

# LESOTHO 2019 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 2017 former prime minister Pakalitha Mosisili of the Democratic Congress Party lost a vote of no confidence and 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 Mathibeli Mokhothu assumed leadership of the opposition. Local and international observers assessed the election as peaceful, credible, and transparent.

The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Mounted Police Service (LMPS), the National Security Service (NSS), and the Lesotho Correctional Service (LCS). The LMPS is responsible for internal security. The LDF maintains external security and may support police when the LMPS commissioner requests assistance. 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; the LMPS, to the minister of police and public safety; and the LCS, to the minister of justice and correctional service. Civilian authorities generally maintained effective control over the security forces.

The Southern African Development Community (SADC) Preventive Mission in Lesotho contingent of troops, deployed to foster stability as the government moved forward with SADC-recommended security-sector reforms, departed the country in November 2018. In May the government did not meet an SADC deadline for completion of constitutional and security reforms.

Significant human rights issues included: unlawful or arbitrary killings by police; torture by police; arbitrary detention by police; harsh and life-threatening prison conditions; serious government efforts to infringe on the independence of the judiciary; acts of corruption; lack of timely accountability in cases involving violence against women, including rape; and criminalization of consensual same-sex sexual conduct between adults.

Impunity was a problem. During the year the government provided no credible evidence it acted to investigate and punish police accused of committing human rights abuses.

## **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 LMPS committed arbitrary or unlawful killings.

For example, on January 14, Timeletso Sekhonyana and Lethusang Mongali died in Hlotse police custody three days after police detained them on suspicion of armed robbery. According to press reports, Hlotse police station commander Senior Superintendent Khopiso Nthimo confirmed to family members that police assaulted the deceased.

According to the *Lesotho Times* newspaper, in December 2018 Minister of Defense and National Security Tefo Mapesela stated the army should not hesitate to “shoot to kill criminals and murderers.” In September media reported the spokesperson of the ABC Youth League, Senator Mphonyane Lebesa, stated it was necessary for police to shoot and kill suspects as a preventive measure. Government officials at the highest levels condoned brutality, stating it was part of the country’s culture.

The case of eight LDF members charged with murder in connection with the 2015 death of former LDF commander Maaparankoe Mahao remained open at year’s end. In January prosecuting authorities indicted former LDF commander Tlali Kamoli for Mahao’s murder and the attempted murder of Mahao’s two nephews. Kamoli and the eight other LDF members charged with Mahao’s murder remained incarcerated at year’s end.

### **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 credible reports police tortured suspects and subjected them to cruel, inhuman, or degrading treatment or punishment. The newspaper *Public Eye* reported that on June 3, LMPS spokesman Superintendent Mpiti Mopeli spoke of “the shameful acts by the police in the past where individuals were tortured in police detention and during police operations. Some persons even lost their lives, but I want to assure you that police authorities are hands-on in eradicating those barbaric tendencies among the police.”

There were numerous reported abuses similar to the following example. On July 9, the newspaper *Lesotho Times* reported Ha Matela police constables Maanela, Lelaka, Tsiame, and Morake, and three unnamed officers arrested Kabelo Ratia on suspicion of stealing 30,000 maloti (\$2,083) from a local businessman. Police covered Ratia’s face with a plastic bag to coerce him into confessing to the crime and to implicate others in it. Matela implicated Thabo Mei who authorities arrested on July 13 and held for two days. Mei died two weeks after his release on July 31. Media reported an autopsy indicated his death was due to injuries sustained from police beatings during his detention.

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

Prison conditions were harsh and 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.

Authorities did not institute safeguards or other measures to protect the rights or accommodate the needs of prisoners with disabilities. Prison buildings lacked ramps, railings, and other features facilitating physical access for prisoners with disabilities.

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

Prisoners submitted eight complaints of physical abuse by correctional officers to the LCS. LCS authorities took disciplinary measures accordingly. The LCS registered 16 cases of inmate-on-inmate violence and took disciplinary action against inmates identified as responsible. It also referred one inmate-on-inmate rape case to police for investigation and possible criminal charges.

Rape and consensual unprotected sex by prisoners contributed to a high rate of HIV/AIDS infection in correctional facilities. In January 2018 the *Lesotho Times* reported Superintendent Limpho Lebitsa stated, “A lot happens behind bars and away from the eyes of prison officers.”

All prisons had a nurse and a dispensary to attend to minor illnesses, but health care was inadequate. Prisons lacked around-the-clock operating medical units; as a result, guards confined sick prisoners to their cells from 3 p.m. to 6 a.m. Although prisons provided potable water, sanitation was poor in the Mokhotlong, Berea, Quthing, and Qacha’s Nek prisons. Prisons generally lacked bedding, lighting, and proper ventilation; heating, and cooling systems did not exist.

In August corporals Motsieloa Leutsoa, charged with the 2014 killing of Police Sub-Inspector Monaheng Ramahloko, and Tsitso Ramoholi, charged with the 2015 killing of LDF Commander Maaparankoe Mahao, petitioned the High Court for release on bail, citing gross overcrowding and generally deplorable prison conditions. They complained that cells designed to hold four to five inmates held as many as 20 inmates at a time. They also stated there were only enough mattresses for one third of the inmate population, tuberculosis and other diseases were rampant, and it took up to a week to access a doctor.

Administration: The LCS investigated reports of inmate-on-inmate violence and physical abuse by correctional officers. Authorities formally took disciplinary action in eight cases of physical abuse by prison guards and in 15 cases of inmate-on-inmate violence.

The Office of the Ombudsman stated it received three complaints from prisoners regarding their sentences not running concurrently but did not find merit in them. Prisoners were often unaware they could file complaints, which had to be submitted through prison authorities, creating the possibility of retaliation against complainants.

Independent Monitoring: Senators, the ombudsman, and representatives of the Lesotho Red Cross, the nongovernmental organization (NGO) Transformation Resource Center (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. During the year two representatives of the International Corrections and Prisons Association visited prisons in Berea, Leribe,

Mohale's Hoek, and Quthing, and two BBC News Africa journalists visited the Maseru City Correctional Institute.

Improvements: During the year the LCS reroofed the Maseru correctional institution for women and the Mafeteng, Maseru, Mohale's Hoek, and Leribe prisons. The LCS drilled a well and installed a water tank at the Maseru Institution for Men and built multipurpose halls at the Maseru and Mohale's Hoek institutions for men.

#### **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. On August 20, Chief Magistrate Matankiso Nthunya stated that police often detained individuals improperly and attempted to refer cases for prosecution based on insufficient evidence. Nthunya added that in many cases police sought to punish defendants for unknown reasons unrelated to any substantiated criminal offense.

#### **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 those charged with a crime before a judicial officer. 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. By law 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. The Legal Aid Division under the Ministry of Justice and Correctional Service and NGOs offered free legal assistance, but it was insufficient to provide counsel for all indigent detainees.

Pretrial Detention: Pretrial detainees constituted 25 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 years, however, due to judicial staffing shortages, unavailability of legal counsel, or negligence. On April 1, Acting Chief Justice Maseforo Mahase visited the Maseru correctional facility and discovered pretrial detainees who had been imprisoned for up to eight years without charge. On August 20, the chief magistrate announced a decision to release pretrial detainees who had been detained for unreasonably lengthy periods due to trial delays.

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

The constitution and law provide for an independent judiciary, but the Law Society of Lesotho (LSL) stated the government did not respect judicial independence. In some cases, authorities failed to respect court orders. For example, on July 19, the prime minister refused to accept an interim High Court order barring him from suspending Court of Appeal president Kananelo Mosito. In August the LSL obtained an interim Constitutional Court order preventing the prime minister from suspending Mosito. According to press reports, the LSL stated the prime minister's move to suspend Mosito "constitutes a bare and naked interference with the independence of the judiciary."

#### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, but the judiciary did not always enforce this right in politically charged cases. For example, the Court of Appeal recommended disciplinary action against the acting chief justice for refusing to explain the reasons for rulings in a civil case involving competing factions of the ruling party. Trial delays were common.

Criminal defendants enjoy the right to a presumption of innocence. In most cases officials informed defendants promptly and in detail of the charges against them with 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 Court of Appeal cases. 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 appeal court cases, more than one judge is assigned. By law civil and criminal trials are open to the public. Nevertheless, in February the prime minister allegedly influenced acting chief justice Judge

Maseforo Mahase's decision to deny public attendance at a politically charged High Court civil case involving a power struggle among competing ABC party factions. The plaintiffs in the case were ABC members who accused the prime minister of manipulating the seating of delegates in the party's executive committee in his favor. The plaintiffs claimed the prime minister influenced the judge in deciding to deny the public access to the court proceedings. The decision was referred to the Court of Appeal that stated denial of public access was an "irregularity committed in the face of a clear provision of the law."

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. 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's Court, but the High Court requires a lawyer present evidence. Defendants may not be compelled to testify or confess guilt and may appeal a judgment. The law extends the above rights to all citizens.

A backlog of cases in the court system and the failure of defense attorneys to appear in court caused trial delays.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil remedies for human rights violations through domestic courts.

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

The constitution and law 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.

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, Including Online Media: The law provides for the right to obtain and impart information freely but only if it does not interfere with "defense, public safety, public order, public morality, or public health."

Violence and Harassment: Unlike in prior years, there were no reports of journalists being subjected to violence, harassment, or intimidation by any actor due to their reporting.

By year's end no trial date was set for the five LDF suspects arrested in 2017 for involvement in the 2016 shooting of *Lesotho Times* editor Lloyd Muntungamiri, a Zimbabwean national. Mahanye Phusumane, one of the five LDF suspects arrested and charged in the case, reportedly became a state witness. On September 4, he was released from custody.

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 radio (the country's second-largest broadcaster) by limiting its access to transmission lines outside of the capital from September 2018 to April. The government initially issued a public service announcement that technical work to achieve digital migration caused broadcasting disruptions but provided no explanation for the protracted length of the disruption.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports 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.

### **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.

### **Freedom of Peaceful Assembly**

The government generally respected this right when timely applications for permits were submitted; however, on June 5 and September 7, police rescinded permits to hold a rally and a conference granted to an ABC party faction opposed to the prime minister. In both instances the High Court overruled the government, and the rally and conference were held.

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

See the Department of State's *International Religious Freedom Report* at <https://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.

### **e. Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

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.

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.

### **g. Stateless Persons**

Not applicable.

## **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 2017 the parliament passed a motion of no confidence in the prime minister, triggering a chain of events that led to early elections. In 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. Former prime minister Pakalitha Mosisili peacefully handed power to Motsoahae Thomas Thabane and stepped down from party leadership.

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.

On February 1 and 2, the ABC held its national executive committee conference. Senior party members challenged the election outcome in the High Court citing discrepancies in the number of delegates and final vote tallies. On June 5, ABC member of parliament Motebang Koma tabled a motion of no confidence in the prime minister's government. On June 10, in a move that critics characterized as

an attempt to avoid a vote on the motion, Speaker of the National Assembly Sephiri Motanyane adjourned the assembly for winter break. On October 18, the National Assembly reconvened, but at year's end the motion had not been debated and voted on.

Participation of Women and Minorities: No law limits participation of women or members of minorities in the political process, and women did participate. There were no members of racial or ethnic minority groups, however, 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. For example, in May the Public Accounts Committee released a report that stated the government lost 1.5 billion maloti (\$103 million) between 2013 and 2016 due to public service corruption and misuse of public funds.

Corruption: There were numerous reports of government corruption during the year. For example, the press reported former Ministry of Health principal secretary Lefu Manyokole stated Minister of Health Nkaku Kabi had pressured him to sign an inflated 40.1 million maloti (\$2.8 million) contract for procurement of medical equipment. He claimed the contract was inflated from an initial 33.4 million maloti (\$2.3 million).

Financial Disclosure: The law requires appointed and elected officials to disclose income and assets and prohibits false or misleading declarations. The declaration regime identifies the 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 willful noncompliance. The law mandates that the Directorate on Corruption and

Economic Offenses (DCEO) monitor and verify disclosures. The DCEO claimed it could not effectively implement the law because it lacked adequate resources. Some ministers and ministry staff declared their assets and potential conflicts of interest. The DCEO did not question any declaration's veracity.

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

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 not always responsive to their views.

Government Human Rights Bodies: The mandate of the independent Office of the Ombudsman is to receive and investigate complaints of government maladministration, injustice, corruption, and human rights abuses, and to recommend remedial action where complaints are justified. The TRC advocates for justice, peace, and participatory development. It continued to campaign for the establishment of a human rights commission meeting international standards.

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

Violence reporting: Media reported rapes and killings of the elderly across the country. For example, on August 13, two boys strangled and killed an 87-year-old woman at Moshoeshoe II village in Maseru. The government held gatherings to raise public awareness of the problem of elder abuse at which senior government officials issued warnings, including the view that security services should summarily kill perpetrators of violence against the elderly (see section 1.a.).

#### **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 most incidents of sexual assault and rape went unreported.

Domestic violence against women was widespread. There were numerous reported abuses similar to the following example. In June the press reported Thabiso Ramalietse fatally stabbed his wife after beating her.

The LMPS Child and Gender Protection Unit (CGPU) did not compile data on domestic violence. The LMPS combined domestic violence and assault reports and 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 violence was unacceptable. The prime minister and queen have also spoken strongly against rape and gender-based violence (GBV).

The government had one shelter in Maseru for abused women. The shelter offered psychosocial services but provided help only to women referred to it. Most victims were unaware 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 or allow cases to proceed to trial. For example, media reported former minister of law and constitutional affairs Mootsi Lehata was accused of raping and impregnating a 17-year-old orphan in January 2018. He was arrested and charged with rape. Before his case was tried, Lehata's lawyer negotiated an out-of-court settlement that included building a house for the victim and paying her a monthly maintenance allowance of 1,000 maloti (\$69).

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. In March media reported a government human rights report that cited sexual harassment as one of the major causes of female students dropping out of school. On August 15, the United States-based nonprofit organization Worker Rights Consortium published a report that described in detail

sexual harassment and coercion of female workers by male managers, supervisors, and coworkers in three factories.

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. Women have the right to execution of a legal last will and testament and to sue in court for divorce. A customary law marriage does not have legal standing in a civil court unless registered in the civil system.

Although civil law provides for women to have inheritance, succession, and property rights, customary law does not permit women or girls to inherit property and takes precedence over civil law in property disputes.

## **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 ends at grade seven, is universal, compulsory, and tuition free beginning at age six. The Ministry of Education and Training 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 (\$69) 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. The penalties for conviction of ill treatment, neglect, abandonment, or exposure of a child to abuse are up to two months' imprisonment and a fine of 2,000 maloti (\$139). 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 14, prosecutors charged Mophethe Ramathe, a teacher at Mafeteng Lesotho Evangelical Church Primary School, with raping a 13-year-old female student.

The Maseru Magistrate's Court has 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 to protect 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 younger than age 18 but provides for a girl to marry at age 16. Customary law does not set a minimum age for marriage. During the year former social development minister Matebatso Doti conducted public awareness campaigns against child marriage in a number of districts.

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 (\$139,000) 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. 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/reported-cases.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 <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with disabilities. National disability policy establishes a framework for inclusion of persons with disabilities in poverty reduction and social development programs, but the government did not incorporate objectives or guidelines for the implementation of these programs.

Law and regulations provide for persons with disabilities to 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 also stated the insufficient number of sign language interpreters in the judicial system who could sign resulted in case postponements for persons with hearing disabilities. Moreover, persons with hearing disabilities who signed could not access state services. Braille and JAWS (Job Access with Speech, a computer software used by persons with vision disabilities) were not widely available.

Children with physical disabilities attended school, but facilities to accommodate them in primary, secondary, and higher education were limited. On August 7, the Ministry of Education and Training instituted a policy to provide for greater access to education for children with disabilities. The policy provides for increasing the capacity of mainstream schools to accommodate children with disabilities instead of having them attend segregated schools. At year's end the ministry had not budgeted for implementation of the policy.

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 NGO Matrix reported discrimination in access to health care and in participation in religious activities continued to decline due to its public sensitization campaigns. There were no reports of employment discrimination.

In November 2018 the government included Matrix in the Multistakeholder National Dialogue on constitutional and other reforms. Its inclusion in the dialogue reflected the increasing willingness of the government to consider LGBTI perspectives. On September 4, Minister of Gender and Youth, Sports, and Recreation Mahali Phamotse met with Matrix representatives to discuss the LGBTI community's need for legal protections and improved access to health care.

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

There were reports of societal violence. On August 7, gunmen shot and killed five members of a family in Matsieng Village on the outskirts of Maseru. Matsieng member of parliament Matsepo Ramakoa stated the killings appeared to be a revenge attack for killings of the family members of a rival gang member.

There were sporadic incidents of mob violence targeting criminal suspects. For example, on August 6, following the shooting death of a factory worker in Maseru South West Village, a mob attacked and killed two persons, one of whom was alleged to be the shooter.

## **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 significantly limits the 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 (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 between the employer and employees reach a deadlock, a union may file with the DDPR for permission to embark on a strike. Typically, the employer and employees agree on the strike rules and its duration. 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 equal numbers of members appointed by the minister of public service and members of associations 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 effectively enforces applicable law with cases typically resolved within one to six months at the DDPR. Penalties are sufficient to deter violations. 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.

The government and employers generally supported freedom of association and collective bargaining. Although factory workers have bargaining power, the law requires any union entering negotiations with management to represent 50 percent of workers in a factory. Only a few factories met that condition, and unions at factories where union membership is below 50 percent may not represent workers collectively in negotiations with employers. 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, which separated from FAWU, was active. 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 the freedom to associate and the right to bargain collectively, although retail unions complained employers commonly appealed Labor Court rulings to delay their implementation.

Workers exercised their right to strike. In August 2018 factory workers embarked on violent illegal strikes demanding a minimum wage of 2,000 maloti (\$139). At the time the minimum wage was 1,237 maloti (\$85). In April the government agreed to increase the minimum wage, but it did not address what some labor experts noted was the practice of issuing repeated short-term contracts to the same workers to keep them at the minimum wage. Three labor unions wrote to the International Labor Organization (ILO) and accused the government of violating the ILO's convention on setting minimum wages and failing to affect retroactive wage payments. In June the ILO recommended talks between the government and labor unions. The talks were pending at year's end.

The Lesotho National Development Corporation indicated factory workers in June embarked on eight unlawful strikes and one lawful strike. The causes of the strikes were low wage increase increments, underpayments, poor terms of employment, and unsatisfactory work conditions.

In September 2018 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. On August 12, the teachers' strike resumed. On August 26, some teachers went back to work while others remained on strike. The government applied a no-work, no-pay policy to those teachers who continued to strike.

In the public sector, while both police and civil servants had associations, no single association represented 50 percent of civil servants. According to the Lesotho Public Servants Staff Association (LEPSSA), 34 percent of civil servants belonged to the association. LEPSSA reported most civil servants did not register for membership in the association because they were not aware of its existence. This low rate of participation made it difficult for LEPSSA to engage with the government on workers' rights problems. In July police embarked on a "go-slow" work action and countrywide protest against the government's failure to pay a risk allowance and 6 percent salary increase. Police also complained of a lack of uniforms and unclear transfer and promotion criteria. The government granted the salary increase. On August 1, a group of National Security Service agents briefly blocked Mpilo Boulevard, demanding review of their salaries, which were last adjusted in 2013. Agents also complained of poor work conditions.

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

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce applicable law. Police reported inadequate resources hampered their investigations and remediation efforts, although penalties for conviction of violations would be sufficient to deter violations if enforced.

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.

Forced labor, including forced child labor, continued to occur in the sectors of domestic work and agricultural work. Victims of forced labor were either children or workers in the informal sector. The government also continued to use forced prison labor and has not responded to an ILO request for information on the use of forced prison labor by political prisoners. The government did not inspect the informal sector nor prosecute such cases, so the extent of the problem remained obscure.

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **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. The law prohibits most, but not all, of the worst forms of child labor. It defines hazardous work to include 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. Children in domestic work are sometimes exposed to the worst forms of child labor not prevented by existing law and regulations.

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 the use of children for 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 law regarding 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 did not employ enough labor inspectors. Police reported no pending Child Labor Court cases.

The NGO Beautiful Dream Society reported five cases of sexual harassment but no cases of child labor, sex trafficking, or boys being forced to leave school to work as herdboys (boys who look after livestock).

Government regulations on children working as herdboys regulate the work and distinguish between legal “child work” and illegal “child labor.” The guidelines apply to children younger than age 18 and strictly prohibit the engagement of children at a cattle post, the huts where herders stay when in remote mountain rangelands. In line with international conventions and standards, the law considers herding by children to be illegal child labor only if it 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.

Children also engaged in domestic service and street work, including vending.

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

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

The law prohibits discrimination in employment and occupation, but it occurred. Discrimination based on race is barred, but discrimination based on disability is not explicitly prohibited. The law's prohibition of gender-based discrimination is ambiguous. Generally, gender-based employment discrimination is prohibited. Nevertheless, in certain sectors, such as mining, what the law refers to as "fair discrimination" permits employers to decline to hire women for dangerous jobs. There is no provision for equal pay for equal work.

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

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 was above the poverty line. Minimum wage provisions do not cover significant portions of the workforce. Labor law does 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 if 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. The law holds employers responsible for orienting their employees on safety standards and for providing adequate protective clothing. Workers may be held responsible for accidents if they fail to use provided protective clothing or fail to comply with safety standards.

Labor inspectors worked in all districts and generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. The government did not employ enough labor inspectors. By law the informal sector is not subject to 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. Except for the mining industry, employers' compliance with health and safety regulations generally was low. According to the ministry, there was noncompliance with health and safety regulations, especially in construction. Employers took advantage of the fact the ministry failed to prosecute perpetrators.

Trade union representatives described textile sector working conditions as poor or 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 third-party auditors kept factory owners in line with health and safety regulations.

On August 15, a coalition of labor unions and women's rights organizations, an apparel supplier, and three apparel brands signed agreements to address GBV in garment factories. In response to allegations of sexual harassment, including some claims of supervisors demanding sexual favors, these agreements provide for the establishment of an independent body to receive complaints of GBV and carry out investigations accordingly.

Many workplace policies covered employees with HIV/AIDS. Some of the larger factories provided 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 labor law and standards. A study on the rural and informal economy estimated 48 percent of workers were in the informal economy. The ministry's inspectorate noted penalties were not sufficient to deter violations.

The Ministry of Labor and Employment prepared a report on workplace fatalities and accidents during the year. According to the report, from January through August, there were the following 25 accidents (involving 15 men and 10 women): six in the textile sector, five in the manufacturing sector, four in the security sector, three in the retail sector, three in the construction sector, and four in other sectors.

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

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