

# LESOTHO 2012 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. On June 8, the first peaceful transfer of power from one government to another took place, as Prime Minister Motsoahae Thomas Thabane, leader of the All Basotho Convention (ABC) party, was sworn into office. The May 26 parliamentary elections gave no political party a majority. The ruling Democratic Congress (DC) party won a plurality of the vote, but three other political parties - the ABC, Lesotho Congress for Democracy (LCD), and the Basotho National Party (BNP) - won 61 seats in the 120-seat National Assembly and formed the first coalition government in the country's history. Domestic and international observers characterized the election as peaceful and conducted in a credible, transparent, and professional manner. Security forces reported to civilian authorities.

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

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

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

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

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

According to the Police Inspectorate for Complaints and Discipline (ICD), three detainees died in police custody during the year. However, the commanding officers (Mafeteng and Qacha's Nek) of the police stations where the ICD alleged the deaths occurred denied any detainee deaths occurred in their custody during the year. The media reported two deaths. On December 28, police from Butha Buthe police headquarters reportedly tortured two men on suspicion of robbery and firearm possession; one man died on the way to the hospital. The police declined

to comment on the matter, citing an investigation in progress. On December 30, police from the Pitso Ground precinct allegedly tortured and killed a robbery suspect. The Criminal Investigations Department opened an inquest into the killing and questioned four constables from the precinct.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

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

For example, on July 14, Seinoli Khongoana and Khotso Ramoshabe, employees of Hillside Off Sales Bar at Ha Matala, Maseru, arrived at work to find their employer, police, and private security officers on the premises. Their employer informed them there had been a robbery, and the police asked them to proceed to Lithoteng Police Station to make statements. Police accused them of stealing property from their employer. The men claimed Police Constable Resetse Ramakhetheng instructed them to lie down and then assaulted them with a knobkerrie (traditional wooden club used in herding). According to the victims' lawyer, Makhetha Motsoari, the constable also bound their hands and knees together and suspended them between two tables. The two were released the following morning and subsequently filed for damages in the amount of 270,135 maloti (\$31,338) each for humiliation, pain, and suffering. The case was pending in court.

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

Prison conditions were poor. In contrast with 2011, there were no reports of food shortages in Maseru Central Prison, but officials of the Lesotho Correctional Service (LCS) acknowledged that food quality was poor and medical care was inadequate.

Physical Conditions: The LCS reported an adult prison population of 2,501 (2,438 men and 63 women), a pretrial detainee population of 428 (414 men and 14 women), and a juvenile population of 63 (44 boys and 19 girls). The prisons had a combined capacity of 2,936. Juveniles were held in different detention centers. Males and females were separated within adult and juvenile facilities. The law

provides that pretrial detainees and convicted prisoners be held in separate facilities. In practice, they were placed in separate cells.

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

An LCS official indicated there were reports of prisoners (but not guards) brutalizing or raping other prisoners, thereby also putting them at risk of HIV and other sexually transmitted diseases. To prevent the spread of HIV, the LCS employed a full-time HIV/AIDS coordinator, and HIV testing, counseling, and treatment were available. The LCS provided condoms in all adult male and juvenile facilities. According to LCS nursing staff, 60 percent of female prisoners were HIV-positive, compared with a 27-percent rate in the general female population.

Three prisoners died in custody, reportedly from AIDS-related complications.

Although prisons provided potable water, sanitation was poor and facilities lacked bedding. Proper ventilation and heating/cooling systems did not exist, and some facilities lacked proper lighting. All prisons had a nurse and a dispensary to attend to minor illnesses, but medical supplies were insufficient to meet prisoners' needs. Prisons lacked round-the-clock medical wards; as a result sick prisoners were confined to their cells from 3:00 p.m. to 6:00 a.m. Prisoners received free medical care from government hospitals. Some correctional facilities owned ambulances to transport inmates for emergency medical care.

Administration: Prison officials considered the existing manual recordkeeping system to be generally adequate. Authorities used warnings and community service as alternatives to prison sentences for nonviolent offenders. The Office of the Ombudsman did not receive any complaints from prisoners during the year. Prisoners had reasonable access to visitors and were permitted religious observance. Prisoners and detainees had the right to submit complaints to judicial authorities without censorship and to request investigations of credible allegations of inhumane conditions; however, according to the LCS, no investigations were conducted during the year. According to a senior prison official, prisoner complaints were generally dealt with at the prison level and investigated by special officers answering directly to a prison commander. The official knew of only one case referred through the police to the magistrate court. Inmates interviewed at the Maseru Central Prison reported that authorities were inconsistent in their responses to complaints, with some problems corrected and others not. Most prisoners were not aware of their right to complain to authorities beyond the prison administration level.

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

Improvements: The LCS completed renovation of the Leribe Correctional Institution during the year.

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

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

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

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

Civilian authorities maintained effective control over the LDF, LMPS, NSS, and LCS.

There were no reports of impunity involving the NSS or LCS during the year. However, it was widely believed that some LMPS officers were not held accountable for abuses they committed, including torture and corruption.

The Police Complaints Authority (PCA) and Directorate on Corruption and Economic Offences (DCEO) investigate abuse and corruption. However, neither was effective. The PCA was limited to investigating cases referred to it by the minister responsible for police affairs within the Office of the Prime Minister and the police commissioner and could act on public complaints only with their approval. While the DCEO had an independent mandate, it had no direct control of its budget until April.

The DCEO reported 25 cases under investigation from April 2011 through March. By year's end there were two convictions, one acquittal, and 45 cases pending in the court system. Between April and December, the minister of interior and the police commissioner referred 21 cases to the PCA. The PCA completed

investigations on 14 cases and submitted its recommendations to the minister. Its recommendations were not publicly disclosed.

In one instance, the LDF failed to execute an arrest warrant against five members of the LDF Special Forces unit based at Mafeteng 'Ha Motanyane Barracks. The suspects were Second Lieutenant Nyakane, Private Sebilo, Private Makoe, Private Tlakeli, and Private Phephe (first names were not available). The men were accused of killing three allegedly armed civilians after they left a local bar in April. The soldiers were responding to a report by other, off-duty soldiers that armed civilians were in the bar. It was not clear whether the accused were on or off duty. Despite the issuance of arrest warrants and court summonses for the five soldiers to appear in civilian court, the LDF did not yet turn them over to civilian authorities or provide an explanation for failing to do so.

### **Arrest Procedures and Treatment While in Detention**

The law requires police, based on sufficient evidence, to obtain a warrant of arrest from a magistrate prior to making an arrest. Suspects are arrested openly, informed about their rights, and brought before an independent judiciary. Suspects must be informed of charges upon arrest and appear in court within 48 hours, and their families must be notified of any detention. The law provides the right to a determination of the legality of the detention by magistrate or judge. However, families were not always formally notified of their next of kin's detention. According to the LMPS, normally an arrest is made in the presence of other people. The PCA was investigating one case in which the police reportedly failed to notify a suspect of charges when arrested. The law allows family members to visit inmates, and in contrast with 2011, there were no reports that LMPS officials failed to comply with these provisions.

The law provides for bail, which authorities granted regularly and, in general, fairly. Defendants have the right to legal counsel. Detainees are allowed prompt access to a lawyer, and lawyers are provided for indigents in all civil and criminal cases. Free legal counsel is usually available, from either the state or a nongovernmental organization (NGO). The Legal Aid Division under the Ministry of Justice and Human Rights offered free legal assistance, but a severe lack of resources hampered the division's effectiveness. NGOs maintained a few legal aid clinics. There were no reports of suspects detained incommunicado or held under house arrest. The law provides that a suspect cannot be held in custody for more than 90 days before a trial except in exceptional circumstances.

Pretrial Detention: Pretrial detainees constituted 17 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. However,

pretrial detention could last for months due to judicial staffing shortages and unavailability of legal counsel.

Amnesty: The government occasionally grants amnesties and early releases on Moshoeshoe's Day, the King's Birthday, Independence Day, or Christmas Day. During the year a total of 54 prisoners were granted amnesty.

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

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

#### **Trial Procedures**

Defendants are presumed innocent until proven guilty.

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

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

Defendants have the right to be present at their trials, to consult with an attorney of their choice, and to have adequate time to prepare their case, although facilities were limited. They have the right to access unclassified government evidence, which, even if not requested, must be provided if the prosecution uses it. By law, the government may not use classified evidence against a defendant.

Defendants may confront and question witnesses against them and present witnesses and evidence on their own behalf. Defendants are allowed to present evidence on their own behalf at the Magistrate Court, but at the High Court legal representation is required. They may not be compelled to testify or confess guilt and may appeal a judgment.

#### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

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

There is an independent and impartial judiciary with jurisdiction over civil matters. Individuals and organizations can freely access the court system to file lawsuits seeking cessation of human rights violations and recovery of damages. There were no reports the government failed to comply with civil court decisions pertaining to human rights.

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

The constitution and laws prohibit arbitrary interference with privacy, family, home, and correspondence and the government generally respected these prohibitions in practice. Although search warrants are required under normal circumstances, the law provides police with the power to stop and search persons and vehicles as well as enter homes and other places without a warrant if the situation is considered life threatening or if there are security concerns. The law states that any police officer of the rank of inspector or above may conduct a search on individuals or homes without a warrant.

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

#### **a. Freedom of Speech and Press**

The constitution and law provide for freedom of speech, but the constitution does not explicitly mention freedom of the press. The government generally respected freedom of speech. An independent press, effective judiciary, and functioning democratic political system combined generally to promote freedom of the press; however, harassment of journalists and self-censorship persisted. In contrast with 2011, there were no reports or recorded instances of lawsuits lodged by government officials to silence press criticism.

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

Freedom of Press: The independent media were active and expressed a wide variety of views, generally without restriction; however, harassment of journalists persisted. There was no demonstrable difference in the treatment of print media, broadcast media, and publishing in the country. Multiple laws could be invoked to control the media, but none was used during the year. The constitution grants citizens the right to free expression, including obtaining and imparting information freely. However, since these rights are respected only as long as they do not

interfere with “defense, public safety, public order, public morality, or public health,” this provision encouraged self-censorship.

Violence and Harassment: While government authorities did not subject journalists to arrest, imprisonment, or physical attack, journalists reported harassment by activists at a DC political rally held at the Thetsane Industrial Area in April and at a DC press conference held at the State Library in June. In contrast with previous years, there were no reports of journalists being threatened with legal action by private businessmen for publishing critical articles. However, in August the rector of Lerotholi Polytechnic, Tsietsi Lebakae, sued the Harvest FM radio station for damages amounting to 900,000 maloti (\$104,408) for a program in which one of the staff members criticized his management style.

Censorship or Content Restrictions: In July, the government barred the state media from covering political rallies organized by the DC party following comments made by former prime minister Pakalitha Mosisili claiming his party won the May 26 elections. In contrast with 2011, there were no allegations the government blocked the radio transmissions of privately owned stations.

Libel Laws/National Security: Some journalists practiced self-censorship to avoid slander and libel lawsuits. In 2011, Judge Maseforo Mahase of the Lesotho High Court sued the Harvest FM radio station for eight million maloti (approximately one million dollars) for defamation. She claimed a program it had broadcast contained defamatory remarks about her. The case was still pending at year’s end.

In 2010 former prime minister Mosisili filed a lawsuit at the High Court against a local newspaper for two million maloti (\$200,000) in damages for defamation after the newspaper alleged he had embezzled eight million maloti (\$900,000). At year’s end the case was still pending in court.

## **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. The Internet was not widely available and almost nonexistent in rural areas due to the lack of communications infrastructure and high cost of access. According to the International Telecommunication Union, 4.22 percent of the population used the Internet in 2011.

## **Academic Freedom and Cultural Events**

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

**b. Freedom of Peaceful Assembly and Association**

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

**c. Freedom of Religion**

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

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

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

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

**Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The system was active and accessible. According to the UNHCR, the government provided protection to 28 refugees and asylum seekers. At year's end, authorities were reviewing the cases of two citizens of the Democratic Republic of the Congo who applied for refugee status.

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

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

**Elections and Political Participation**

Recent Elections: During the most recent national elections in May, no single political party emerged victorious. The ABC obtained 30 seats, the LCD 26 seats, and the BNP five seats, thereby achieving the necessary threshold of 61 seats in the

120-seat National Assembly to form a new government. The ABC, LCD, and BNP formed a coalition government and ousted the ruling DC from power. The DC won 48 seats. The eight other parties that contested the elections garnered a total of 11 seats.

On June 8, the country experienced its first peaceful transfer of power when Prime Minister Thabane was sworn into office. Domestic and international observers characterized the election as peaceful and conducted in a credible, transparent, and professional manner. Also for the first time political party leaders signed a declaration accepting election results.

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

There were 31 women in the 120-seat National Assembly and nine women in the 33-seat Senate. There were eight women in the 30-member cabinet, and five of 10 High Court judges were women. The governor of the Central Bank of Lesotho and the chief executive of the Lesotho Highlands Development Authority were women.

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

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

The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively, and officials occasionally engaged in corrupt practices with impunity. The government took steps to implement the law during the year.

For example, in August the DCEO charged with fraud, theft, and corruption a former director of the prime minister's Poverty Reduction Program (PREP), Topollo Lephatsoe; a local company, VST Commodity Brokers (Pty) Ltd.; and the company's director Pitso Masiu. The DCEO alleged Lephatsoe manipulated procurement procedures to ensure that VST Commodity Brokers won a 90,000 maloti (\$10,441) tender to supply goods to the PREP in 2008. The case was pending in magistrate's court at year's end.

In 2011 prosecutors charged Deputy Commissioner of Police Tumelo Moseme, two assistant commissioners, Dlamini Mphatsoane and Thakane Theko, and Inspector Habofano Lepheane with corruption, fraud, bribery, theft by false pretense, and obstruction of justice. Sources indicated that the deputy commissioner had agreed to serve as a state witness against the other suspects. The case was pending trial at year's end.

The DCEO completed investigation of former police commissioner Malejaka Letoane regarding a 24 million-maloti (\$2.8 million) tender awarded in 2008 to supply police uniforms. No charges were filed against her.

A law yet to be implemented by year's end requires appointed and elected officials to disclose income and assets, and prohibits false or misleading declarations. The declaration regime identifies which assets, liabilities, and interests must be declared. The income of the spouse and unmarried, dependent children under 18 years old must be reported. Officials must file their declarations annually by April 30. The law provides for disciplinary measures and/or criminal penalties for failure to comply with the law. The law does not require declarations to be made public or require an official to file a declaration upon leaving office. The DCEO is mandated to monitor and verify disclosures. However, the DCEO claimed it could not effectively implement the law because it lacked adequate resources.

The ICD is the branch of the LMPS responsible for combating police corruption and misconduct. Manpower and resource constraints limited ICD effectiveness. To address impunity within the LMPS and to expedite disciplinary cases, the ICD introduced roving courts in March. Forty-seven police officers appeared before the court. Charges included corruption, theft, and misdemeanors. The ICD tracked disciplinary cases for the first time during the year; records from previous years were unavailable. In December the LMPS announced the dismissal of 16 police officers for misconduct and corruption.

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

The law does not provide for public access to government information. In practice, individual ministries made information available but not according to any stated policy or procedure.

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

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

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

In 2011 the senate passed an amendment to the constitution providing the legal framework necessary to establish a human rights commission, but one had not been established by year's end.

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

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status. However, the constitution recognizes customary law as a parallel legal system, and under it women remain disadvantaged with regard to property rights, inheritance, and succession rights. Persons with disabilities were disadvantaged regarding access to buildings, employment, education, air travel and other transportation, information and communications, and health care. In June the government created the new Ministry of Social Development, pulling offices from the old Ministry of Health and Social Welfare, to improve focus on the needs of persons with disabilities, orphans, and other disadvantaged members of the community.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and domestic violence. Rape convictions carry a minimum sentence of 10 years' imprisonment. When cases were reported, police and the judiciary generally enforced the law promptly and effectively; however, sexual assault and rape reportedly were commonplace, and most incidents were not reported. From January to December 2011 (the most recent period for which data are available), 1,073 cases of rape and sexual assault were reported; 420 individuals were convicted.

Domestic violence against women was widespread. The Child and Gender Protection Unit (CGPU) did not compile data on domestic violence. Reports of domestic violence were included with assault data, which were not broken down by type. Categorized as assault, domestic violence and spousal abuse are criminal offenses, but few cases were brought to trial. The law does not mandate specific penalties, and judges have wide discretion in sentencing. An offender can be officially warned and released, given a suspended sentence, fined, or imprisoned, depending on the severity of the assault.

Violence against women and children was increasingly considered socially unacceptable, due in part to government advocacy and awareness programs by the CGPU and other ministries. The activities of local and regional organizations, other NGOs, and broadcast and print media campaigns bolstered these efforts. Activities included teaching youth and parents how to report such offenses and access victim services. Campaigns and radio programs educating women about their rights took place throughout the year. The government had one shelter in Maseru for abused women and victims of trafficking.

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

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

Reproductive Rights: The law gives couples and individuals the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. No legal, social, or cultural barriers limited access to contraception and related services. Regardless of the patient's background, government hospitals and clinics provided equitable access to reproductive health services. These services included skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. There was access to contraception for a minimal fee; male

and female condoms were freely available. Many international and local NGOs worked in partnership with the government to provide such services.

According to UN estimates, the incidence of maternal mortality was 620 deaths per 100,000 live births in 2010; of the 5,500 childbirth-related deaths that year, 41 percent were AIDS-related. The Lesotho Health Systems Assessment released in 2010 indicated that poor roads, lack of transport, and the lack of emergency obstetric care at many hospitals were significant factors contributing to the high maternal mortality rate.

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

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

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

A court case filed by Senate Masupha challenged the discrimination against women in customary inheritance. Section 10 of the Chieftainship Act denies women the right to succeed to chieftainship. Masupha sought to inherit from her late father the position of principal chief of Ha Mamathe in Berea District. The case was pending in the Constitutional Court at year's end.

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

Women were not discriminated against in access to employment or credit. Women were not discriminated against in terms of education, pay, housing, and owning or managing businesses.

## **Children**

Birth Registration: According to the constitution citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths, all births in hospitals and local clinics are registered. Children born in private homes are reported to the offices of local chiefs, and the information is then transmitted to the District Administrator's Office for registration and issuance of birth certificates. The law stipulates birth registration within three months but allows up to one year without penalty. After one year a nominal fee of 2.50 maloti (\$0.29) is charged.

Education: By law, primary education is universal, compulsory, and tuition-free through grade seven. Secondary education is not free, but the government offered scholarships for orphans and vulnerable children. The law states that children, beginning at age six, shall be enrolled in a primary school. It leaves open the age by which grade seven must be completed. A fine of not less than 1,000 maloti (\$116) or imprisonment may be imposed on a parent whose child failed to attend school regularly. There were no reports of parents being fined.

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

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

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

In September the Maseru Magistrate's Court launched the country's first-ever Children's Court as part of a government initiative to protect children's rights.

There were no reports of violence at traditional initiation schools. These schools used traditional rituals to initiate teenage boys into manhood and were attended mainly by rural youth. While the activities of these initiation schools were kept

secret, in years past the media reported violence against students, teachers, and members of surrounding communities.

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

Sexual Exploitation of Children: The law sets the minimum age for consensual sex at 18. Anyone who commits an offense related to the commercial sexual exploitation of children is liable to imprisonment for a period of not less than 10 years. Child pornography carries a similar sentence. Offenders convicted of trafficking children into prostitution are liable to a fine of two million maloti (\$232,018) or up to life imprisonment. The death penalty may be applied if a perpetrator knows he is HIV-positive and his under aged victim becomes infected.

According to media reports and local NGOs, child prostitution was a problem. Young girls and boys, many of whom were orphans and vulnerable children due in large part to poverty, moved to urban areas to engage in prostitution. According to the study by a local NGO, children often engaged in prostitution on their own initiative and were apparently not controlled by criminals. UNICEF and the government agreed that, while the numbers remained small, the trend toward the commercial sexual exploitation of children was a growing problem.

International Child Abductions: In September the country became a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

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

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state

services. The constitution does not refer to specific disabilities or to access to air travel and other transportation. The minister of social development issued a public appeal to transport operators to provide at least one vehicle per bus route that accommodated persons with special needs. The national disability policy establishes a framework for inclusion of persons with disabilities in poverty reduction and social development programs, but by year's end the government had not incorporated objectives or guidelines in the implementation of these programs. The Association of the Disabled promoted the rights and needs of persons with disabilities.

Laws and regulations stipulate that persons with disabilities should have access to public buildings. Public buildings completed after 1995 generally complied with the law. Information for the blind in the form of Braille and JAWS (computer software used by visually impaired persons) was not widely available. Service providers in the government or private sector did not provide sign language, so signing individuals could not access state services. There were limited facilities for training persons with disabilities. Children with physical disabilities attended school; however, facilities to accommodate them in primary, secondary, and higher education were limited. Two schools accommodated visually impaired children, two schools accommodated children with hearing and speech disabilities, and one school accommodated children with intellectual disabilities.

The government did not effectively implement laws that provide for persons with disabilities to have access to information and communications. Media reports indicated that persons with disabilities experienced societal abuse. There was no record of such abuse in prisons, educational facilities, or mental health facilities, but it was believed to occur.

As indicated previously, the government created a new Ministry of Social Development from offices within the old Ministry of Health and Social Welfare. The new ministry focuses on the protection of the rights of persons with disabilities, orphans, and other vulnerable groups.

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

The law does not address sexual orientation. However, a law prohibiting consensual same-sex sexual relations exists but was not enforced. Lesbian, gay, bisexual, and transgender (LGBT) persons faced societal discrimination and official insensitivity to this discrimination. LGBT rights groups complained about discrimination in access to health care and participation in religious activities. Same-sex conduct was taboo in society and not openly discussed. Violence against

LGBT persons occurred but often went unreported by victims due to their fear of being identified publicly as LGBT.

Matrix, an LGBT support group, operated freely and had members in all 10 districts. Matrix engaged in public outreach through film screenings, radio programs, and other social media. Matrix was reticent to promote LGBT legal rights due to fear of provoking societal backlash and preferred a modest, gradual approach of sensitizing the public to LGBT issues.

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

The government undertook efforts to reduce the stigma and discrimination against people with HIV. However, widespread discrimination and stigma existed.

## **Section 7. Worker Rights**

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

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

The law provides for a limited right to strike. In the private sector, the law requires a series of procedures to be followed by workers and employers before a strike is authorized. Civil servants are not allowed to strike, and therefore all public-sector strikes are illegal.

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

The law prohibits antiunion discrimination and other employer interference in union functions. The law provides for reinstatement of workers dismissed for union activity. No particular groups of workers are excluded from relevant legal protections.

The government enforced applicable laws, including effective remedies and penalties. However, procedures were subject to lengthy delays and appeals. Cases lodged at the Department of Labor, its Directorate of Dispute Prevention and Resolution (DDPR), and the Labor Court were resolved on average within nine months, with some cases taking up to 18 months. The delays were due to limited staffing and resources within the three institutions.

Freedom of association and the right to bargain collectively were inconsistently respected in practice. Workers exercised these rights in practice; however, only a small part of the labor force was unionized. Most unions were focused on organizing apparel workers. All worker organizations were independent of the government and political parties except the Factory Workers Union, which is affiliated with the Lesotho Workers Party. However, union officials reported that the majority of employers would bargain only with unions that represent at least 50 percent of their staff. The Labor Commissioner's Office reported that the fragmented union movement did not influence labor market decisions.

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

Union officials said that the government did not interfere with their ability to organize but complained of an overall lack of government support, especially from the Ministry of Labor and Employment. Tseliso Ramochela of the National Union of Commerce, Catering, and Allied Workers reported that employers in the retail sector did not honor decisions by the DDPR and labor court. For example, in an 18-month wage dispute between the Lesotho Sun Hotel and its employees, the Labor Court ruled in favor of the workers, but the Lesotho Sun Hotel did not implement the court ruling. Ramochela said that the collective bargaining agreement was not signed until August 30, 2012, whereas the labor court decision was made in 2010.

Unlike in 2011, there were no reports of strikes by textile factory workers, although unions' representatives threatened to strike if employers did not meet their wage demands.

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

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

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

The law prohibits all forms of forced or compulsory labor; however, police reports indicated that the country was a source and transit country for women and children subjected to conditions of forced labor and for men subjected to conditions of forced labor in South Africa. The police reported isolated incidents where women and children were subjected to domestic servitude and, to a lesser extent, children subjected to commercial sexual exploitation. Two high-profile cases involved foreigners. One case involved a Chinese woman brought to the country for forced labor and forced prostitution by Chinese men. One of the perpetrators in this case was arrested and sentenced to 15 years' imprisonment without the option of a fine. However, he appealed the decision and was released. Other perpetrators remained at large. The second case involved Ethiopian nationals allegedly trafficked by

other Ethiopians into domestic servitude. The case was pending in court at year's end.

The Child and Gender Protection Unit of the police conducted community outreach on the issue of forced labor through radio programs.

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

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

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

The minimum-age laws for employment were not effectively enforced outside the formal economy, since scarce resources hindered labor inspections. The Ministry of Labor and Employment and the CGPU investigated cases of working children. The labor commissioner also noted the difficulty of tracking child labor because the Ministry of Labor and Employment had only 40 labor inspectors, and they did not specifically focus on child labor but rather handled the problem as part of general labor inspections. However, with the intention of intensifying efforts against child labor, the government revised the implementation strategy for the national Action Program on the Elimination of Child Labor (APEC) by mainstreaming APEC action items instead of financing them as projects. The government also formed a Child Labor Unit within the Ministry of Labor and Employment. The unit is responsible for monitoring implementation of APEC.

The Ministry of Labor and Employment completed approximately 1,200 labor inspections during the year. The inspections identified one case involving a 14-year-old girl whom foreigners living at Mohalalioe hired as a domestic worker. The police and labor inspectorate tried to remove the child from the employers. The girl refused, claiming she was better off with her employers than with her parents. The case was pending at year's end; the police were working with the child's mother to encourage the child to return home.

Lesotho Save the Children and the Monna-ka-Khomo Herdboys Association reported that young boys continued to engage in herding. However, the Monna-ka-Khomo Herdboys mentioned that the situation had improved with the

implementation of the law that requires children from age six to be enrolled in a primary school and to stay in school until they reach an age that was not determined by year's end.

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

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

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

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

There is a sector-specific national minimum wage and a general minimum wage. The general minimum monthly wage varied from 1,029 maloti to 1,122 maloti (\$119 to \$130). Minimum wage provisions did not cover significant portions of the workforce. Labor laws did not cover workers in agriculture or other informal sectors. The official estimate for the poverty income level is 149 maloti per month (\$17.29).

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

The law empowers the Ministry of Labor and Employment to issue regulations on work safety. 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 who promotes safe conduct. Employers must provide first aid kits, safety equipment, and protective clothing. The law does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections of the code on safety in the workplace and dismissal imply that such a dismissal would be illegal. The law also provides for a compensation system for industrial injuries and diseases related to employment. The commissioner of labor is charged with investigating allegations of labor law violations.

The Ministry of Labor and Employment is responsible for enforcing these laws and standards; however, budget resources limited the enforcement of the law. Labor inspectors generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Inspections in mountain districts, however, were done on a quarterly basis. Businesses operating in the formal sector, including the apparel industry, were subject to more enforcement than businesses operating in the informal sector. The ministry's inspectorate reported that employers did not always observe the standards. They mentioned that many locally owned businesses did not keep employees' records to facilitate labor inspections as required by law. According to the inspectorate, some employers ignored labor regulations for ordinary work hours, overtime, and public holidays. The BWL also reported that some employers paid workers less than required by law for overtime work. According to the labor commissioner, employers in the retail sector were the worst violators, while larger employers generally followed health and safety regulations. Smaller employers failed to appoint or train registered health and safety officers, did not have complete first aid kits, and did not provide protective clothing. With the exception of the mining industry, employers' compliance with health and safety regulations generally was low. Labor inspections did not cover the agricultural and other informal sectors, where most workers are employed.

The National Union of Commerce, Catering, and Allied Workers complained about employer's noncompliance with the minimum wage provisions and the failure of the labor mediation system to enforce compliance. They cited the 2011 case involving part-time workers of all Shoprite supermarkets, who were paid 610 maloti (\$71), less than the 1,228 maloti (\$142) per month minimum wage stipulated for full-time workers in the retail sector. Workers went on an unsuccessful strike in October 2011. The union subsequently filed a complaint against Shoprite, and the court ordered Shoprite to pay salaries equal to or above the sector minimum wage. Shoprite appealed the decision, and the case was pending before the Labor Court.

Trade union representatives described textile-sector working conditions as poor or even harsh but not dangerous. Unions said that most textile factories were in

prefabricated metal buildings with improper ventilation and air conditioning. Unions reported, however, that conditions were not detrimental to workers' health and cited few examples of serious safety violations. Third-party auditors hired by foreign textile buyers conducted spot checks on many exporting factories, customarily sought labor's input, and briefed the unions on their findings. Unions believed the third-party auditors kept factory owners in line with health and safety regulations. Unions also mentioned that compliance with labor law and labor standards was much higher at factories that enrolled in the BWL program.

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

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

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