

# LESOTHO 2020 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 then prime minister Pakalitha Mosisili of the Democratic Congress Party lost a vote of no confidence and the snap election that followed. All major parties accepted the outcome, and Motsoahae Thomas Thabane of the All Basotho Convention party 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. During the year Thabane's coalition government collapsed and the All Basotho Convention party and the Democratic Congress Party formed a new coalition government. On May 20, former finance minister Moeketsi Majoro replaced Thabane as prime minister.

The security forces consist of the Lesotho Defense Force, Lesotho Mounted Police Service, National Security Service, and Lesotho Correctional Service. The Lesotho Mounted Police Service is responsible for internal security. The Lesotho Defense Force maintains external security and may support police when the Lesotho Mounted Police Service commissioner requests assistance. The National Security Service is an intelligence service that provides information on possible threats to internal and external security. The Lesotho Mounted Police Service reports to the minister of police and public safety; the Lesotho Defense Force and National Security Service to the minister of defense; and the Lesotho Correctional Service to the minister of justice and law. Civilian authorities generally maintained effective control over the security forces. Members of the Lesotho Mounted Police Service committed numerous abuses, and Lesotho Defense Force members committed some human rights abuses.

Significant human rights issues included: unlawful or arbitrary killings; torture and cases of cruel, inhuman, or degrading treatment or punishment; harsh and life-threatening prison conditions; arbitrary arrest or detention; serious problems with the independence of the judiciary; serious acts of official corruption; lack of investigation of and accountability for violence against women; existence of laws criminalizing consensual same-sex sexual conduct between adults; and trafficking in persons.

Although impunity was a problem, the government had mechanisms in place to identify and punish officials who may have committed 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 Lesotho Mounted Police Service (LMPS) committed arbitrary or unlawful killings. The Police Complaints Authority (PCA) investigates allegations of police misconduct and abuse. The PCA, however, was ineffective because it lacked authority to fulfill its mandate: It could only investigate cases referred to it by the police commissioner or minister for police and could act on public complaints only with their approval. The PCA also lacked authority to refer cases directly to the Prosecutor's Office. The PCA did not publish its findings or recommendations.

There were numerous reported abuses similar to the following example. On July 22, three police officers of the Flight One Station in Maseru allegedly beat Thabiso Molise to death. According to the chairman of the Ha Jimisi Community Policing Forum, Molise escaped police custody after being arrested on suspicion of theft and fled to Ha Jimisi village, where police captured him and clubbed him to death. According to a family member, autopsy results confirmed his death from the beating. On September 3, the suspects were suspended from duty pending investigation of the incident.

### **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**

The constitution states that no person shall be subjected to torture, inhuman or degrading punishment or other treatment and the penal code lists torture as one of the crimes against humanity. Nevertheless, there were credible reports police tortured suspects and subjected them to cruel, inhuman, or degrading treatment or punishment.

There were numerous reported abuses similar to the following example. On July 8, the Moafrika Community Broadcasting Service reported that Mabote police officers tortured LMPS Special Operations Unit member Lebusa Setlojoane and his relative Lefu Setlojoane with electrical shocks and suffocation to force him to confess to committing arson and homicide. Setlojoane stated he was told he would be killed if he reported the abuse to judicial authorities.

On July 29, Lesotho Television reported the minister of police encouraged harsh treatment of criminals; however, on September 1, the commissioner of police stated, “torture and inhuman treatment is intolerable within the LMPS.”

During the year the government acted to investigate and punish police and military members. The commissioner of police took disciplinary action against 50 police officers and two military members accused of committing human rights abuses. They were charged, appeared before the High Court and released on bail. They had yet to be tried by year’s end.

### **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 food, sanitary conditions, medical care, ventilation, lighting, and heat.

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

Unlike in 2019 authorities stated no prisoners submitted complaints of physical abuse by correctional officers.

Inmate-on-inmate violence continued to be a problem. In January the newspaper *Sunday Express* reported that former LCS commissioner Thabang Mothepu called on LCS superintendent Tuoata Makoetje to explain the death of an inmate from physical abuse by prison officers because he sodomized another inmate.

Rape and consensual unprotected sex by prisoners contributed to a high rate of HIV/AIDS infection in correctional facilities. In 2018 the newspaper *Lesotho Times* quoted Superintendent Limpho Lebisa’s statement, “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 medical units that operated 24 hours a day; 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.

From June to September, authorities halted prison visits by inmate family members due to the COVID-19 pandemic. The Crime Prevention, Rehabilitation, and Reintegration of the Prisoners Association warned of the risk of increased inmate illnesses and deaths due to the interruption in the provision of additional food and medication provided by relatives. The LCS acknowledged food shortages. On August 27, the Minister of Justice Nqosa Mahao stated prison food quality was poor. Restrictions were relaxed in September.

In addition to one death as a result of inmate-on-inmate violence, the LCS reported four deaths that were attributed to natural causes, not malnutrition, lack of food, or other prison conditions.

In August 2019 corporals Motsieloa Leutsoa, charged with the 2014 killing of Police Sub-Inspector Monaheng Ramahloko, and Tsitso Ramoholi, charged with the 2015 killing of Lesotho Defense Force (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.

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.

Administration: The LCS investigated reports of inmate-on-inmate violence and physical abuse by correctional officers. Authorities took disciplinary action. From June to September, authorities instituted COVID-19 restrictions that halted prison visits by inmate family members.

Unlike in 2019 the Office of the Ombudsman stated it received no complaints from prisoners. 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: In June, COVID-19 restrictions halted most prison visits. Prior to June 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. Diplomatic and International Committee of the Red Cross representatives periodically visited foreign nationals detained in the country. Following the relaxation of COVID-19 restriction in September, visitors were allowed limited contact with inmates and to provide them food, medicine, and personal hygiene products.

#### **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. In August 2019 Chief Magistrate Matankiso Nthunya stated 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 media, 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 most cases, 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 Law and NGOs offered free legal assistance, but it was insufficient to provide counsel for all indigent detainees.

Arbitrary Arrest: 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. Arbitrary arrest and detention was a continuing problem. In August 2019 Chief Magistrate Matankiso Nthunya stated 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.

Pretrial Detention: Pretrial detainees constituted 29 percent of the prison population. The average length of pretrial detention was 90 days, after which authorities usually released pretrial detainees on bail pending trial. Pretrial detention sometimes lasted for years, however, due to judicial staffing shortages, unavailability of legal counsel, or negligence. In April 2019 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.

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

The constitution and law provide for an independent judiciary, but in 2019 the Law Society of Lesotho stated the government did not respect judicial independence. In some cases authorities failed to respect court orders. There were several reports of abuses similar to the following examples. On April 18, Deputy Commissioner Sera Makharilele was appointed acting police commissioner despite a High Court order not to replace the incumbent, Holomo Molibeli. On February 5, acting chief justice Maseforo Mahase intervened in the bail hearing of the spouse of former prime minister Thabane, Maesaisah Thabane, who was indicted for murder. Mahase ordered payment of minimal bail and Thabane's release. On May 29, the Court of Appeal revoked Thabane's bail. On June 3, a magistrate court ordered reincarceration. On June 29, High Court Judge Thamsanqa Nomngcongo ordered her release on bail. No date for Thabane's trial had been set by year's end, and she remained free on bail.

#### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and the judiciary generally enforced this right.

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. Trial delays resulted from a large backlog of cases due to an inadequate number of judges, the failure of defense attorneys to appear in court, defendants changing legal counsel, and motions for recusal of judges. Defendants have the right to be present at their trial, to communicate with an attorney of their choice, and have adequate time and facilities to prepare a defense. 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 a 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.

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.

### **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. The government generally respected these rights; however, the independent press practiced self-censorship, and the government did not always respect judicial independence.

Freedom of Press and Media, Including Online Media: Independent media practiced self-censorship due to their dependence on government advertising revenue and access to broadcast towers but otherwise expressed a wide variety of views without restriction. 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: Foreign media were attacked by Deputy Minister of Foreign Affairs Machesetsa Mofomobe. According to Media Institute of Southern Africa, on August 12, the deputy minister used a xenophobic local slur to describe the editors of foreign-owned news outlets that published unsubstantiated criticism of the minister of communications. According to *Sunday Express* newspaper, the Office of the Prime Minister condemned the deputy minister’s remark.

### **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.

## **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. Status and Treatment of 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.

## **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 All Basotho Convention (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 of the LDF directly interfering in the electoral process.

In April then prime minister Thabane suspended parliament. He cited the COVID-19 pandemic as the reason, but most observers viewed the measure as a means of preventing parliament from passing a constitutional amendment to curb the prime minister's power to unilaterally dissolve parliament and call snap elections in the event of losing a vote of no confidence. The ABC--Thabane's party--and coalition partner the Basotho National Party challenged the suspension in the High Court. The court ruled that Thabane had "exercised his advisory power in an arbitrary and irrational manner" and ordered the reopening of parliament. On May 11, the coalition government collapsed. The ABC formed another coalition with the Democratic Congress Party, and on May 20, former minister of finance Moeketsi Majoro became prime minister and Democratic Congress Party leader Mathibeli Mokhothu deputy prime minister.

Participation of Women and Members of Minority Groups: No law limits participation of women or members of minority groups 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.

Corruption: There were numerous reports of government corruption similar to the following examples. On January 28, the Directorate on Corruption and Economic Offences (DCEO) charged former minister of gender Mahali Agnes Phamotse of corruption regarding the alteration of tender documents in favor of domestic companies Epic printers and Molumeli (Pty) Ltd for the provision of high school textbooks in 2015. On July 30, the *Lesotho Times* reported that the Office of the Auditor General was auditing the National Emergency Command Center--set up to combat the spread of COVID 19--for paying inflated prices to suppliers. The newspaper report added that the DCEO had also launched an investigation into possible criminal charges.

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. Some ministers and ministry staff declared their assets and potential conflicts of interest. On June 29, Prime Minister Majoro declared his assets and interests.

The law provides for disciplinary measures and criminal penalties for conviction of willful noncompliance and mandates that the DCEO monitor and verify disclosures. The DCEO claimed it could not effectively implement the law because it lacked adequate resources. It did not audit or question the veracity of any declaration during the year.

The law does not require public declarations or that officials file declarations upon leaving office.

## **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 somewhat cooperative and responsive to their views; however, the TRC stated the government needed to take concrete action against the perpetrators of abuses.

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. On July 24, the prime minister dismissed former LCS commissioner Thabang Mothepu for, among other reasons, ignoring ombudsman recommendations.

The TRC continued its campaign for the establishment of a human rights commission meeting international standards.

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

### **Women**

Rape and Domestic Violence: 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. Sexual assault and rape were commonplace, and according to local and international NGOs, most incidents went unreported. When informed, police generally enforced the law promptly and effectively; however, those cases prosecuted proceeded slowly in the judiciary.

Domestic violence against women was widespread. There were numerous reported abuses. On July 23, body parts of a woman were discovered at Kholokhoe Village. The victim was identified as Makhutlang Lesekele. On September 16, Morero Posholi surrendered to police, admitted killing her, and led them to a neighbor's pit latrine where he hid her remaining body parts. According to police, Posholi killed Lesekele for ending their relationship.

In January, Commissioner of Police Holomo Molibeli implicated then prime minister Thabane and his wife Maesaiah Thabane in the 2017 killing of his former wife, Lipolelo Thabane, who had refused to grant him a divorce. On February 4, Maesaiah Thabane was indicted for the murder; however, the former prime minister was not indicted, although police stated there was substantial evidence of his involvement. She remained free on bail at year's end (see section 1.e.).

Advocacy and awareness programs by the LMPS Child and Gender Protection Unit (CGPU), ministries, and NGOs sought to change public perceptions of violence against women and children by arguing violence was unacceptable. The prime minister also spoke 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 GBV survivors were unaware of the shelter. In May the government launched a hotline for survivors. Prime Minister Majoro acknowledged GBV had increased markedly during the COVID-19 pandemic.

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. For example, on August 23-26, a man reportedly kidnapped and sexually assaulted a 13-year-old girl in Ha Sekake in his home. The perpetrator escaped arrest.

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 the case to proceed to trial.

Labia elongation--the act of lengthening the labia minora (the inner lips of female genitals) through manual manipulation (pulling) or physical equipment (such as weights)--was practiced. According to the NGO Federation of Women Lawyers, labia elongation was not a common practice.

Sexual Harassment: The law criminalizes sexual harassment; however, victims rarely reported it. 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 (see section 7.e.). There were numerous reported abuses similar to the following example. Police Inspector Makatleho Mpheto filed a legal complaint against Deputy Police Commissioner Paseka Mokete for sexual harassment. She alleged that on April 29, Mokete groped her buttocks. On July 14, Prosecutor Pontso Janki charged Mokete with sexual assault. A trial date had not been set by year's end.

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 on the part of government authorities.

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, access to credit, pay, owning or managing businesses or property, education, the judicial process, and housing. There were

no reports women were treated differently from men regarding employment, including in regard to working hours and most occupations and job tasks. There were, however, legal limitations on the employment of women in some industries, such as mining. Women have the right to execute a 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.

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 nominal monetary fine or imprisonment of parents convicted of failing to assure regular school attendance by their children.

Child Abuse: While the law prohibits child abuse, it was a continuing 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 nominal monetary fine. Neglect, common assault, sexual assault, and forced elopement occurred.

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.

Child, 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 the Ministry of Social Development 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. The 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 substantial fine, life imprisonment, or both. The death penalty may be applied if an HIV-positive perpetrator is convicted of knowingly infecting a child. Authorities generally enforced the law. Although police stated there were no reported cases of sexual exploitation of children, they believed it occurred.

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 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. Although the *2020 National Strategic Development Plan* was printed in braille, it was uncommon for government documents to be printed in braille.

Children with physical disabilities attended school, but facilities to accommodate them in primary, secondary, and higher education were limited. In August 2019 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. During the year funding provided by UNICEF for implementation of the policy was redirected to the government's COVID-19 response.

There were no reports of persons with disabilities being abused in prison, school, or mental health facilities; however, according to the LNFOD, such abuse likely occurred regularly.

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

By law, “any person charged with sodomy or assault with intent to commit sodomy may be found guilty of indecent assault or common assault if such be the facts proved.” 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.

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



Media reported killings of the elderly across the country. For example, on March 5, three men killed three elderly women accused of witchcraft in Ha Kholopo Village. The government held gatherings to raise public awareness of the problem of elder abuse.

There were reports of societal violence. In February gunmen shot and killed Chief Neo Mankimane and two gravediggers at Ha Makhakhe Village in Mafeteng District. Area Councilor Sebofi Moeketsi believed the killings were related to gang activity.

There were sporadic incidents of mob violence targeting criminal suspects. For example, on June 12, a mob attacked and burned to death two men suspected of the rape and killing a female student at Thabong Village in Maseru.

## **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 registrar may refuse to register a trade union if the provisions of its constitution violate the labor code. 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 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, military, and essential workers 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. During the year five cases were adjudicated and three were closed.

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 covers the informal sector and does not exclude particular groups of workers from relevant legal protections. There were reports foreign employers at garment factories did not rehire workers who joined unions following a March 29-May 5 COVID-19 lockdown. The Construction, Mining, Quarrying, and Allied Workers Union stated that two construction companies dismissed 450 workers for joining unions. Some employers threatened union leaders and denied them the opportunity to meet with their members.

The government effectively enforced applicable law with disputed cases typically resolved within one to six months at the DDPR. Penalties were commensurate with those for similar violations. The Labor Court's independence remained questionable because it is under the authority of the Ministry of Labor and Employment (Ministry of Labor), despite a 2011 law transferring it to the judiciary.

The government and employers generally respected 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), Lesotho Clothing and Allied Workers Union, and National Union of Textile Workers merged to form the Independent Democratic Union of Lesotho (IDUL) to strengthen their bargaining power. The National Clothing Textile and Allied Workers Union, which separated from FAWU, was active. Since 2018 the three largest unions--IDUL, United Textile Employees, and the National Clothing Textile and Allied Workers Union--worked together to address workers' issues,

resulting in stronger collective bargaining. 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.

In March factory workers held a one-day protest demanding a 20 percent salary increase, rather than the proposed 4.5 percent increase. They further demanded the government implement a social security scheme, unemployment insurance fund, and paid maternity leave for private-sector workers. On June 12, workers held a one-day stay-away protest after police declined to grant them a permit to march, citing COVID-19 regulations.

In 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. In August 2019 the teachers' strike resumed. Later that month some teachers returned to work, but others remained on strike. The government applied a no-work, no-pay policy to those teachers who continued to strike. In September 2019 approximately 4,000 teachers did not receive their salaries, including those who returned to work. A full month's salary was deducted for those who embarked on a strike, and retired teachers from those schools did not receive their pensions. Following intervention by the Lesotho Council of Non-Governmental Organizations, Christian Council of Lesotho, and Public Accounts Committee, the government reversed the decision, but many salaries remained unpaid at year's end.

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.

The Lesotho Police Staff Association (LEPOSA) stated it had 98 percent membership, an increase from 92 percent in 2019. In July 2019 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 September 10, LEPOSA requested a permit to march to present grievances, but the minister of police declined, citing the law stating police were not allowed to protest.

From July 13 to July 24, doctors, nurses, pharmacists, and laboratory technicians went on a strike demanding the government provide personal protective equipment (PPE) to protect them from COVID-19. They also demanded a risk allowance. The government provided the PPE and pledged an additional allowance but at a lower rate. In July medical workers at designated COVID-19 isolation centers located at Berea and Mafeteng hospitals went on strike due to PPE shortages. The government then provided the required PPE.

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

The law prohibits all forms of forced or compulsory labor. The CGPU conducted community outreach on forced labor through community gatherings, lectures, workshops, and radio programs. Police focused on high schools to raise awareness of human trafficking and other forms of forced labor.

The government did not effectively enforce applicable law. Police reported inadequate resources hampered their investigations and remediation efforts. Penalties for conviction of violations were commensurate with those for similar crimes, but they were seldom enforced. 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.

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 does not prohibit all of the worst forms of child labor. Children in domestic work are sometimes exposed to the worst forms of child labor

and are not protected by law and regulations. The law 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.

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. No convictions for child labor were reported. The Ministry of Labor and the CGPU investigated cases of working children, but it lacked a sufficient number of labor inspectors to enforce compliance. Police reported one case of child labor, and the ministry reported another case. There were 11 pending cases of human trafficking at year's end.

The NGO Beautiful Dream Society reported one case of sex trafficking involving a girl trafficked to South Africa, and two cases of human trafficking of boys forced to leave school to work as herders.

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 based on race, religion, national origin, color, sex, ethnicity, age, sexual orientation, HIV/AIDS status, or refugee status. 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, discrimination against women in employment, business, and access to credit is illegal, 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).

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 laws were not applied 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 government applied wage and hour laws inconsistently. Wage and hour rates were not enforced in the large informal economy. The Ministry of Labor, which has the responsibility to enforce minimum wage and overtime laws, observed the security sector did not always conform to the minimum wages and hours-of-work regulations. In general overtime laws were enforced through inspection visits and office mediation.

The law empowers the Ministry of Labor 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 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. 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.

The government did not effectively enforce the law on safety and health standards. Labor inspectors worked in all districts and generally conducted unannounced inspections, but the government did not employ enough labor inspectors. By law the informal sector is not subject to inspection. The Ministry of Labor'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 adequate employee 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 was generally low. According to the ministry, there was extensive noncompliance with health and safety regulations, especially in construction. Employers took advantage of the fact the ministry

failed to prosecute violations. Penalties were not commensurate with those for other violations.

Trade union representatives described textile-sector working conditions as poor or harsh but not dangerous. They stated failure by small factories to observe the World Health Organization's COVID-19 guidelines put the workers at risk of contracting the disease. Unions noted that due to poor planning and design ventilation was usually improperly installed in government-constructed factories. Employers who leased factories from the government were not allowed to change the design of government factory buildings to install ventilation systems. Independent 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 independent auditors kept factory owners compliant with health and safety regulations.

In August 2019 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 provided for the establishment of an independent body to receive complaints of GBV and carry out investigations accordingly. As of November this program was implemented only at Nien Hsing Textiles factory. Union leaders stated, however, that workers reported cases of violence and harassment, including assault and verbal abuse by employers, in other factories and called for expansion of the program.

Many workplace policies covered employees with HIV/AIDS. Some of the larger factories provided health-care 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 has minimal jurisdiction over the informal economy, where an estimated half of the country's workers were employed. The ministry's inspectorate noted penalties were commensurate with those for similar violations, but they were not applied.

The Ministry of Labor prepares an annual report on workplace fatalities and accidents. According to the report, from January through August, there were 237 accidents, of which 23 persons died and 214 individuals (160 men and 54 women)



sustained serious injuries. The affected sectors included the textile, manufacturing, security, retail, and construction sectors.

Working conditions for foreign or migrant workers were the same as those of residents, and migrants enjoyed equal protection under the law in the formal sector.

The law does not explicitly provide for workers to remove themselves from situations that endanger their health or safety without jeopardy to their employment. Workers have the right to report incidents that put their lives in danger to their safety officers or safety committees. In most cases workers reported being pressured not to report violations. 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.