

# LESOTHO 2018 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 March 2017 former prime minister Pakalitha Mosisili lost a vote of confidence and in June 2017 a snap election. All major parties accepted the outcome, and Motsoahae Thomas Thabane of the All Basotho Convention Party (ABC) formed a coalition government and became prime minister. Mosisili transferred power peacefully to Thabane, and Mosisili's Democratic Congress Party has since led the parliamentary opposition. Local and international observers assessed the election as peaceful, credible, and transparent.

Civilian authorities generally maintained effective control over the security forces. During the year civilian control over the army improved following a change in command of the Lesotho Defense Force (LDF). In December 2017 the government requested additional Southern African Development Community (SADC) troops to foster stability as the government moved forward with SADC-recommended security-sector reforms. The SADC accepted the government's request to extend the SADC Preventive Mission in Lesotho (SAPMIL) and later issued a May 2019 deadline for completion of constitutional and security reforms.

Human rights issues included arbitrary deprivation of life; torture; restrictions on media freedom; corruption; lack of timely accountability in cases involving violence against women, including rape; and child labor.

The government took steps to investigate and prosecute army members and police accused of committing human rights abuses, and punished those convicted.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were several reports members of the Lesotho Mounted Police Service (LMPS) committed arbitrary or unlawful killings.

For example, on February 8, Butha-Buthe police killed Terene Pitae. According to the press, police shot and killed Pitae and wounded two other villagers who protested the Kao Mine's failure to compensate and relocate villagers affected by mining operations.

Although the case of eight LDF members charged with murder in connection with the 2015 death of former LDF commander Maaparankoe Mahao remained open, it had yet to be tried by at year's end. All eight LDF members remained incarcerated.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

Although the constitution and law expressly prohibit such practices, there were several credible reports police tortured suspects and subjected them to cruel, inhuman, or degrading treatment or punishment. For example, on March 31, media reported that Maseqobela Mohale suffered a miscarriage after Matelile police repeatedly kicked her in the abdomen. Police also reportedly forced gang members to roll on the ground while kicking and beating them with clubs.

The LMPS acknowledged receiving seven reports of police torture. The LMPS stated that it took disciplinary measures against one police officer and investigated allegations against two other officers. The LMPS provided instruction to police on the human rights of persons in police custody and cooperated with the nongovernmental organization (NGO) Transformation Resource Center (TRC). On June 26 and June 27, the TRC conducted a human rights workshop for police. The Office of the Commissioner of Police sent representatives to police stations to emphasize police officer responsibilities regarding human rights.

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

Prison conditions were harsh and potentially life threatening due to gross overcrowding; physical abuse and inmate-on-inmate violence, including rape; and inadequate sanitary conditions, medical care, ventilation, lighting, and heat. The Lesotho Correctional Service (LCS) indicated it had no facilities or staff with specialized training to deal with prisoners with disabilities. The service depended

on voluntary assistance from other prisoners. Prison buildings lacked ramps, railings, and other features facilitating physical access for prisoners with disabilities.

Physical Conditions: The LCS reported that facilities in Maseru, Leribe, Quthing, and Berea were overcrowded. Former justice minister Mahali Phamotse attributed overcrowding at prisons holding men to high crime rates among the unemployed.

Prisoners reported 11 cases of physical abuse by correctional officers, and authorities took disciplinary measures accordingly. LCS authorities registered 24 cases of prisoner-on-prisoner violence, instituted disciplinary action in 22 cases, and referred two cases to police for investigation. The LCS reported five inmate-on-inmate rape cases. For example, in July, two inmates allegedly raped another inmate at the Qacha's Nek Correctional Institution.

Rape and consensual unprotected sex by prisoners contributed to a high rate of HIV/AIDS infection in correctional facilities. The LCS distributed condoms weekly to combat the disease. In January the *Lesotho Times* newspaper reported that Superintendent Limpho Lebitsa stated, "A lot happens behind bars and away from the eyes of prison officers."

Although prisons provided potable water, sanitation was poor in Mokhotlong, Berea, Quthing, and Qacha's Nek, and facilities generally lacked bedding. Proper ventilation, heating, and cooling systems did not exist, and some facilities lacked proper lighting. All prisons had a nurse and a dispensary to attend to minor illnesses, but health care was inadequate. 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.

Administration: The LCS investigated 11 cases of physical abuse by correctional officers, 24 cases of prisoner-on-prisoner violence, and 16 allegations of verbal abuse by correctional officers. Authorities formally took disciplinary action in cases of physical abuse and in one case of verbal abuse by correctional officers. Prison instituted disciplinary action in 22 cases of prisoner-on-prisoner violence.

The Office of the Ombudsman stated it received one complaint from a prisoner regarding his sentences not running concurrently. Prisoners were often unaware they could submit complaints to this office. Complaints to the ombudsman, however, must pass through prison authorities, creating the possibility of retaliation against complainants.

According to the LCS, prisoners and detainees have the right to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions. The LCS referred no complaints to the Magistrate Court during the year.

Independent Monitoring: Representatives of the Lesotho Red Cross Society and the TRC, churches, the business community, and the courts visited prisoners. Visitors provided toiletries, food, and other items. International Committee of the Red Cross representatives periodically visited a group of foreign nationals detained in the country.

Improvements: The LCS reported the renovation of cellblocks at the Maseru Central Correctional Institution, continuing renovation of the Mafeteng Correctional Institution, and installation of electricity at the Berea Correctional Institution.

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

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of arrest or detention in court, and the government generally observed these requirements.

#### **Role of the Police and Security Apparatus**

The security forces consist of the LDF, the LMPS, the National Security Service (NSS), and the LCS. The LMPS is responsible for internal security. The LDF maintains external security and may assist police when the LMPS commissioner requests aid. The NSS is an intelligence service that provides information on possible threats to internal and external security. The LDF and NSS report to the minister of defense, LMPS to the minister of police and public safety, and the LCS to the minister of justice and correctional service. Impunity in the LMPS was a problem.

Civilian authorities generally maintained effective control over the LMPS, NSS, and LCS. Following a January change in command of the LDF, civilian control over the army improved. By year's end more than 30 soldiers implicated in crimes were arrested, charged, and incarcerated. The viability of this improvement is expected to be tested once SAPMIL troops leave the country.

In May the LDF court martialled Major Pitso Ramoepane, Captain Boiketsiso Fonane, and Captain Litekanyo Nyakane for planning a mutiny that led to the September 2017 killing of LDF commander Motsomotso. Court martial proceedings continued at year's end. In June the TRC reported an increase in human rights abuses by the LMPS, including killings, torture, and corruption, and in October the African Commission on Human and Peoples' Rights expressed concern regarding "persistent allegations of police brutality." On October 20, the prime minister urged the minister of police and public safety and the commissioner of police to investigate deaths of suspects in police custody.

The Police Complaints Authority (PCA) investigates allegations of police misconduct and abuse. The PCA was ineffective because it lacked authority to fulfill its mandate. It could only investigate cases referred to it by the police commissioner or minister of police and public safety 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.

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

The law requires police, based on sufficient evidence, to obtain an arrest warrant from a magistrate prior to making an arrest on criminal grounds. Police arrested suspects openly, informed them of their rights, and brought them before an independent judiciary. By law police are required to inform suspects of charges against them upon arrest and present suspects in court within 48 hours. According to the TRC, police did not always inform suspects of charges upon arrest and detained them for more than the prescribed 48 hours. The law provides that authorities may not hold a suspect in custody for more than 90 days before a trial except in exceptional circumstances.

The law provides for bail, which authorities granted regularly and, in general, fairly. Defendants have the right to legal counsel. Authorities generally allowed detainees prompt access to a lawyer and provided lawyers for indigents in criminal cases. Free legal counsel was usually available for indigents, 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 and resulted in a backlog. The division had only 15 lawyers and two vehicles to serve the entire country. NGOs maintained a few legal aid clinics.

There were no reports of suspects detained incommunicado, held under house arrest, or reports of authorities ignoring court orders for their release this year.

Pretrial Detention: Pretrial detainees constituted 23 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.

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

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence. There were no reported instances in which the outcomes of trials appeared predetermined by the government. In some cases authorities failed to respect court orders. For example, on August 6, the High Court found the principal secretary of foreign affairs and international relations, the minister of foreign affairs and international relations, the prime minister, and the attorney general “guilty of blatant and willful contempt of court” for failing to honor its March 23 order directing the government not to recall former permanent representative to the United Nations Kelebone Maope. Consequently, the court ordered the government to pay Maope terminal benefits, including salary for the remaining term of his contract within 60 days.

### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right, but trial delays were common.

Defendants enjoy the right to a presumption of innocence. In most cases officials informed defendants promptly and in detail of the charges with free interpretation as necessary. In some cases interpreters were not readily available, resulting in delays in the filing of charges.

In civil and criminal matters, a single judge normally hears cases. In constitutional, commercial, and appeals court cases, more than one judge is assigned. Trials are open to the public. A backlog of cases in the court system and the failure of defense attorneys to appear in court caused trial delays.

Defendants have the right to be present at their trials, to consult with an attorney of their choice, to have an attorney provided by the state if indigent, and to have

adequate time to prepare their case. Authorities provide free interpretation as necessary during proceedings at the magistrate and High Court levels but not at other points in the criminal justice process. By law the free assistance of an interpreter is not required for cases in the court of appeals.

Defendants may confront and question witnesses against them and present witnesses 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. Defendants 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.

### **f. Arbitrary or Unlawful 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 to enter homes and other places without a warrant if the situation is life threatening or there are “reasonable grounds” to suspect a serious crime has occurred. Additionally, the law states any police officer of the rank of inspector or above may search individuals or homes without a warrant.

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

### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of speech, but the constitution does not explicitly mention freedom of the press. Media freedom deteriorated, marked

by several incidents of censorship, intimidation of journalists, and radio stations taken off the air.

Freedom of Expression: The law prohibits expressions of hatred or contempt for any person because of the person's race, ethnic affiliation, gender, disability, or color. The government did not arrest or convict anyone for violating the law. The NSS reportedly monitored political meetings.

Press and Media Freedom: The law provides for the right to obtain and impart information freely but only as long as it does not interfere with "defense, public safety, public order, public morality, or public health." Nevertheless, censorship, intimidation of journalists, and suspension of radio broadcasting rights occurred.

Violence and Harassment: In May an unidentified individual threatened People's Choice FM radio journalist Malehlohonolo Ramathe following a program on the internal dynamics of the ABC political party. Ramathe reported the threats to police who continued to investigate the matter at year's end.

By year's end no trial date was set for the five LDF suspects arrested in November 2017 for involvement in the 2016 shooting of *Lesotho Times* editor Lloyd Muntungamiri, a Zimbabwean national. In May, Muntungamiri briefly returned to the country to make a formal statement to police. The case encountered several delays in assigning a magistrate.

Censorship or Content Restrictions: Media relied heavily on government advertising and technical resources, leading to some level of self-censorship. The government restricted antigovernment broadcaster MoAfrika FM (the country's second-largest broadcaster) by limiting its access to transmission lines. In August and again in September, the Ministry of Communication filed charges against MoAfrika FM for broadcasting programs that incited violence. The ministry sought suspension of the station's license. Although the ministry's charges were dismissed, MoAfrika FM reported that interruption of its broadcasts in northern parts of the country continued. The government issued a public service announcement that technical work to achieve digital migration caused broadcasting disruptions.

Actions to Expand Freedom of Expression, Including for the Media: In December 2017 the Lesotho Communications Authority resumed issuance of radio broadcasting licenses, which had been suspended since early 2015. Although a

number of stations submitted applications, no licenses had been issued by year's end.

The Media Institute of Southern Africa with support from the Open Society Initiative Southern Africa engaged an independent consultant to review the country's laws and make recommendations for a constitution that enhances a free press environment. The report concluded that freedom of the press was not provided for adequately due to outdated laws and the lack of an independent regulatory framework. It noted the Ministry of Communications controlled both the Lesotho Communications Authority and the Lesotho National Broadcasting Service.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The internet was not widely available and almost nonexistent in rural areas due to lack of communications infrastructure and high cost of access. According to the International Telecommunication Union, 29.8 percent of the population had access to the internet in 2017.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association, but the law requires organizers to obtain permits seven days in advance for public meetings and processions. The government generally respected these rights when timely applications for permits were submitted.

### **c. Freedom of Religion**

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

### **d. Freedom of Movement**

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

The government cooperated with the Office of the UN High Commissioner for Refugees 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.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: In March 2017 parliament passed a motion of no confidence in the prime minister, triggering a chain of events that led to early elections. In June 2017 parliamentary elections were held in which the opposition ABC party won 51 of 120 seats and formed a coalition government with the Alliance of Democrats, the Basotho National Party, and the Reformed Congress of Lesotho.

In June 2017 former prime minister Pakalitha Mosisili peacefully handed power to Motsoahae Thomas Thabane. Domestic and international observers characterized the election as peaceful and conducted in a credible, transparent, and professional manner. Observers expressed concern, however, regarding LDF presence at polling places in some constituencies; there were no reports otherwise of the LDF interfering in the electoral process.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process. Women participated in the political process, but there were no members of racial or ethnic minority groups in the National Assembly, Senate, or cabinet. 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 the 40 proportional representation seats in the National Assembly must include equal numbers of women and men.

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

The law provides criminal penalties for conviction of corruption by officials. The government did not implement the law effectively, and some officials engaged in corrupt practices with impunity. During the year Lesotho Television broadcast Public Accounts Committee (PAC) hearings that exposed extensive corruption within the public service.

Corruption: In July British Channel 24 stated that in 2014 Basotho National Party leader and Minister of Communications, Science, and Technology Thesele Maseribane, received 330,000 maloti (\$25,385) from British businessman Arron Banks for a mining license. Both Maseribane and Banks denied the allegations. The Directorate on Corruption and Economic Offenses (DCEO) investigated the allegation and on September 21, informed Maseribane in writing, “there seems to be no malpractice or any undue influence exercised by you in your capacity as the then Honorable Minister in the affairs of Mr. Arron Bank’s acquisition of mining rights.” The DCEO announced that it would not press charges unless prejudicial evidence came to the fore.

In August media reported that a 2017 case in which a local theater group bribed the Directorate of Dispute Prevention and Resolution (DDPR) officer Koto Mejaro and Ministry of Labor and Employment officer Nthoateng Russell to expedite a labor court case against their employer. Mejaro confessed to PAC that the group offered him 2,000 maloti (\$154) and that he gave 1,200 maloti (\$92) to Russell.

Financial Disclosure: The law requires appointed and elected officials to disclose income and assets and prohibits false or misleading declarations. The declaration regime identifies which assets, liabilities, and other financial interests public officials must declare. Officials must file their declarations annually by April 30. The law does not require public declarations or that officials file declarations upon leaving office.

The law provides for disciplinary measures and criminal penalties for conviction of failure to comply. The law mandates that the DCEO monitor and verify disclosures. The DCEO claimed it could not effectively implement the law

because it lacked adequate resources. Some ministry staff declared their assets and potential conflicts of interest.

In August 2017 leaders of the four-party coalition government signed an agreement to strengthen investigative and judicial enforcement of a revamped policy on declaration of assets and interests. Some ministers declared their assets and interests. The DCEO did not question any declaration's veracity.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 some local NGOs, government officials were somewhat cooperative and responsive to their views.

Government Human Rights Bodies: The independent Office of the Ombudsman occasionally encountered government 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 Maseru and it had insufficient staffing, financing, and equipment.

Because of allegations by some LCS officers that LCS Commissioner Thabang Mothepu selected officers for promotion on the basis of political patronage and nepotism, in May the Office of the Ombudsman held a public inquiry on the promotions of 60 LCS officers and ordered Mothepu not to proceed with the promotions pending investigation.

Although the TRC continued to campaign for the establishment of a human rights commission that meets international standards, the government did not establish one by year's end.

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

#### **Women**

Rape and Domestic Violence: Sexual assault and rape were commonplace. The law criminalizes the rape of women or men, including spousal rape, and domestic violence. Rape convictions carry a minimum sentence of 10 years' imprisonment. When informed, police generally enforced the law promptly and effectively;

however, those cases prosecuted proceeded slowly in the judiciary. Local and international NGOs reported that most incidents of sexual assault and rape went unreported. As of August 23, authorities had received 527 reports of rape, almost double the 247 rapes reported during the same period in 2017. Of the 527 reported rapes, 325 involved children.

Domestic violence against women was widespread. For example, on August 13, the press reported the fatal stabbing of a woman in Lithabaneng by her husband.

The LMPS Child and Gender Protection Unit (CGPU) did not compile data on domestic violence. The LMPS included reports of domestic violence data with assault data but did not break down the data by type of violence and death. Assault and spousal abuse are criminal offenses, but few cases were prosecuted. The law does not mandate specific penalties if convicted. Judges may authorize release of a convicted offender with a warning or order a suspended sentence or, depending on the severity of the assault, a fine, or imprisonment.

Advocacy and awareness programs by the CGPU, ministries, and NGOs sought to change public perceptions of violence against women and children by arguing that violence was unacceptable. The prime minister and the queen have also spoken strongly against rape and gender-based violence. In March the queen urged the wives of principal chiefs to work together to eradicate gender-based violence.

The government had one shelter in Maseru for abused women. The shelter offered psychosocial services but provided help only to women referred to it. The majority of victims were not aware of the shelter. There was no hotline for victims.

Other 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; no estimate of its prevalence was available. If a perpetrator's family was wealthy, the victim's parents often reached a financial settlement rather than report the incident to police.

Sexual Harassment: The law criminalizes sexual harassment. Victims rarely reported sexual harassment. Penalties for those convicted of sexual harassment are at the discretion of the court. Police believed sexual harassment to be widespread in the workplace and elsewhere. The CGPU produced radio programs to raise public awareness of the problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization. For additional information, see Appendix C.

Discrimination: Except for inheritance rights, women enjoy the same legal status and rights as men. The law prohibits discrimination against women in marriage, divorce, child custody, employment, credit, pay, owning or managing businesses or property, education, the judicial process, and housing.

By civil law women have the right to have a last will and testament and to sue for divorce. A customary law marriage does not have legal standing in a civil court unless registered in the civil system. Civil, but not customary law protects inheritance, succession, and property rights. Civil law defers to customary law that does not permit women or girls to inherit property. Delays in the court system hampered government efforts to enforce the law effectively.

## **Children**

Birth Registration: According to the constitution, birth within the country's territory confers citizenship. The law stipulates registration within three months of birth but allows up to one year without penalty. For additional information, see Appendix C.

Education: By law primary education, which goes through grade seven, is universal, compulsory, and tuition free beginning at age six. The Ministry of Education set the maximum age for free primary education at 13. Secondary education is not free, but the government offered scholarships for orphans and other vulnerable children. Authorities may impose a fine of not less than 1,000 maloti (\$77) or imprisonment of parents convicted of failing to assure regular school attendance by their children. For additional information, see Appendix C.

Child Abuse: While the law prohibits child abuse, it was nevertheless a problem, especially for orphans and other vulnerable children. Neglect, common assault, sexual assault, and forced elopement--a customary practice of abducting a girl with the intention of marrying her without her consent--occurred. For example, on August 20, Mamokhoane Mofolo of Butha-Buthe District whipped to death an 11-year-old girl suspected of theft. On August 31, in response to the child's death, Minister of Social Development Matebatso Doti denounced on television acts of violence against children.

The Maseru Magistrate's Court had a children's court as part of a government initiative to protect children's rights. The CGPU led the government's efforts to combat child abuse. 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.

Early and Forced Marriage: Civil law defines a child as a person under age 18 but provides for a girl to marry at age 16. Customary law does not set a minimum age for marriage. In March the queen called upon the wives of principal chiefs to work together towards eradication of child marriage.

Sexual Exploitation of Children: The law sets the minimum age for consensual sex at 18. Anyone convicted of an offense related to the commercial sexual exploitation of children is liable to not less than 10 years' imprisonment. Child pornography carries a similar sentence. An antitrafficking law criminalizes trafficking of children or adults for the purposes of sexual or physical exploitation and abuse. Offenders convicted of trafficking children into prostitution are liable to a fine of two million maloti (\$153,846) or life imprisonment. The death penalty may be applied if an HIV-positive perpetrator is convicted of knowingly infecting a child. Authorities generally enforced the law when cases were reported. For additional information, see Appendix C.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

### **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/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with disabilities. Persons with intellectual disabilities, however, were legally barred from testifying in court until, on March 28, the Constitutional Court repealed the law. 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 did not incorporate objectives or guidelines for the implementation of these programs.

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. According to the executive director of the Lesotho National Federation of Organizations of the Disabled (LNFOD), air travel services were adequate for persons with disabilities. The executive director stated that the insufficient number of sign language interpreters in the judicial system for persons with hearing disabilities who could sign resulted in case postponements. Braille and JAWS (computer software used by persons with vision disabilities) were not widely available. Persons with hearing disabilities who signed could not access state services. Children with physical disabilities attended school, but facilities to accommodate them in primary, secondary, and higher education were limited. The Ministry of Social Development drafted a disability equity bill to provide for greater access to services, health, education, employment, and social inclusion.

There were few reports of persons with disabilities being abused in prison, school, or mental health facilities, but according to the LNFOD, such abuse likely occurred regularly.

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

The law does not address consensual sex between women. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced societal discrimination and official insensitivity to this discrimination.

The law prohibits discrimination attributable to sex; it does not explicitly forbid discrimination against LGBTI persons. The LGBTI rights organization Matrix reported that discrimination in access to health care and in participation in religious activities lessened during the year due to its public sensitization campaigns. The government involved Matrix during the drafting of the Health Ministry strategic plan. There were no reports of employment discrimination.

On May 19, police allowed LGBTI persons to conduct a march through the city center. Police also issued a statement pledging to cooperate with LGBTI groups.

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

There were reports of societal violence. On July 23, music gang gunmen shot and killed five women in Rothe on the outskirts of Maseru. Rothe Principal Chief Bereng Mohlalefi Bereng stated that the incident brought the number of gang-related killings to 14 in the first seven months of the year. Sporadic incidents of mob violence targeting criminal suspects remained a problem. For example, on October 22, a mob attacked and severely beat a former police constable accused of robbing a house in the Qoaling area of Maseru. He fled and died in hiding at a friend's house.

## **Section 7. Worker Rights**

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

By 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 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 DDPR, an independent government body, authorizes a strike. A registered union with a 51-percent majority of staff may call a strike on a "dispute of interest" (a demand that goes beyond labor code stipulations). If mandatory negotiations before a conciliator between the employer and employees reach a deadlock and the employer and employees agree on the strike rules and its duration, a union may file to embark on a strike. Employers may also invoke a lockout clause. The law does not permit civil servants to strike.

The law protects collective bargaining and places no restrictions on it. Government approval is not required for collective agreements to be valid. By law 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 procedures 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 enforces applicable laws with cases typically resolved within one or two months at the DDPR. Penalties are sufficient to deter violations. A minority of cases filed with the Department of Labor, a part of the Ministry of Labor and Employment, took up to six months to be resolved. The Labor Court's independence remained questionable because it is under the authority of the Ministry of Labor and Employment, despite a 2011 law transferring it to the judiciary. It was rare for a case to take longer than nine months. In April the Judicial Service Commission appointed two additional judges to reduce a backlog of outstanding Labor Court cases. The DDPR had nine arbitrators nationwide and had no case backlog.

The government and employers generally supported freedom of association and collective bargaining. Although factory workers have bargaining power, only some workers exercised the right to bargain collectively. This was because the law requires any union entering into negotiations with management to represent 50 percent of workers, and only a few factories met that condition. In 2015 the Factory Workers Union (FAWU), the Lesotho Clothing and Allied Workers Union, and the National Union of Textile Workers merged to form the Independent Democratic Union of Lesotho to strengthen their bargaining power. The National Clothing Textile and Allied Workers Union (NACTWU), which separated from FAWU, was active. On August 9, police arrested and charged NACTWU deputy secretary general, Tsepang Makakole, with inciting violence during a workers' strike at Maputsoe. All worker organizations were independent of the government and political parties except the Lesotho Workers Party-affiliated Factory Workers Union. Most unions focused on organizing apparel workers.

Factory owners in the apparel industry were generally willing to bargain collectively on wages and working conditions but only with trade unions that

represented at least 50 percent of workers. Factory decisions concerning labor disputes are determined by companies' headquarters, which are usually located overseas. In the retail sector, employers generally respected freedom to associate and the right to bargain collectively, although retail unions complained employers commonly appealed Labor Court rulings to delay implementation of the rulings.

Workers exercised their right to strike. Factory workers embarked on violent illegal strikes on August 9, 15, and 21, demanding a minimum wage of 2,000 maloti (\$154). At the time the minimum wage was 1,237 maloti (\$95). Following negotiations with workers' unions, the government decided on a minimum wage of 1,696 maloti (\$130) for a trainee textile machine operator and 2,000 maloti (\$154) for trained machine operators. The latter constitutes approximately 80 percent of the more than 40,000 members of the factory workforce. The agreement did not address what some labor experts noted as the practice of issuing repeated short-term contracts to the same workers as a method of keeping them at the minimum wage.

Staff at the Avani Lesotho Hotel (Lesotho Sun at the beginning of the strike) were on strike from December 2014 to the end of 2015 regarding demands for a 14 percent salary increase. Following the strike, employees filed a court case against their employer after they failed to reach a mutual agreement on salaries and working conditions. In May the management reinstated 81 employees and offered them 20,000 maloti (\$1,538) compensation each for unpaid loans and insurance policies. On September 6, the Labor Court overturned the DDPR's ruling barring teachers from engaging in a strike regarding pay and working conditions. The court instructed the DDPR to award teachers unions an industrial action protection certificate to enable their members to go on a legal strike. The teachers suspended the strike following negotiations with the government.

In the public sector, while both police and civil servants had associations, no single association represented at least 50 percent of civil servants. According to the Lesotho Public Servants Staff Association (LEPSSA), approximately 34 percent of civil servants belonged to the association. LEPSSA reported most civil servants did not register for the association because they were unaware of it. This low rate of participation made it difficult for LEPSSA to engage with the government on workers' rights problems.

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

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the applicable law. Police reported that inadequate resources hampered their investigations and remediation efforts, although penalties for conviction of violations, including two million maloti (\$153,848) or 25 years' imprisonment, would be sufficient to deter violations if applied.

The CGPU conducted community outreach on forced labor through community gatherings, lectures, workshops, and radio programs. The police Human Trafficking Unit targeted high schools to raise awareness of human trafficking and other forms of forced labor.

Individual farmers may have been involved in forced labor practices in the agricultural sector. The government did not inspect the informal sector nor prosecute such cases so the extent of the problem remains obscured.

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

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

The law defines the legal minimum age for employment as 15, 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. The law provides for completion of free and compulsory primary school at age 13, two years before the legal age of employment, rendering children ages 13-15 particularly vulnerable to forced labor. The law prohibits illicit activities including drug trafficking, hawking, gambling, or other illegal activities detrimental to the health, welfare, and educational advancement of the child. The law also states a child has a right to be protected from the use of hallucinogens, narcotics, alcohol, tobacco products, psychotropic drugs, and any other substances declared harmful, and from being involved in their production, trafficking, or distribution. Additionally, the law prohibits the use of children for commercial sexual exploitation. While the law applies to children working in the informal economy, it excludes self-employed children from relevant legal protections.

The government did not effectively enforce 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 ministry had only two child labor inspectors. Police reported six pending child-labor court cases. Victims herded livestock and worked in farming instead of attending school.

The NGO Beautiful Dream Society reported no cases of child labor, sex trafficking, or cases of boys being forced to leave school to work as herdboys.

In 2015 the government approved the guidelines for herdboys, which make a distinction between the concepts of “child work” (work that is not harmful and is acceptable as part of socialization) and “child labor” (those forms of work that are hazardous and exploitative). The guidelines apply to children under age 18 and strictly prohibit the engagement of children at a cattle post, the huts where herders stay when in remote mountain rangelands. Herding is considered illegal child labor only if herding deprives herdboys of the opportunity to attend school, obliges them to leave school prematurely, or requires them to combine school attendance with excessively long hours and difficult working conditions. The highest estimated percentage of working children was in herding.

The most recent data available from the Bureau of Statistics, the 2011 *Household Budget Survey*, reported 3.5 percent of children ages six to 14 participated in economic activities; this statistic did not include children aiding their families or others without compensation. In its most recent report in 2014, UNICEF estimated 23 percent of children between ages 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). The report was based on 2004 data provided by the Ministry of Labor and Employment.

See the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The labor code prohibits discrimination, but it does not explicitly prohibit discrimination based on disability. There is no provision for equal pay for equal work.

Discrimination in employment and occupation occurred. According to the NGO Women and Law in Southern Africa, there was no legal basis for discrimination

against women in employment, business, and access to credit, although social barriers to equality remained. Both men and women reported that hiring practices often aligned with gender, with men preferentially selected for certain positions (such as mechanics) and women preferentially selected for other positions (such as sewing machine operators).

The Ministry of Labor and Employment did not report any cases during the year of discrimination against those who were HIV-positive. The law prohibits such discrimination.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens.

#### **e. Acceptable Conditions of Work**

There is a sector-specific minimum wage and a general minimum wage. The general minimum monthly wage varied from 1,500 maloti (\$115) to 1,637 maloti (\$126). The Lesotho Bureau of Statistics official estimate for the poverty income level was 246.60 maloti (\$18.97) per month. Minimum wage provisions do not cover significant portions of the workforce. Labor laws do not apply to 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 law requires the premium pay for overtime be at a rate not less than 25 percent more than the employee's normal hourly wage rate; 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, and the commissioner of labor is responsible for investigating allegations of labor law violations.

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 to have a registered health and safety officer. Employers must provide first aid kits, safety equipment, and

protective clothing. The law also provides for a compensation system for industrial injuries and diseases related to employment. Penalties for violations were insufficient to deter violations.

Labor inspectors worked in all districts and generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Legislation would be required to make the informal sector subject to for inspection. The Ministry of Labor and Employment's inspectorate reported employers, particularly in the security, transport, and construction sectors, did not always observe the minimum wage and hours of work laws. Many locally owned businesses did not keep employees' records to facilitate labor inspections as required by law. Smaller employers failed to establish safety committees, 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. According to the ministry, there was noncompliance with the health and safety regulations, especially in construction. Employers took advantage of the fact that the ministry failed to prosecute perpetrators.

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 that in government-constructed factories there was usually improper ventilation due to poor planning and design. Employers, who leased factories from the government, were not allowed to change the design of government factory buildings to install ventilation systems. 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.

Many workplace policies covered employees with HIV/AIDS. Some of the larger factories maintained health services at the workplace. Where factories did not provide health care, workers had the right to access services at public health centers. 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, but limited budget resources constrained enforcement efforts. A recent study on the rural and informal economy estimated that 47.8 percent of workers

worked in the informal economy. The ministry's inspectorate noted penalties were not sufficient to deter violations.

The Ministry of Labor and Employment did not compile any reports on workplace fatalities and accidents during the year.

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

The law does not explicitly provide that workers may remove themselves from situations that endangered health or safety without jeopardy to their employment. Nevertheless, sections of the code on safety in the workplace and dismissal imply such a dismissal would be illegal. Authorities protected employees when violations of the law were reported.