMPS commissioner requests. The NSS is an intelligence service that provides information on possible threats in support of internal and external security. The LDF, the LMPS, and the NSS report to the prime minister, while the LCS reports to the minister of justice and correctional service.

Civilian authorities generally maintained effective control over the LDF, the LMPS, the NSS, and the LCS. In one exceptional case in 2012, the LDF refused to execute arrest warrants against five LDF Special Forces soldiers accused of killing three allegedly armed civilians at a bar. As of September 30, the LDF had yet to execute the warrants or comply with court orders.

During the year there were no reports of impunity involving the LDF, the NSS, or the LCS during the year. There was a general public perception the LMPS did not hold its officers accountable for abuses they committed, however, including torture and corruption. The LMPS initiated a course during the year for senior officers on management skills to prevent human rights violations.

The Police Complaints Authority (PCA) investigates allegations of police misconduct and abuse. The PCA was ineffective because it lacked the authority to fulfill its mandate – it could only investigate cases referred to it by the police commissioner or the prime minister (also minister for police) and could act on public complaints only with their approval. The PCA also lacked authority to refer cases directly to the prosecutor's office. The PCA did not publish its findings or recommendations.

Between January and September, the prime minister as minister of police and the police commissioner referred 19 cases to the PCA. The PCA completed two investigations during that period.

The Directorate on Corruption and Economic Offences (DCEO) investigates and prosecutes cases of corruption, including police corruption, referred to it by the government or based on substantiated public complaints. DCEO effectiveness improved during the year due to the impact of exercising its independent mandate and direct control of its budget granted in 2012. DCEO officials continued to complain, however, of insufficient manpower and resources to investigate all complaints received.

The DCEO reported 301 cases under investigation from April 2011 through October. By year's end, there were no convictions or acquittals, and 52 cases were pending in the court system.

### **Arrest Procedures and Treatment of Detainees**

The law requires police, based on sufficient evidence, to obtain a warrant of arrest from a magistrate prior to making an arrest. Police arrested suspects openly, informed them about their rights, and brought them before an independent judiciary. Police must inform suspects of charges upon arrest and present suspects in court within 48 hours and must notify their families of any detention. The law provides the right to a determination of the legality of the detention by magistrate or judge. The law allows family members to visit inmates.

Police did not always formally notify families of their next of kin's detention. The PCA investigated three cases in which police allegedly failed to notify suspects of charges when arrested. There was one report LMPS officials in Roma failed to comply with these provisions. The LMPS received five reports of violations, and the commissioner of the LMPS claimed precinct commanding officers investigated the alleged violations. The commissioner provided no further details.

The law provides for bail, which authorities granted regularly and, in general, fairly. Defendants have the right to legal counsel. Authorities allow detainees prompt access to a lawyer, and lawyers are provided for indigents in all civil and criminal cases. Free legal counsel is usually available, from either the state or an NGO. The Legal Aid Division under the Ministry of Justice and Correctional Service offered free legal assistance, but a severe lack of resources hampered the division's effectiveness. In February the government split the former Ministry of Justice, Human Rights, Correctional Services, Law, and Constitutional Affairs into two new ministries, the Ministry of Justice and the Correctional Service and the Ministry of Law, Constitutional Affairs, and Human Rights. NGOs maintained a few legal aid clinics. There were no reports of suspects detained incommunicado or held under house arrest. The law provides that authorities may not hold a suspect in custody for more than 90 days before a trial except in exceptional circumstances.

Arbitrary Arrest: There were two reported cases of arbitrary arrest.

Pretrial Detention: Pretrial detainees constituted 20 percent of the prison population. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. Pretrial detention could last for months, however, due to judicial staffing shortages and unavailability of legal counsel.

Amnesty: The government occasionally grants amnesties and early releases on Moshoeshoe's Day, the King's Birthday, Independence Day, or Christmas Day. During the year the government granted amnesty to 289 prisoners.

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

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

#### **Trial Procedures**

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

In most cases suspects are informed promptly and in detail of the charges with free interpretation as necessary. In some cases, however, interpreters were not readily available, resulting in postponement of charges.

The law provides for a fair and public trial without delay. There is no trial by jury. In civil and criminal matters, a single judge normally hears cases. In constitutional, commercial, and appeals cases, more than one judge is appointed. Trials are open to the public. A backlog of cases in the court system usually delayed trials.

Defendants have the right to be present at their trials, to consult with an attorney of their choice, and to have adequate time to prepare their case, although facilities were limited. They have the right to access unclassified, government-held evidence. By law the government may not use classified evidence against a defendant.

Defendants may confront and question witnesses against them and present witnesses and evidence on their own behalf. The law allows defendants to present evidence on their own behalf at the Magistrate Court, but the High Court requires

legal representation. They may not be compelled to testify or confess guilt and may appeal a judgment. The law extends the above rights to all citizens.

### **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. Individuals and organizations may freely access the court system to file lawsuits seeking cessation of human rights violations and recovery of damages.

There were reports the government failed to comply with civil court decisions pertaining to human rights. For example, the High Court awarded Mare Taole damages amounting to 240,200 maloti (\$23,300) in November 2012. Mare Taole sued Inspector Napo Rethabile Sehloho, the commissioner of police, and the attorney general for a 2009 torture incident that took place at Maseru Central Charge Office. The government had not paid the damages by year's end.

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

The constitution and laws prohibit arbitrary interference with privacy, family, home, and correspondence, and the government generally respected these prohibitions. Although search warrants are required under normal circumstances, the law provides police with the power to stop and search persons and vehicles as well as enter homes and other places without a warrant if the situation is life threatening or if there are security concerns. The law states any police officer of the rank of inspector or above may conduct a search on individuals or homes 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, but the constitution does not explicitly mention freedom of the press. The government generally respected freedom of speech. An independent press, effective judiciary, and functioning democratic political system combined generally to promote freedom of the press. In contrast with past years, there were no reports of harassment of journalists, but self-censorship persisted. There were no reports or recorded instances of lawsuits lodged by government officials to silence press criticism.

Freedom of Speech: No official restrictions limit the ability of individuals to criticize the government publicly or privately or discuss matters of general public interest without reprisal. The law prohibits expressions of hatred or contempt for any person because of the person's race, ethnic affiliation, gender, disability, or color.

Press Freedoms: The independent media were active and expressed a wide variety of views, generally without restriction. In contrast with 2012, there were no reports of harassment of journalists. There was no demonstrable difference in the treatment of print media, broadcast media, and publishing in the country. The government could invoke multiple laws to control the media but did not do so. The constitution grants citizens the right to free expression, including obtaining and imparting information freely. Since the law provides for these rights only as long as they do not interfere with "defense, public safety, public order, public morality, or public health," this provision encouraged self-censorship.

Violence and Harassment: Government authorities did not subject journalists to arrest, imprisonment, or physical attack. There were no reports of private businesspersons threatening journalists with legal action for publishing critical articles.

Censorship or Content Restrictions: The government continued its ban on state media coverage of political rallies organized by the opposition DC party. The ban began in July 2012 when former Prime Minister Pakalitha Mosisili claimed his party won the May 2012 elections. Private media outlets covered the rallies. There were no allegations the government blocked the radio transmissions of privately owned stations.

Libel Laws/National Security: Some journalists practiced self-censorship to avoid slander and libel lawsuits.

## **Internet Freedom**

There were no government restrictions on access to the internet or credible reports the government monitored e-mail or internet chat rooms without appropriate legal authority. The internet was not widely available and almost nonexistent in rural areas due to the lack of communications infrastructure and high cost of access. According to the International Telecommunication Union, 4.59 percent of the population used the internet in 2012.

## **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.

On August 22, the High Court convicted Police Constable Sello Paamo of the murder of Matseliso Thulo and the attempted murder of three other students during a student demonstration in 2009 and sentenced him to eight years in prison.

**c. Freedom of Religion**

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

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

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights.

The government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

**Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The system was active and accessible. According to the UNHCR, the government provided protection to 25 refugees and asylum seekers. Authorities suspended the review of the cases of two citizens of the Democratic Republic of the Congo who applied for refugee status when they fled to South Africa after police accused one of them of breaking a car window.

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

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

## **Elections and Political Participation**

Recent Elections: During the most recent national election, in May 2012, no single political party emerged victorious. The ABC obtained 30 seats, the LCD 26 seats, and the BNP five seats, thereby achieving the necessary threshold of 61 seats in the 120-seat National Assembly to form a new government. The ABC, the LCD, and the BNP formed a coalition government and ousted the ruling DC from power. The DC won 48 seats. The eight other parties that contested the elections garnered a total of 11 seats.

In June 2012 the country experienced its first peaceful transfer of power when Prime Minister Thabane was sworn into office. Domestic and international observers characterized the election as peaceful and conducted in a credible, transparent, and professional manner. Also for the first time political party leaders signed a declaration accepting election results.

Participation of Women and Minorities: No laws prevent women or minorities from voting or otherwise participating in political life on the same basis as men or nonminority citizens. The law provides for the allocation of one-third of the seats in the municipal, urban, and community councils to women. The law also states a political party registered with the Independent Electoral Commission must facilitate the full participation of women, youth, and persons with disabilities. Party lists for proportional representation seats must include equal numbers of women and men.

There were 33 women in the 120-seat National Assembly and nine women in the 33-seat Senate. The vice president of the senate is a woman. There were eight women in the 30-member cabinet, and four of 10 High Court judges were women. The governor of the Central Bank of Lesotho and the chief executive of the Lesotho Highlands Development Authority were women.

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

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. While the government made significant efforts to implement the law, some officials engaged in corrupt practices with impunity.

Corruption: In February prosecutors indicted DC party deputy leader and former minister of natural resources Monyane Moleleki together with four executives of Refela Holdings on fraud and corruption charges related to mining licenses

awarded in 2012. They also charged Moleleki in June in a separate incident in which he allegedly diverted 15 million maloti (\$1.45 million) earmarked for electrification projects at mining sites to electrify villages in his constituency. Mokoto Hloaele, a member of parliament for Maliba-Matso constituency and former managing director of the Lesotho Electricity Company, and two directors of Daystar Electrical Construction (Pty) Ltd, Moneri Ntlama and David Pata, were charged in connection with the case. Ntlama is Moleleki's nephew.

On October 24, the DCEO indicted Minister of Energy, Meteorology, and Water Affairs Timothy Thahane and Principal Secretary of Finance Mosito Khethisa on fraud and corruption charges related to government procurements made in 2010 when Thahane was finance minister. The DCEO indicted Thahane again on separate fraud charges on November 4, alleging he misappropriated 24 million maloti (\$2.3 million) from a block farming program between 2006 and 2012. Thahane was subsequently relieved of his cabinet position, becoming the first sitting minister in the country's history removed from office because of corruption allegations.

The DCEO is the independent agency charged with combating corruption. In July the DCEO held a three-day national anticorruption dialogue among stakeholders from government, civil society, and the private sector on the draft national anticorruption strategy. The High Court seconded a Ugandan judge on a three-month contract underwritten by the Commonwealth to try corruption cases.

The Inspectorate for Complaints and Discipline (ICD) is the branch of the LMPS responsible for combating police corruption and misconduct. The ICD claimed resource constraints hampered its ability to fulfill this mandate. The ICD investigated and charged 19 officers, securing their dismissal from the LMPS. Charges included corruption, theft, and misdemeanors.

The Lesotho Revenue Authority (LRA) has two units focused on combating corruption: the Internal Affairs Unit, responsible for investigating corruption within the LRA; and the Investigations Unit, which investigates taxpayer fraud. The LRA coordinates with police and the DCEO through an interagency memorandum of understanding. The LRA was effective, independent, and adequately resourced.

Whistleblower Protection: The law does not address whistleblower protection.

Financial Disclosure: The law requires appointed and elected officials to disclose income and assets, including the income of spouses and unmarried dependent children under the age of 18, and prohibits false or misleading declarations. The declaration regime identifies which assets, liabilities, and interests public officials

must declare. Officials must file their declarations annually by April 30. The law provides for disciplinary measures and criminal penalties for failure to comply with the law. The law does not require public declarations or that officials file declarations upon leaving office. The law mandates the DCEO to monitor and verify disclosures. The DCEO claimed it could not effectively implement the law, however, because it lacked adequate resources.

Public Access to Information: The law does not provide for public access to government information. Some ministries made information available to the public but not according to any stated policy or procedure. The government put few of its publications online.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. According to local NGOs, government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The independent Office of the Ombudsman appeared to function without governmental or political interference. The office was partially effective but constrained by a low level of public awareness and use of its services because its operations were limited to the capital, Maseru, and shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries and the reinstatement of employees illegally suspended from their jobs.

In 2011 the parliament passed an amendment to the constitution providing the legal framework necessary to establish a human rights commission, but none was established by year's end.

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

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status. The constitution recognizes customary law as a parallel legal system, however, under which women remain disadvantaged with regard to property rights, inheritance, and succession rights.

#### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and domestic violence. Rape convictions carry a minimum sentence of 10 years'

imprisonment. When cases were reported, police and the judiciary generally enforced the law promptly and effectively; however, sexual assault and rape were commonplace, and most incidents were not reported. From April 2012 to March (the most recent period for which data are available), 1,572 cases of rape and sexual assault were reported to the Child and Gender Protection Unit (CGPU). From January to October, magistrates convicted 150 individuals.

Domestic violence against women was widespread. The CGPU did not compile data on domestic violence. The LMPS included reports of domestic violence with assault data, which were not broken down by type. Categorized as assault, domestic violence and spousal abuse are criminal offenses, but authorities brought few cases to trial. The law does not mandate specific penalties, and judges have wide discretion in sentencing. Judges may authorize release of an offender with a warning, give a suspended sentence, or, depending on the severity of the assault, fine or imprison an offender.

Advocacy and awareness programs by the CGPU and ministries changed public perceptions of violence against women and children by arguing that violence was unacceptable. The activities of local and regional organizations, other NGOs, and broadcast and print media campaigns bolstered these efforts. For example, one campaign focused on teaching youth and parents how to report such offenses and access victim services. Campaigns and radio programs educating women about their rights took place throughout the year. The government had one shelter in Maseru for abused women and victims of trafficking.

Harmful Traditional Practices: There were reports of forced elopement, a customary practice whereby men abduct and rape girls or women with the intention of forcing them into marriage. The superintendent of the Thaba-Tseka district police, Khethisang Koro, estimated that seven cases of abduction and rape were reported each month in his district alone. Community Councilor Daemane Boutu indicated that victims' parents, if they are wealthy, often settle with the perpetrator's family rather than report the incident to police.

Sexual Harassment: The law criminalizes sexual harassment, indecent exposure, and sexual assault. Penalties for those convicted of sexual harassment are at the discretion of the court. Victims rarely reported sexual harassment. According to the registrar of the Labor Court, only one case has been reported since 2002, and the plaintiff's lawyer withdrew that case. Police, however, believed sexual harassment to be widespread in the workplace and elsewhere. The CGPU prepared radio programs to raise public awareness of the problem.

Reproductive Rights: The law gives couples and individuals the right to decide freely and responsibly the number, spacing, and timing of their children and to

have the information and means to do so free from discrimination, coercion, and violence. No legal, social, or cultural barriers limited access to contraception and related services. Regardless of the patient's background, government hospitals and clinics provided equitable access to reproductive health services. These services included skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. There was access to contraception for a minimal fee; male and female condoms were freely available. Many international and local NGOs worked in partnership with the government to provide such services. According to U N estimates, 46 percent of women of reproductive age used a modern method of contraception in 2009.

According to the government's Demographic and Health Survey (2009), the incidence of maternal mortality was 1,155 deaths per 100,000 live births. The Lesotho Health Systems Assessment released in 2010 indicated that poor roads, lack of transport, and the lack of emergency obstetric care at many hospitals were significant factors contributing to the high maternal mortality rate.

Discrimination: Women and men enjoy equal rights in civil and criminal courts. The law prohibits discrimination against women under formal and customary, or traditional, law. Inheritance rights are an exception; civil law does not address the issue, and customary law discriminates against women and girls as it pertains to inheritance. Customary law limits inheritance to male heirs only; it does not permit women or girls to inherit property. A woman married under civil law may contest inheritance rights in civil court.

Although the civil legal code does not recognize polygamy, a small minority practiced it under customary law.

Under the civil legal system, women have the right to make a will and sue for divorce. In order to have legal standing in civil court, a couple must register a customary law marriage in the civil system.

On May 16, the Constitutional Court dismissed the gender discrimination case of Senate Masupha, who challenged the constitutionality of the Chieftainship Act, which denies women the right to succeed to chieftainship based on the tradition of male primogeniture. Masupha sought to succeed her late father as principal chief of Ha Mamathe in Berea District and to inherit his estate. The court ruled no discrimination had taken place and noted that even if the law discriminated based on gender, such discrimination would be justifiable because the constitution enshrines patriarchal customary law. Masupha appealed the decision; the Court of Appeal scheduled the case for March 2014.

Women's rights organizations took a leading role in educating women about their rights under customary and civil law, highlighting the importance of women's participation in the democratic process. Promoting the rights of women is among the responsibilities of the Ministry of Gender and Youth, Sports, and Recreation. It supported efforts by women's groups to sensitize society to respect the status and rights of women.

The law prohibits discrimination against women in access to employment or credit, education, pay, housing, or in owning or managing businesses. Women, however, faced discrimination in employment, business, and access to credit. The labor code does not explicitly make provision for equal pay for equal work but states there should be no discrimination based on gender.

## **Children**

Birth Registration: According to the constitution, birth within the country's territory confers citizenship. According to the Office of the Registrar of Births and Deaths (ORBD) in the Ministry of Home Affairs, all births in hospitals and local clinics are registered. Children born in private homes are reported to the offices of local chiefs, which provide letters to parents for presentation to the ORBD for issuance of birth certificates. The law stipulates registration within three months of birth but allows up to one year without penalty. After one year, a nominal fee of 2.50 maloti (\$.25) is charged. In July the Ministry of Home Affairs began implementation of the National Identity Cards Act of 2011 by issuing identity cards to citizens over 16 years of age. Applicants for these cards must submit new birth certificates with added security features.

Education: By law primary education is universal, compulsory, and tuition-free through grade seven. Secondary education is not free, but the government offered scholarships for orphans and other vulnerable children. The law requires that parents enroll children in primary school beginning at age six. It leaves open the age by which a child must complete grade seven. Authorities may impose a fine of not less than 1,000 maloti (\$97) or imprisonment on a parent whose child failed to attend school regularly. There were no reports of police fining parents.

According to the UN Children's Fund (UNICEF), many children did not attend school. The problem was particularly prevalent in rural areas, where there were few schools. Attending school regularly was most difficult for orphans and other vulnerable children, those involved in supporting their families through subsistence activities, or those whose families could not afford fees for the purchase of uniforms, books, and other school materials.

Child Abuse: While the law prohibits child abuse, it was nevertheless a problem, especially for orphans and other vulnerable children. Incidents of child abuse included neglect, common assault, sexual assault, and forced elopement, a customary practice of abducting a girl with the intention of marrying her without her consent.

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

In September 2012 the Maseru Magistrate's Court opened a children's court as part of a government initiative to protect children's rights.

There were media reports of violence at traditional initiation schools. Attended mainly by rural youth, these schools used traditional rituals to initiate teenage boys into manhood. While the activities of these initiation schools were secret, in years past the media reported violence against students, teachers, and members of surrounding communities.

Forced and Early Marriage: The laws on child marriage are contradictory. The Children's Protection and Welfare Act defines a child as a person under the age of 18. Under the still-in-force Marriage Act of 1974, however, a girl could marry at age 16 while a boy could do so at age 18. Moreover, customary law does not set a minimum age for marriage. According to UNICEF data collected between 2000 and 2009, an estimated 23 percent of women between the ages of 20 and 24 were married before the age of 18.

Sexual Exploitation of Children: The law sets the minimum age for consensual sex at 18. Anyone who commits an offense related to the commercial sexual exploitation of children is liable to imprisonment for a period of not less than 10 years. Child pornography carries a similar sentence. Offenders convicted of trafficking children into prostitution are liable to a fine of two million maloti (\$194,175) or up to life imprisonment. The court may apply the death penalty if a knowingly HIV-positive perpetrator violates a child and his underage victim becomes infected.

Child prostitution was a problem in the country and involving Basotho in the region. Young girls and boys, many of whom were orphans and other vulnerable children due in large part to poverty, moved to urban areas to engage in prostitution. After being fraudulently recruited with promises of better opportunities, Basotho girls were also exploited in prostitution in South Africa, at

times under the control of criminal syndicates. According to a study by a local NGO, children often engaged in uncoerced prostitution on their own initiative. UNICEF and the government agreed that, while the numbers remained small, the trend toward the commercial sexual exploitation of children was a growing problem.

Police reported a case of a 22-year-old woman who was allegedly trafficked by a Mosotho woman, falsely claiming the girl was going to work as a domestic worker for her daughter in Vereeniging, South Africa. When the victim arrived in Vereeniging, however, a group of Nigerians forced her to work as a prostitute. The victim escaped with the assistance of a retired South African police officer. At year's end police were searching for the suspect.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There was a small Jewish community. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. The constitution does not refer to specific disabilities or to access to air travel and other transportation. The national disability policy establishes a framework for inclusion of persons with disabilities in poverty reduction and social development programs, but by year's end the government had not incorporated objectives or guidelines in the implementation of these programs. The Association of the Disabled promoted the rights and needs of persons with disabilities.

Persons with disabilities were disadvantaged regarding access to public buildings, employment, education, air travel and other transportation, information and communications, and health care. Laws and regulations stipulate that persons with disabilities should have access to public buildings. Public buildings completed after 1995 generally complied with the law, but many older buildings remained inaccessible. There was no accommodation for persons with disabilities in air or other transportation. Information for blind people in the form of Braille and JAWS

(computer software used by people with visual disabilities) was not widely available. Service providers in the government or private sector did not provide sign language interpreters, so signing individuals could not access state services. There were limited facilities for training persons with disabilities. Children with physical disabilities attended school; however, facilities to accommodate them in primary, secondary, and higher education were limited. Two schools accommodated children with visual disabilities, two schools accommodated children with hearing and speech disabilities, and one school accommodated children with intellectual disabilities. The government did not effectively implement laws that provide for persons with disabilities to have access to information and communications.

Media reports indicated that persons with disabilities experienced societal abuse. Although there were no publicly reported cases of such abuse in prisons, educational facilities, or mental health facilities, abuse likely occurred.

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

The law prohibits consensual same-sex sexual relations between men, but authorities did not enforce it. The law is silent on consensual sex between women. Lesbian, gay, bisexual, and transgender (LGBT) persons faced societal discrimination and official insensitivity to this discrimination. LGBT rights groups complained about discrimination in access to health care and participation in religious activities. Same-sex conduct was taboo in society and not openly discussed. Violence against LGBT persons occurred but often went unreported because of victims' fear of public identification as LGBT.

Matrix, an LGBT support group, operated freely and had members in all 10 districts. Matrix engaged in public outreach through film screenings, radio programs, and other social media. In May Matrix organized a walk to mark the International Day Against Homophobia and Transphobia (IDAHO). Approximately 200 persons, mainly family and friends of LGBT Basotho, marched peacefully and without incident from the national stadium through the downtown Maseru business district. Matrix representatives noted that police officers escorting the march were generally supportive, which they attributed to Matrix's previous outreach efforts to the LMPS. Matrix was reticent to promote LGBT legal rights due to fear of provoking societal backlash and preferred a modest, gradual approach of sensitizing the public to LGBT questions.

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

The government undertook efforts to reduce the stigma and discrimination against people with HIV. Widespread discrimination and stigma persisted, however.

The media reported sporadic incidents of mob violence targeting suspected criminals. On August 24, angry villagers in Ha Tikoe, Maseru, burned Limpho Mokoetje to death for allegedly selling computers stolen from a local business.

## **Section 7. Worker Rights**

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

Under the law workers in the private sector have the right to join and form trade unions of their own choosing without prior authorization or excessive bureaucratic requirements. The law prohibits civil servants and police from joining or forming unions but allows them to form staff associations for the purpose of collective bargaining and promoting ethical conduct of their members. All trade unions must register with the Registrar of Trade Unions. The law allows unions to conduct their activities without interference.

The law provides for a limited right to strike. In the private sector, the law requires workers and employers to follow a series of procedures designed to resolve disputes before the Directorate of Dispute Prevention and Resolution, an independent government body, authorizes a strike. The law does not permit civil servants to strike.

The law protects collective bargaining and places no restrictions on it. The law permits unions to bargain for wages above the minimum wage. Government approval is not required for collective agreements to be valid. Under the law regulating civil servants, the Public Service Joint Advisory Council provides for due process and protects civil servants' rights. The council consists of an equal number of members appointed by the minister of public service and members of any association representing at least 50 percent of civil servants. The council concludes and enforces collective bargaining agreements, prevents and resolves disputes, and provides machinery for dealing with general grievances. Furthermore, the Public Service Tribunal handles appeals brought by civil servants or their associations.

The law prohibits antiunion discrimination and other employer interference in union functions. The law provides for reinstatement of workers dismissed for union activity. The law does not exclude particular groups of workers from relevant legal protections.

The government enforced applicable laws, including effective remedies and penalties. Procedures were subject, however, to lengthy delays and appeals. Cases lodged at the Department of Labor, the Directorate of Dispute Prevention and Resolution, and the Labor Court took an average of nine months to resolve, with some cases taking up to 18 months. The delays were due to limited staffing and resources within the three institutions.

The law provides for freedom of association and the right to bargain collectively. Employers sometimes violated those rights. According to union officials, contrary to the law stipulating employers allow union officials reasonable facilities for conferring with employees, some employers denied access to union officials, even during lunch breaks. Only some workers exercised the right to bargain collectively because the law requires any union entering into negotiations with management represent 50 percent of workers, and only a few factories met that condition. The fragmented labor movement had multiple unions competing for membership among workers. Most unions focused on organizing apparel workers. All worker organizations were independent of the government and political parties except the Lesotho Workers Party-affiliated Factory Workers Union. Union officials reported the majority of employers bargained only with unions that represented at least 50 percent of their staff. The Labor Commissioner's Office reported that the fragmented union movement did not influence labor market decisions.

Despite the law, unions in the textile sector reported that employers stopped them from entering factory premises to organize workers or represent them in disputes. The International Trade Union Confederation's (ITUC's) 2012 annual survey of violations of trade union rights supported these claims. According to this report, employers intimidated union organizers and members, threatening the latter with dismissal. ITUC also reported, however, that while serious workers' rights problems persisted in nonunionized factories, there were significant improvements in unionized factories, where factory management made efforts to develop regular dialogue and negotiation between representatives of workers and management. Unions alleged most factory owners in the apparel industry remained opposed to unionization. In the retail sector, employers generally respected the freedom to associate and the right to bargain collectively, although retail unions complained that employers refused to comply with some labor court rulings. Both locally and foreign-owned businesses lacked a full understanding of the labor code's provisions regarding the right to form labor unions.

The International Labor Organization's Better Work Lesotho (BWL) program, which aims to improve compliance with national labor laws and international labor standards within the apparel industry, worked to increase the understanding of national labor law and the internationally recognized core labor standards. One of the BWL member factories, Eclat Textiles, temporarily closed one of its two

Maseru factories in July in response to union activity. The factory re-opened on August 1, selectively rehiring workers. Union representatives claimed Eclat refused to rehire union employees but also told other factory owners that those individuals were still employees of Eclat, effectively blacklisting them.

Unlike in 2012, there were reports of strikes by textile factory workers and some successes in collective bargaining at the factory level. In June workers at Sun Textiles, a Taiwanese-owned company, struck for two days, demanding a 15 percent salary increase; management approved an 8 percent raise.

In the public sector, while both police and civil servants had associations, no single association represented at least 50 percent of civil servants; therefore, neither the council nor the tribunal was functioning. According to the Lesotho Public Servants Staff Association (LEPSSA), approximately 34 percent of the civil servants joined the association. This low rate of participation made it difficult for LEPSSA to engage with the government on workers' rights problems, because the government recognizes only staff associations representing at least 50 percent of all civil servants. LEPSSA reported some civil servants of higher grades intimidated those of lower grades into not joining the association. The intimidation reportedly included threats of dismissal or transfer for noncompliance.

Despite the law against antiunion discrimination, reinstatement was rarely enforced.

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

The law prohibits all forms of forced or compulsory labor.

Police reported isolated incidents in which women and children were subjected to domestic servitude.

Police released an Ethiopian man suspected of trafficking other Ethiopians into the country for domestic service in 2012. Police lacked evidence to pursue trafficking charges against the man.

The Child and Gender Protection Unit of the police conducted community outreach through radio programs on the issue of forced labor. The newly established Human Trafficking Unit of the police targeted high schools to raise awareness on human trafficking and other forms of forced labor. Police rescued four victims from forced labor during the year. Police reported that inadequate resources hampered their investigations and remediation efforts.

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

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

The law defines the legal minimum age for employment as 15 years, or 18 for hazardous employment. Hazardous work includes mining and quarrying; carrying heavy loads; manufacturing where chemicals are produced or used; working in places where machines are used, or in places such as bars, hotels, and places of entertainment where a person may be exposed to immoral behavior; herding; and producing or distributing tobacco. Any employer who breaches these provisions is liable to a fine, imprisonment, or both.

The government did not effectively enforce the minimum-age laws for employment outside the formal economy, since scarce resources hindered labor inspections. The Ministry of Labor and Employment and the CGPU investigated cases of working children. The labor commissioner also noted the difficulty of tracking child labor because the Ministry of Labor and Employment had only 38 labor inspectors, and they did not specifically focus on child labor but rather handled the problem as part of general labor inspections. The Ministry of Labor and Employment held three workshops during the year to train labor inspectors on how to identify child labor in the workplace.

As part of its efforts to implement the National Action Program on the Elimination of Child Labor, the government developed guidelines on how to address the problem of herd boys because it was estimated that the highest percentage of working children was in herding. According to the Monna-ka-Khomo Herdboys Association, the literacy rate among herd boys was improving due to the implementation of the Education Act requiring the enrollment of six-year-old children in a primary school. In addition, the NGO Sentebale, through its Herd Boy Education Program, ran night schools in rural areas that reportedly provided 800 herd boys with basic education.

The Ministry of Labor and Employment completed approximately 600 labor inspections as of August 30. Those inspections did not identify any cases of child labor. Police and the Ministry of Labor took no action on the 2012 case involving a 14-year-old girl working as a domestic servant for foreigners living at Mohalalitoe. The police and labor inspectorate tried to remove the child from the employers in 2012. The girl refused, claiming she was better off with her employers than with her parents.

The Ministry of Labor and Employment and the CGPU continued to disseminate information on prevention of child labor as part of their other programs but did no child labor-specific outreach.

The most recent data available from the Bureau of Statistics, the 2008 Labor Force Survey, reported that 3 percent of children ages six to 14 participated in economic activities; this statistic did not include children aiding their families or others without compensation. UNICEF estimated 23 percent of children between five and 14 were working. Two-thirds of these children were engaged in subsistence farming, while the rest were engaged mainly in domestic service. Child labor was higher among boys (86.6 percent of child workers) than among girls (13.4 percent).

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

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

There is a sector-specific national minimum wage and a general minimum wage. The general minimum monthly wage varied from 1,029 maloti (\$100) to 1,122 maloti (\$109). The Lesotho Bureau of Statistics official estimate for the poverty income level, however, was 149 maloti (\$14.50) per month. Minimum wage provisions do not cover significant portions of the workforce. Labor laws do not cover workers in agriculture or other informal sectors.

The law stipulates standards for hours of work, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, a daily minimum rest period of one hour, at least 12 days of paid leave per year, paid sick leave, and public holidays. Required overtime is legal as long as overtime wages for work in excess of the standard 45-hour workweek are paid. The maximum overtime allowed is 11 hours per week; however, there are exemptions under special circumstances. The laws require that the premium pay for overtime be at a rate not less than one-and-one-quarter times the employee's normal wage; any employer who requires excessive compulsory overtime is liable to a fine, imprisonment, or both.

The law empowers the Ministry of Labor and Employment to issue regulations on occupational health and safety standards. The law requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner that minimizes injury. It also requires each employer have a registered health and safety officer who promotes safe conduct. Employers must provide first aid kits, safety equipment, and protective clothing. The law does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections of the code on safety in the workplace and dismissal imply that such a dismissal would be

illegal. The law also provides for a compensation system for industrial injuries and diseases related to employment. The commissioner of labor is charged with investigating allegations of labor law violations.

Labor inspectors generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Inspectors conducted inspections in mountain districts, however, on a quarterly basis. Businesses operating in the formal sector, including the apparel industry, were subject to more enforcement than businesses operating in the informal sector. The ministry's inspectorate reported employers did not always observe the minimum wage, hours of work, and health and safety standards. Employers in the security and retail sectors were the worst violators. They mentioned that many locally owned businesses did not keep employees' records to facilitate labor inspections as required by law. Smaller employers failed to appoint or train registered health and safety officers, did not have complete first aid kits, and did not provide protective clothing. With the exception of the mining industry, employers' compliance with health and safety regulations generally was low. The BWL also reported some employers paid workers less than required by law for overtime work.

Trade union representatives described textile-sector working conditions as poor or even harsh but not dangerous. Union officials stated most textile factories were in prefabricated metal buildings. Unions reported few examples of dangerous health hazards but noted most factories had improper ventilation. Third-party auditors hired by foreign textile buyers conducted spot checks on many exporting factories, customarily sought labor's input, and briefed the unions on their findings. Unions believed the third-party auditors kept factory owners in line with health and safety regulations. Unions also mentioned that compliance with labor law and labor standards was much higher at factories enrolled in the BWL program.

Many workplace policies covered employees with HIV/AIDS. For example, the Apparel Lesotho Alliance to Fight AIDS described HIV/AIDS as the primary occupational health risk in the apparel sector. The alliance reported 43 percent of the primarily female work force was infected with HIV. Employers provided space for employee examinations and time off for employees to see doctors, receive counseling, and participate in educational and antistigma programs.

The Ministry of Labor and Employment is responsible for enforcing these laws and standards; however, limited budget resources constrained enforcement efforts. Inspections did not cover the agricultural and other informal sectors, which employed most workers. The ministry estimated a significant number of workers were in the informal economy, although there was no reliable data on the number of such workers. The ministry's inspectorate mentioned that penalties were not sufficient to deter violations. The BWL supported Ministry of Labor and

Employment inspection efforts by sharing instances of crucial noncompliance and inconsistent labor law application to ensure that inspectors raised them with employers. The BWL also shared experiences and assessment findings with the ministry on a regular basis with a view to work towards industry-wide improvements.

The Ministry of Labor received claims of 13 workplace fatalities and accidents during the year; however, ministry representatives stated workplace fatalities and accidents were likely underreported. There were no major industrial accidents.

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