

## **LESOTHO**

Lesotho is a constitutional monarchy with a population of 1.88 million. 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 the 2007 election, the governing Lesotho Congress for Democracy (LCD) party retained a majority of seats in the legislature; domestic and international observers characterized the election as free and peaceful. Other observers, including members of the leading opposition parties and some nongovernmental organizations (NGOs), stated it was not entirely fair. Issues from the 2007 election were still contested and remained the greatest source of political conflict between the ruling and opposition parties. Security forces reported to civilian authorities, but there were instances in which elements of the security forces acted independently of civilian control.

The following human rights abuses were reported: killings, torture, and abuse by police; mob violence; poor prison conditions; lengthy pretrial detention, and long trial delays. Societal abuses included abuse of spouses and children; sexual abuse; restrictions on women's rights; discrimination against women; stigmatization of persons with disabilities and HIV/AIDS; and child labor.

### **RESPECT FOR HUMAN RIGHTS**

Section 1    Respect for the Integrity of the Person, Including Freedom From:

a.    Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings during the year; however, security forces killed persons during the year.

According to the Inspectorate for Complaints and Discipline (ICD), which monitors and investigates reports of police abuse, three persons died in police custody during the year.

For example, in July a 25-year-old prisoner was found dead in his cell at Leribe police station. According to police spokesperson Masupha Masupha, police "suspect that some police officers could have contributed to the man's death through torture." Investigation results were not disclosed.

According to the Police Complaints Authority (PCA), an independent oversight body that monitors police behavior and addresses grievances against police, there were six alleged murder cases during the year involving police. Investigations continued at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

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

Although the constitution and law expressly prohibit such practices, there were reports of police torture and abuse.

Between January and September, the PCA received a total of 10 reports of torture/assault by police. These included allegations that police assaulted Ha Tsae villagers, unlawfully arrested and assaulted a suspect, tortured a suspect, received a bribe, unlawfully confiscated and then damaged two vehicles, delivered services poorly at Morija, and damaged property. Two of the 10 cases were sent to court, and eight were under investigation at year's end. The process of enforcing police accountability was slow, but internal affairs organs prosecuted some members of the security forces. More serious offenses, such as murder, were sent to the High Court via the Office of the Director of Public Prosecutions.

In February Maseru police reportedly handcuffed and repeatedly asphyxiated post office manager Taele Mohale with a plastic bag. Mohale was suspected of aiding thieves that stole from the post office. Constable Ntepe, Sergeant Masela, and Constable Khotso were accused of repeatedly beating Mohale's buttocks with a knobkerrie (club) outside the police station in the presence of a crowd. In September Mohale filed a 200,000 maloti (\$28,571) lawsuit against police for torture, unlawful arrest and detention, and humiliation. According to the victim, the actual thieves were caught at a later stage, and the case was pending in the High Court at year's end.

On March 19, Tukula Makhakhe stated he was tortured by Maseru police and forced to confess to charges of armed robbery. Members of the Police Vehicle Theft Detection and Counter-Robbery Crime Unit assaulted him with knobkerries, an iron rod, and a tire tube. He later retracted his confession to the magistrate, claiming it was made under duress. Makhakhe last appeared in court in September

and was remanded out of custody; however, he failed to attend monthly remands, and there was a warrant for his arrest at year's end. The case was pending in the Magistrate Court at year's end.

In the early hours of April 12, police raided the village of Thota-Peli, Berea District, according to the *Sunday Express* newspaper. Police searched for the illegal firearms used in a clash over grazing land that had killed two local residents. Police allegedly whipped, kicked, and struck people with the butts of their guns, ordering some of them to "roll in the morning dew naked." Although targeted mainly at men, the raid also victimized some women, the elderly, and children. One victim stated that police choked her husband while pulling his genitals when he protested that he did not have a gun. The next morning villagers marched to Teyateyaneng Police Station to report the incident; police reportedly intercepted the villagers and beat them again. Former minister of agriculture Lesole Mokoma subsequently held a rally in the village. He warned that any member of the LCD who lodged a formal complaint against the police would be viewed as fighting the government. Forty-eight villagers led by their chief, Molomo Mopeli, filed a lawsuit demanding compensation of 24 million maloti (approximately \$3.4 million). Acting on instructions of the 48 residents and their chief, advocate Zwelakhe Mda issued a civil claim against the attorney general, Tsokolo Makhethe, and commissioner of police, Malejaka Letoane, on September 4. Receiving no response from the state, Mda filed a summons on December 31.

On May 23, a soldier stationed at the entrance of the residence of the minister of public works and transport allegedly shot an unidentified person. According to police forensic investigations, evidence found at the scene did not match the guard's version of the story. He was charged with attempted murder and was waiting to appear in court at year's end.

On June 17, police in Ha-Lekhobanyane arrested and assaulted villagers suspected of stoning and burning a woman to death. The woman was presumed to have been mentally ill, but villagers suspected her of witchcraft. One victim, Nthejane Lelimo, stated that police beat his ribs and back with a knobkerrie, while Malefetsane Mokhele alleged that police beat the soles of his feet. Mantsoti Khutlang sustained a fractured jaw and swollen cheeks after she was repeatedly punched in her face.

A local cab driver claimed that he was assaulted by a police officer who demanded to see his license. The magistrate found him guilty of reckless driving and failing

to obey police instructions. The case against the police officer was dropped after the prosecutor rejected the cab driver's evidence.

In August 2009 local newspapers and private radio stations reported that several male residents in the village of Nokong, Berea District, accused police of torture and unlawful detention. They alleged that police conducted a raid on the village searching for illegal guns at selected homes. After failing to find any illegal weapons, police allegedly took the men from their homes to a plateau overlooking the village and beat them. The PCA investigated the case and issued a report to the minister of home affairs and public safety. The report was not made public. The ICD also investigated the torture allegations of the Nokong villagers but did not release a report.

The media reported several incidents of "mob justice" in which members of the society took the law into their own hands to punish suspects.

#### Prison and Detention Center Conditions

Prison conditions were poor, and facilities were overcrowded and in disrepair. The country's prisons had a combined capacity of 2,910, but sometimes held twice that number. Maseru Central Prison had an estimated capacity of 600 inmates but held up to 860 prisoners during the year. Berea and Butha-Buthe prisons were constructed in 1886 and 1907. Sanitation and nutrition were poor, although potable water was available. Prison facilities lacked bedding, ventilation, and proper lighting. Heating and cooling systems did not exist.

Prisoners received free medical care from government hospitals, and all prisons had a nurse and a dispensary to attend to minor illnesses. Some correctional facilities owned ambulances to transport inmates for emergency medical care. The Lesotho Correctional Service (LCS) employed a full-time HIV/AIDS coordinator who trained 90 peer educators during the year.

The LCS reported a total prison population of 2,498, including 77 juveniles, 2,360 men, and 61 women. Pretrial detainees were held with convicted prisoners. High-security prisoners and military prisoners were held in a separate facility.

There were reports of prisoners brutalizing and raping other prisoners, although statistics were unavailable.

From April 2009 to September (data is based on the fiscal year, which runs from April to March), seven deaths were reported in prisons countrywide. Six deaths were due to illness, primarily HIV/AIDS. One death resulted from a fight between two inmates, both of whom had histories of mental illness.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and allowed them to request investigations of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions, but reports were not made public. Individuals must go through the Public Relations Office to obtain information about a particular case. The Pardons Committee and Advising Committee have the authority to inspect prisons. The Management Committee for Juveniles monitors conditions of juvenile prisons.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens; however, no such visits were conducted during the year. These committees were authorized to visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committees reported their findings to the prison director as well as to the general public.

International human rights groups were permitted to monitor prison conditions, although there were no known visits during the year.

The Office of the Ombudsman can enter and inspect jails, prisons, and military cells to assess conditions and make recommendations to protect the rights of prisoners and detainees; however, the last inspection was conducted in 2005. The Office of the Ombudsman did not monitor the enforcement of pretrial detention restrictions and bail provisions. Detailed recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for offenses were not available.

The renovation of the Maseru Central and Leribe District prisons continued 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 the LCS. The LMPS is responsible for internal security. The LDF maintains all external security and assists the police when requested by the LMPS commissioner. The NSS is an intelligence service that provides information on possible threats in support of internal and external security.

The prime minister has direct authority over the LDF and NSS as minister of defense and national security. The LCS is under the Ministry of Justice, Human Rights, Correctional Services, Law, and Constitutional Affairs. The LMPS is under the Ministry of Home Affairs and Public Safety (MHA).

The country is divided into three police regions, which are subdivided into districts. A shortage of human and financial resources limited LMPS effectiveness.

The internal affairs organs that address corruption and other offenses by police are the ICD and the PCA. Commonly imposed forms of disciplinary action included fines, suspension, demotion, or dismissal from service. Current legislation does not grant the PCA powers of search and seizure or the authority to summon police officers. Local NGOs complained that the PCA's inability to initiate cases based on public complaints limited its effectiveness. Cases were initiated only at the request of the minister of home affairs and public safety.

The LDF continued its 15-year plan for restructuring and reform begun in 1998; however, high turnover rates and budget restrictions resulted in delays.

## Arrest Procedures and Treatment While in Detention

The law requires police to obtain a warrant from the magistrate prior to making an arrest. Suspects are apprehended openly and informed about their rights before they are brought before an independent judiciary. Suspects must be informed of charges within 48 hours, and their families must be notified of any detention. The law allows family members to visit inmates. According to media reports and LMPS officials, police did not always 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 were allowed prompt access to a lawyer, and lawyers were provided for indigents. 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 reported cases of authorities resorting to false charges to detain or try persons for criticizing the government.

Eighteen percent of inmates were in pretrial detention, which could last for months or even years. The backlog was due to lack of resources, judicial staffing shortages, delay tactics by defense counsel, and unavailability of legal counsel. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. The Speedy Trial Act of 2002 provides that a suspect cannot be held in custody more than 90 days before a trial except in exceptional circumstances.

To address trial delays, the High Court of Lesotho, with the assistance of the Commonwealth, engaged an expert to address the problem. The High Court established a Commercial Court with two judges in February and introduced a new individual docket system to ensure that one judge handles cases from start to finish. The new system involved the compilation of a database of pending cases beginning in 2005 and was designed to deter delay tactics often used by defense counsels. From February to August, 431 civil cases were completed, more than the total number of cases completed in all of 2009. On December 30, the chief justice swore in Judge Lebohang Molete, the third judge of the Commercial Court, bringing the number of Basotho judges to three.

### Amnesty

The government occasionally granted amnesties and early releases on Moshoeshoe's Day, the King's Birthday, Independence Day, or Christmas Day. On Moshoeshoe's day, March 11, 71 male inmates were released early. On July 17, the King's Birthday, 64 inmates (62 men and 2 women) were released early. On October 4, Independence Day, 44 inmates were released early (40 men and four women). On Christmas Day, 46 male inmates were released early. A total of 225 inmates (219 men and six women) were released during the year.

### e. Denial of Fair Public Trial

The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. The country has a dual legal system

consisting of common law and customary law. Customary law is made up of the norms, values, and practices of Basotho codified together under the Laws of Lerotholi of 1903. Any norm, value, or practice not contained in that book cannot be regarded as law and was not binding on any Mosotho. It applied to every Mosotho, but there were instances in which one could opt for common law instead of customary law, such as for marriage. However, there were instances where one cannot opt for customary law, but it may automatically apply depending on the merits of the case. Customary law is equivalent to common law, that is, if no law is superior to another, they apply equally.

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. There was a large case backlog, which resulted in delayed trials.

#### Trial Procedures

Defendants are presumed innocent until proven guilty. There is no trial by jury. Trials are public, but in civil and criminal matters a single judge normally hears cases. It is only in high-profile constitutional, commercial, and appeals cases that more than one judge is appointed. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner; however, there were instances in which authorities did not advise accused persons of their right to legal representation. Free legal counsel was available, either from the state or an NGO. Defendants may confront and question witnesses against them and present witnesses on their own behalf. A defendant may present evidence on his own behalf at the Magistrate Court, but at the High Court legal representation was required.

Defendants have the right to access unclassified government evidence. The government cannot classify evidence and use it against a defendant. If evidence is going to be used in court, both the plaintiff and the defendant must have access. Defendants have the right to appeal. A defendant may either be held or released on bail until sentenced. The law extends these rights to all citizens.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies



There is an independent and impartial judiciary with jurisdiction over civil matters. Citizens can freely access the court system to file lawsuits seeking cessation of human rights violations or a recovery of damages. Some administrative remedies were available from the Labor Court, as stipulated by the Public Services Act. Judicial remedies for such wrongs are addressed in the constitution. However, in some cases, the government failed to produce evidence in court and sequestered witnesses, which damaged the claims of plaintiffs and resulted in dismissal of cases.

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

The constitution provides that "every person shall be entitled to respect for his private and family life and his home." Although search warrants were required under normal circumstances, the law provides police with the power to stop and search persons and vehicles and enter homes and other places without a warrant if the situation is considered life threatening, if there are security concerns, or if it is an emergency. The general public reportedly was unaware that police were required to have search warrants.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. However, some journalists practiced self-censorship because the government employed libel suits in previous years. Media outlets risked being sued by the government for slander or libel. Further, state-owned media outlets reflected positions of the ruling party.

The constitution and law provide for freedom of speech and press; however, the government did not always respect these rights in practice. Some journalists practiced self-censorship.

Journalists were threatened during the year. For example, Marafaele Mohloboli, deputy chairperson of MISA-Lesotho, reported having received a death threat. She reported the matter to police, but there were no further developments at year's end.

Unlike in the previous year, no journalists were attacked.

The government employed lawsuits against media outlets, editors, and journalists for libel and slander. Reports indicated that on December 9, the prime minister filed a lawsuit at the High Court against a local newspaper claiming two million maloti (approximately \$286,000) for defamation. The newspaper had alleged that the prime minister embezzled eight million maloti (approximately \$1.1 million). Further, state-owned media outlets reflected positions of the government. During the May celebration of World Media Freedom Day, the deputy chairman of the Media Institute of Southern Africa's Lesotho chapter (MISA-Lesotho) threatened a media blackout if the government did not revise sanctions against noncompliant media houses. The minister of communications, science, and technology stated that the journalists practiced sensational reporting and harsh criticism of high government officials to raise sales. For the past 13 years, MISA-Lesotho has advocated for a new media policy.

On April 23, the Court of Appeal upheld the judgment by the High Court that Billy Macaefa, a leader of the Lesotho Workers Party, was not guilty of sedition and subversion. It was alleged that Billy gave a speech at a political rally following the 2007 elections inciting the people to overthrow the government.

On May 5, members of the Lesotho National Assembly verbally attacked Bongiwe Zihlangu, political editor of a major local newspaper. They accused her of "spreading false information about gratuities" (one-time end-of-service bonuses) for members of parliament (MPs). Zihlangu had reported on a proposed bill that gave MPs who had been in parliament for two years 25 percent of their gratuity early. According to the report by MISA-Lesotho, Zihlangu was sitting in the media gallery when Rantelai Shea of the opposition Lesotho Workers Party demanded that the journalist be thrown out of the parliament building. Shea reportedly stated that "freedom of the media leads reporters to report on things that strip us of our dignity." He called for the newspaper to be sued for lies about their gratuities. He further urged that Zihlangu be sued "in broad daylight and be ordered by the courts to pay us the 307,000 maloti (\$44,000) she alleges that we are going to get." Zihlangu reportedly then left the parliament media gallery. The Members of Parliament Salaries (Amendment) Bill 2010 passed on May 27.

In October the media reported that Thomas Thabane, leader of the All Basotho Convention (ABC), the largest opposition party, threatened to shoot the chief reporter and editor of a local newspaper when he was requested to comment on allegations of a domestic dispute.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was not widely available and almost nonexistent in rural areas, due to lack of communications infrastructure and the high cost of access. The Lesotho Communications Authority estimated that 5.1 percent of inhabitants used the Internet during the year.

There were no reports of government attempts to collect, request, obtain, or disclose personally identifiable information of a person in connection with that person's peaceful expression of political, religious or ideological opinion or belief.

### 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.

The parliament unanimously passed the Public Meetings and Processions Bill in May. The bill stipulates that anyone who wishes to hold a public meeting or procession in an urban area should first make written application for permission to "an officer in command of police in the area where the public meeting or procession" is to be held. Additionally "a person wishing to hold a public meeting or procession in an area that is not urban shall at least within seven days before holding the public meeting or procession, make a written application for permission to hold the procession or meeting, either to the headman or representative of the headman of the area the meeting or procession is intended to be held."

Twenty students of Limkokwing University were charged under the bill following rioting that took place during their strike on November 20. The students appeared at the Magistrate Court on November 23, and the case was scheduled to be heard in June 2011.

Local media reported that police denied protesters' request for permission to picket during South African President Jacob Zuma's visit in August. Media reports indicated that the request was denied due to inadequate staffing; the police, however, denied receiving an application for the demonstration.

The High Court's inquest into the student riots at the National University of Lesotho and subsequent police shooting and death of a student in October 2009 had not begun by year's end.

c. Freedom of Religion

For a complete discussion of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf](http://www.state.gov/g/drl/irf).

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

The constitution and law provide for free movement within the country, foreign travel, emigration, and repatriation. The government generally respected these rights in practice.

According to the MHA, 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.

In June the government of South Africa announced that Lesotho citizens could no longer travel to South Africa using temporary travel documents, and six-month border permits would no longer be issued or renewed. The change in procedure resulted in long waits at the border. The MHA scrambled to print new passports and cope with the rising demand. A reported backlog of up to 350,000 passport applications dating back to 2002 slowed efforts. A meeting between the ministers of home affairs of the two countries failed to resolve the matter. Clashes between passport applicants and passport office workers were reported in Leribe and Mafeteng districts during public protests against poor passport service. Police brought these under control, and no injuries were reported.

The constitution and law prohibit forced exile, and the government did not use it in practice.

## Protection of Refugees

According to the MHA, the government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There is no restriction on the movement of asylees.

A committee chaired by the MHA's principal secretary interviews asylum seekers, then makes a recommendation to the minister of home affairs, who has the final say on the matter. The committee consists of officials from the MHA Legal Division, MHA Passport Department, Office of the Director of Immigration, the UN Development Program, the Ministry of Foreign Affairs, and LMPS.

There were 40 asylum seekers in the country. Most of them were from the Democratic Republic of Congo; others were from Sudan, Ethiopia, and Zimbabwe. In July the UNHCR donated equipment to produce identity documents to enhance their access to local services.

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

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

### Elections and Political Participation

During the most recent national elections, in 2007, the LCD party maintained a legislative majority, claiming 61 of 80 constituency-based seats in the National Assembly. Domestic and international observers characterized the election as free and peaceful. Other observers, including members of the leading opposition parties and some NGOs, stated it was not entirely fair. Their complaints initially centered on the complicated manner of allocating proportional parliamentary seats but later included the manner of appointment of the leader of opposition in parliament and review of the constitution and electoral laws.

Through a preelection alliance with the National Independent Party, the LCD controlled a further 21 of 40 proportional representation seats, bringing its majority to 82 out of 120 seats. The largest opposition party, the ABC, won 17 constituency-based seats and 10 proportional seats through its own preelection alliance with the Lesotho Workers Party. Although both major political parties created alliances in an attempt to gain more seats, the most contested were the 21 seats gained by the ruling LCD party. Mediation efforts began shortly after the election.

Ketumile Masire, former president of Botswana, led the mediation process until July 2009. Masire stated that the alliances entered into by the LCD and ABC undermined the mixed-member proportional electoral model, making it ineffectual. He added that the LCD's main position--that the High Court had already decided the question of alliances--was not actually true, that the High Court had "decided not to decide," and that the court's judgment was unhelpful. His report led civil society organizations to resume talks mediated by the Christian Council of Lesotho (CCL), but in August 2009 they were postponed. On February 21-22, the Southern African Development Community (SADC) Organ Summit Troika--Mozambican President Armando Guebuza, Swazi King Mswati III, and Zambian Defense Minister Kalombo Mwanza--visited Lesotho to restart the mediation. The troika concluded that the CCL should continue mediating and pledged to provide a facilitation team to support it. On March 11, political leaders signed the "Thaba Bosiu" declaration affirming their commitment to work for peaceful resolution of the 2007 postelectoral disputes, but the matter was not resolved by year's end. The August 16-17 SADC Summit urged stakeholders to find a solution to the lengthy dispute, including finalizing the proposed electoral law amendment bill.

By-elections to replace deceased members of parliament were held on May 25 in three constituencies. The ruling LCD won the contested constituencies. Following the by-elections, the leader of the ABC party protested the results, citing "a corrupt relationship between the Independent Electoral Commission (IEC) and the ruling party"; however, no formal complaints were filed. He subsequently withdrew from participating in all IEC-related activities. In December the National Executive Committee of the ABC decided to redeploy its members to the various IEC committees and at year's end planned to fully participate in the upcoming local government and national elections.

There were 29 women in the 120-seat National Assembly and seven women in the 33-seat Senate. The speaker of the National Assembly, seven of 19 government

ministers, two of four assistant ministers, five of 10 judges on the High Court, and the commissioner of police were women.

Approximately 98.5 percent of the population is ethnic Basotho. There were no members of minorities in the National Assembly, the Senate, or the cabinet.

Local elections were scheduled to take place in May but were postponed until 2011. Opposition parties had threatened to boycott the election over the continued allotment of 30 percent of the wards to female candidates.

The men accused in the April 2009 events surrounding the assassination attempt on the prime minister were still awaiting possible extradition from South Africa. Alleged mastermind Jessie Ramakatane's extradition case was pending in Magistrate Court. On July 29, the seven accused gunmen were found eligible for extradition in Magistrate Court; they appealed, and their extradition case was pending in Bloemfontein, South Africa's High Court.

The government established a commission of inquiry to investigate the attacks on Makoanyane Barracks, the prime minister's residence, and certain residents of Maseru. On January 20, the commission--chaired by retired former president of the Court of Appeal Judge Hendrik Jan Stein and with members from the country, South Africa, and Botswana--convened and heard evidence from 40 witnesses. On April 16, Judge Stein released a report acknowledging a few rogue members in the army, but claiming that neither the army itself, nor any part thereof, orchestrated the April 2009 attacks. Judge Stein blamed the late Makotoko Lerotholi, who allegedly was financed by disgruntled businessman Jesse Ramakatane. The report revealed pervasive laxity in the LDF and recommended structural and other changes to widen the security network.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. There were isolated reports of government corruption during the year.

The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The DCEO is under the supervision of the Ministry of Justice and Human Rights. The Amendment of Prevention of Corruption and Economic Offences Act of 2006 first subjected public officers to financial disclosure laws. However, the disclosure form to be used has still not been established. The law may also be

applied to private citizens if deemed necessary by the DCEO. The DCEO's official statistical report stated that from April to September, it received a total of 70 reports on subjects including bribery, fraud, abuse of power, embezzlement of public funds, and tender manipulation. Of these reports, five were closed, 15 were under preliminary investigation, seven were referred to the police, 18 were referred elsewhere (to the Directorate of Dispute Prevention and Resolution or the Labor Court), 20 were pending preliminary investigation, and five were referred to the DCEO investigatory division.

According to the DCEO, there is no baseline to measure the level of corruption in any sector including the executive, legislative, or judicial branches; the media occasionally raised allegations of corruption in the branches. Corruption exists in all sectors, but its extent was not known.

Individuals, both Basotho and foreign, who were ineligible to hold passports continued to obtain them through forgery and misrepresentation. The Passport Department's problem of corrupt officers was exacerbated by the passport backlog as people paid bribes to quickly obtain travel documents. Some passport officers embezzled funds made as payment for passport applications. Five officers were dismissed, while three remained under investigation.

Former clerk of the National Assembly Matlamukele Matete was accused of inflating the price of a photocopier purchased by his ministry. The High Court sentenced him to 10 years' imprisonment with an option to pay a fine of 50,000 maloti (\$7,140). He appealed the sentence, and in October the Court of Appeal confirmed Matete's conviction and imposed a four-year prison sentence, which Matete was serving at year's end.

Former colonel Letsolo Kholoane was forced to retire, and former captain Rakolitsoe Mahase was sentenced to six years, for forging documents in a travel scandal.

Police corruption was a problem, as confirmed by LMPS authorities. The internal affairs organs that address corruption and other offenses by police are the LMPS's ICD and the PCA. Commonly imposed forms of disciplinary action included fines, suspension, demotion, or dismissal from service.

On August 2009 the country's first female police commissioner, Malejaka Letooane, was sentenced to six months in jail for contempt of court for authorizing the release of a vehicle from police custody contrary to the order of the Magistrate



Court and later failing to appear in court when summoned to explain her actions. The chief justice granted the commissioner the right to appeal to the High Court. In October the chief justice overturned the sentence and reportedly dismissed the case altogether. However, the case concerning the vehicle release was proceeding in the Magistrate Court at year's end.

April and December press reports from the *Lesotho Times* indicated that Police Commissioner Malejaka Letoane was under investigation at year's end relating to a 24 million maloti (approximately \$3.4 million) tender awarded in 2008 to Ferrini USA, Inc. to supply police uniforms. The firm was initially disqualified from the tender process because it had failed to meet the stringent requirements.

"Theft of exhibits" (theft or disappearance of evidence related to a trial proceeding) was commonly reported. In addition, private transport operators claimed that police solicited bribes from taxi and bus drivers who violated traffic laws. However, no formal charges of police corruption were filed during the year. According to the ICD, from January to September there were 23 cases of corruption. One person was convicted, six were sent to the courts, and 16 were pending investigation.

Reports of corruption and fraud in the government's Block Farming Program appeared in February. After investigation, the Office of the Ombudsman released a report in September alleging corruption by the ministers of finance and forestry and the assistant minister of agriculture and food security. Together, the three officials personally owed more than 18.5 million maloti (\$2.6 million) in loans guaranteed by the government and directly overseen by their ministries, which had not been repaid at year's end.

On April 23, the Court of Appeal convicted former deputy commissioner of police Motsotuo Ntaote of fraud related to per diem claims for two official trips to South Africa. Ntaote was acquitted by the High Court in June 2009; however, the Court of Appeal reversed the judgment and found him guilty on one count of fraud. He was sentenced to a fine of 12,000 maloti (\$1,715) or six months in prison. The sentence, however, was suspended (no time served or fine levied if the same or similar crime is not repeated within the suspension period) for three years.

A police constable accused of soliciting a bribe appeared in court on September 13. Constable Mokhitlinyane Mokiti allegedly solicited a 940 maloti (\$134) bribe to drop car theft charges against Lebajoa Qalabatsane. He was charged with contravention of section 22(1) of the Prevention of Corruption and Economic

Offence Act No. 5 of 1999. Mokiti was granted bail and was awaiting trial at year's end.

Former police superintendent Ramoeletsi was convicted of extortion and sentenced to two years' imprisonment or 2,000 maloti (\$285). The sentence was suspended.

The Integrated Financial Management Information System (IFMIS), plagued by delays in 2009, was up and running during the year; IFMIS was introduced to speed up payments, improve public accounting, and impose greater control on government purchasing, accounting, and reporting. It was also adopted to halt overexpenditure by government departments and enable the government to trace all transactions, including those suspected of embezzling government money. Its effectiveness was not yet determined.

In January the High Court sentenced the principal secretary for the Ministry of Justice and Human Rights, Pontso Lebotsa, to five years in prison or a fine of 10,000 maloti (\$1,430) for contravening government procurement regulations in 2007. The defendant appealed, the Court of Appeal confirmed the High Court judgment, and Lebotsa paid the fine. She was fired from her position.

There are no laws providing for public access to government information, and access was limited; however, Web sites of government ministries, parastatal companies, and private organizations provided some information on governmental activities. The *Government Gazette* and other publications could be requested from the Government Printers' Office. There were also media releases from government ministry information officers. Researchers at institutions such as the Institute of Southern African Studies, NGOs such as MISA-Lesotho, and the media complained about lack of access to government information.

#### 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. Government officials often were cooperative and responsive to their views.

The independent Office of the Ombudsman (see also section 1.c., Prison and Detention Center Conditions) appeared to function without undue governmental or political interference. The office is considered effective but was constrained by low

publicity, high level of centralization, shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries, reinstatement of employees illegally suspended from their jobs, compensation for persons forced to relocate by the Lesotho Highland Water Project, and compensation for and repairs to houses in communities affected by large-scale development projects.

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

The constitution and the formal legal code 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 remained disadvantaged with regard to property rights, inheritance, contracts, and succession rights.

### Women

The law prohibits rape, including spousal rape, and mandates a minimum sentence of five years' imprisonment, with no option for a fine. When reported, the government generally enforced the law effectively. Rape was reportedly commonplace. Accurate statistics were unavailable, but an estimate based on the most recent available police national crime statistics indicated that from April to December 2009, there were 823 reported cases of sexual offenses against women. Courts heard a number of rape and attempted rape cases, several of which resulted in convictions. Up-to-date statistics on the number of perpetrators prosecuted, convicted, and punished were not available.

Domestic violence against women was widespread. Although accurate statistics were unavailable, an estimate based on the most recent police national crime statistics indicated that from April to December 2009, there were 109 reported cases of assault against women. These statistics greatly understated the extent of the problem, as domestic violence is less likely to be reported than assault. Domestic violence and spousal abuse are criminal offenses defined as assault; however, few domestic violence cases were brought to trial. The law does not mandate specific penalties, but an offender can be cautioned and released, given a suspended sentence, fined, or imprisoned. Punishment depends on the severity of the assault, and judges have a wide degree of discretion in sentencing. Violence against women and children was increasingly considered socially unacceptable due, in part, to the government advocacy and awareness programs by the Child and Gender Protection Unit (CGPU) of the police, the Department of Social Welfare,

and the Ministry of Gender and Youth, Sports, and Recreation. This work was bolstered by local and regional organizations, such as the Women and Law in Southern Africa Trust, the Federation of Women Lawyers, the Lesotho Child Counseling Unit, other NGOs, and broadcast and print media campaigns. Activities include teaching young persons and parents how to report such offenses and how to access victim services.

The law does not specifically prohibit sexual harassment, and sexual harassment occurred in workplaces and was commonplace elsewhere. According to the Law Office, complaints involving sexual harassment, if reported at all, were not often reported through official channels and tended to be handled internally.

The Legal Capacity of Married Persons Act 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. Government hospitals and clinics--in partnership with international and local NGOs--provided equitable access for all, regardless of the patient's background, to reproductive health services. There were no legal, social, or cultural barriers limiting access to these services, which include skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. The incidence of maternal mortality was 1,155 per 100,000 live births. There was access to contraception at minimal fee for oral pills, injectables, intrauterine contraceptive devices, emergency contraception, and implants. Male and female condoms were free and available. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV.

Women and men are accorded equal rights in civil and criminal courts. The 2006 Legal Capacity of Married Persons Act effectively eliminated *de jure* discrimination against women under formal (but not customary) law except in the area of inheritance, which it does not cover. The act further extends to traditional law and custom. It grants women married under custom equal rights, similar to those married under common law. The previous statutory and customary laws limited the rights of women in areas such as property rights, inheritance, and contracts. Under the dual legal system, women have the legal and customary right to make a will and sue for divorce; however, under customary (also referred to as traditional) law, a married woman was considered a minor during the lifetime of her husband and could not enter into legally binding contracts without his consent. Since passage of the new law, the rights of women have substantially improved. Married women can obtain loans without the consent of their husbands and enjoy full economic rights under the law. However, the law does not provide for women's

inheritance and custody rights. A woman married under customary law has no standing in civil court unless she has her marriage registered in the civil system. Government officials publicly criticized the discrimination of women under customary marriage.

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

Although polygamy is not recognized by the formal legal code, it was practiced under customary law by a small minority.

Women were not discriminated against in access to employment or credit; however, on average women did not receive equal pay for substantially similar work. In some cases, women were encouraged to have a sexual relationship with a male boss to get employment or promotion. According to the Organization for Economic Cooperation and Development's Gender Institutions and Development Database, women's average earnings were approximately 53 percent of the wages that men received for equal work. Nevertheless, some of the country's most senior positions were held by women, including speaker of parliament, cabinet ministers, judges, ambassadors, the commissioner of police, government principal secretaries, the auditor general, and chief executives of some public enterprises.

### Children

According to the MHA, citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths in the District Administrator's Office, all births were registered by hospitals and local clinics. Children born in private homes were registered at the offices of local chiefs, and the information was then transmitted to the District Administrator's Office for issuance of birth certificates.

By law primary education is universal; since March, compulsory; and since 2006, tuition-free for grades one through seven. Secondary education is not free, but the government has scholarships for orphans and vulnerable children (OVCs). The education bill, making free primary education compulsory for children in grades one through seven, was passed by both houses of parliament in November 2009

and enacted into law in March. The act states that children from age six shall be enrolled in a primary school and that they should stay in school until they reach the age yet to be determined by the minister of education. A fine of not less than 1,000 maloti (\$143) or imprisonment can be imposed on a parent whose child fails to attend school regularly.

The UN Children's Fund (UNICEF) reported that a substantial number of 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 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. According to UNICEF statistics for 2009, 80 percent of boys and 88 percent of girls attended primary school. More boys failed to attend school than girls due to the tradition of livestock herding by young boys.

Child abuse was a problem, especially for OVCs. Accurate statistics on the incidence of child abuse were not available; however, an estimate based on the most recent available police national crime statistics indicated that from April to December 2009 there were 57 reported cases of neglect of children and 23 cases of assault against children. These cases included child neglect, common assault, abduction (forced elopement), and sexual assault. The true number of child abuse cases was thought to be much greater.

The CGPU was active in fighting child abuse, particularly challenging the cultural norms that encouraged forced elopement. The CGPU has branches in all 10 districts, but a lack of resources restricted its effectiveness. The CGPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of the property rights of orphans.

During the year the news media frequently published reports of violence at traditional initiation schools. These schools use traditional rituals to initiate teenage boys into manhood and are attended mainly by rural youth. While the activities of these initiation schools were kept secret, the media reported violence against students, teachers, and members of surrounding communities.

According to media reports, child prostitution was a problem. Young girls and boys, many of whom were orphans, moved to urban areas to engage in prostitution and work as sex workers, as noted by Lesotho Save the Children. A 2001 UNICEF assessment concluded that child prostitution in the country was driven by poverty and undertaken only as a last resort. The study also noted that prostituted children

most often acted on their own and were apparently not controlled by organized criminal syndicates or any other third party. However, UNICEF and the government agreed that while the numbers remained small, the trend toward the commercial sexual exploitation of children was a growing problem. According to the 2000 and 2004 reports produced by the Ministry of Labor and Employment in collaboration with UNICEF and other partners, the worst forms of child labor included sex work and prostitution. There were not enough resources within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

There is no legislation specifically addressing child prostitution or child pornography, but the Child Protection Act of 1980 and the Sexual Offenses Act of 2003 can be used to prosecute offenders. This legislation also prohibits the employment of children and young persons in commercial sex. The Sexual Offenses Act sets the minimum age for consensual sex at 18. The Children's Protection and Welfare Bill, enacted in March, specifically addresses child prostitution, child pornography, child trafficking, and related issues.

The rapid rise in the number of created by HIV/AIDS contributed to child prostitution, child homelessness, child-headed households, and children at risk of exploitation for labor or other purposes. According to UNICEF, there were an estimated 180,000 OVCs in the country. Street children suffered from lack of access to government services, such as medical care and schooling, and were not informed about their right to receive such services...

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

#### Anti-Semitism

There are a small number of Jews but no practicing Jewish community. There were no reports of anti-Semitic acts.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The constitution and law prohibit discrimination against persons with sensory and intellectual disabilities in employment, education, access to healthcare, or the provision of other state services. The government enforced these laws within its limited ability. Although societal discrimination was common, the tradition of hiding children with disabilities from the public was no longer commonly accepted. The Association of the Disabled actively promoted the rights and needs of persons with disabilities.

Laws and regulations stipulate that persons with disabilities should have access to public buildings. Buildings completed after 1995 generally complied with the law. According to John Motloko, executive director of the Lesotho National Federation of Organizations of the Disabled, government efforts to modify buildings were hampered by the lack of a national disability and rehabilitation policy, which has been in draft form since 2000. The Ministry of Health and Social Welfare is responsible for the bill.

Information for the blind in the form of Braille and JAWS (a computer software used by visually impaired persons) was not widely available. Sign language was not provided by service providers in the government or private sector, so signing individuals could not access many services. There were limited facilities for training deaf persons.

The government did not effectively implement laws to ensure that persons with disabilities had access to information and communications. Media reports indicated that persons with disabilities experienced societal abuse; however, there were no reports of such abuse in prisons, educational facilities, or mental health facilities.

Election law provides for assisted voting for persons with disabilities, which was respected in practice. They are allowed to have anyone of their choosing assist them with voting, including the presiding officer at a polling station; there should also be a third person to verify that the voter's choices are respected.

The Ministry of Health and Social Welfare is responsible for protecting the rights of persons with disabilities. In partnership with the NGO Skillshare International, the government provided leadership-training workshops for persons with disabilities and community-based rehabilitation (training community members to provide services to persons with disabilities). The community-based training assisted teachers in working with students with disabilities. The Skillshare–government partnership supported 20 income-generating projects with a minimum starting capital of 10,000 maloti (\$1,428). There was also advocacy and awareness



training about the rights of persons with disabilities. These events usually centered on international events, such as Sign Language Day, White Cane Day, and Braille Day. The partnership also provided aids such as prescription eyeglasses, wheelchairs, and canes.

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

The law does not address sexual orientation. It was unknown whether lesbian, gay, bisexual, and transgender (LGBT) persons faced discrimination in employment, housing, access to health care, access to education, or other areas. Homosexual conduct is taboo in society, and is not openly discussed. There were no reports of violence against LGBT persons during the year.

### Other Societal Violence or Discrimination

There continued to be media reports that children orphaned by HIV/AIDS, persons with HIV/AIDS, and their immediate families were stigmatized.

The law prohibits discrimination in the workplace on the basis of HIV/AIDS status. In 2006 the parliament amended the labor code to include an HIV/AIDS workplace policy. Each government ministry or department provided subsidized medicine to its employees with HIV/AIDS, and some provided subsidized food. Medicine was available to all HIV-positive citizens at subsidized prices at all government hospitals.

LDF policy states that a soldier found to be HIV-positive after induction is not retired or separated and is provided counseling and testing, and duties were adapted as appropriate.

## Section 7 Worker Rights

### a. The Right of Association

Workers have the right to join and form trade unions of their own choosing without prior authorization or excessive bureaucratic requirements. Workers exercised this right in practice, although a very large percentage of the labor force was not unionized. Representatives from three major trade unions all characterized the trade union movement as fledgling and unorganized. Individual trade unions had limited contact with one another despite similar goals. Union leaders suggested

that political and leadership differences and a lack of resources had kept unions small and discouraged mergers or expansion.

The apparel industry was the largest employer in the country and accounted for nearly 50 percent of formal employment. There were 45 factories with a total of 45,000 workers, making up about 80 percent of all jobs in the manufacturing sector. The textile sector dominated the country, and most unions were focused on organizing textile workers. Union management estimated that 15,000 of the country's 36,000 textile workers were unionized, and unions alleged that most factory owners in the textile industry remained staunchly opposed to unionization. Both locally and foreign-owned businesses still lacked a full understanding of the labor code's provisions regarding the right to form labor unions. The recently launched Better Work Lesotho program specifically aims to improve both compliance with labor standards and competitiveness in global supply chains. The program, supported by the Ministry of Labor and Employment, factory owners, and labor unions, also aims to increase understanding of labor rights.

The law allows unions to conduct their activities without interference. Union officials said that the government did not interfere with their ability to organize but complained of an overall lack of government support. All trade unions must register with the Registrar of Trade Unions. 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; both police and civil servants have established such associations. According to the Lesotho Public Servants Association (LEPSA), approximately 34 percent of the civil service had joined the association. This low rate of participation made it difficult for them to engage with the government on worker's rights issues as the government only recognizes staff associations representing at least 50 percent of all civil servants. LEPSA reported that some civil servants of higher grades intimidated those of lower grades into not joining the civil service staff association. Reportedly, the intimidation included threats of dismissal or transfer for noncompliance.

The law provides for a limited right to strike, but this right was not exercised in practice. In recent years very few strikes were carried out. In the private sector, the labor code requires a series of procedures workers and employers must follow before a strike is authorized. However, civil servants are not allowed to strike, and therefore all public sector strikes are unauthorized.

Under the law, the Public Service Joint Advisory Council ensures due process and to 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. Further, the Public Service Tribunal handles appeals instigated by civil servants or their associations. No association represented at least 50 percent of civil servants; therefore, neither the council nor the tribunal was functioning.

The law does not address retaliation against striking workers but the police were generally present during strikes to prevent violent conduct by any party.

b. The Right to Organize and Bargain Collectively

There are no restrictions on collective bargaining, and unions were allowed to bargain for wages above the minimum wage. However, a majority of employers bargained only with unions that represented at least 50 percent of their staff, and the Labor Commissioner's Office reported that unions were too weak to bargain effectively. Union leaders alleged that the unstable nature of the economy discouraged them from lobbying for increased wages and instead focused on organization and worker protections. Because collective bargaining agreements were rare, achieving job security from factory owners remained difficult. Factory owners kept more than half of their workforce on temporary contracts even if those contracts were renewed annually. Given the job insecurity and reduced benefits of temporary contracts, gaining the 50-plus-one majority required for collective bargaining was effectively impossible. Government approval was not required for collective agreements to be valid.

The law prohibits antiunion discrimination and other employer interference in union functions; however, the government did not always implement the law. Textile and apparel unions claimed that members were sometimes treated unfairly to compel them to leave. Unions complained that the Labor Court and Labor Inspectorate were inefficient, onerous, and bureaucratic. Workers claimed they were dismissed for union involvement, but Ministry of Labor investigations often revealed they were dismissed on other grounds. Unions reported that the country's labor inspectors were usually intimidated by factory owners and unable to enforce union rights. According to the International Trade Union Confederation's *2010 Annual Survey of Violations of Trade Union Rights in Lesotho*, many employers stopped union organizers from entering factory premises to organize workers or

represent them in disputes. In some cases employers intimidated union organizers and members, threatening the latter with dismissal.

There are no export processing zones in the country. However, certain industries, such as textile and apparel manufacturing, enjoyed similar benefits.

c. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor; however, there were reports that such practices occurred. The country was a source and transit point for women and children subjected to trafficking in persons, specifically conditions of forced labor and forced prostitution, and for men in forced labor. Women and children in the country were subjected to involuntary domestic servitude and children, to a lesser extent, to commercial sexual exploitation. Children who have lost at least one parent to HIV/AIDS were more vulnerable to traffickers' manipulations; older children trying to feed their siblings were most likely to be lured by a trafficker's fraudulent job offer. Forced labor for domestic work, crop farming, and herding animals were reported from remote private homes, small farms, and herding outposts, respectively. Each location was outside the scope of the labor code and all but impossible to inspect.

According to Lesotho Save the Children, children often worked as herd boys, street vendors, car washers, and domestic servants. The organization reported parents were often the ones forcing children to work.

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

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the formal sector, and the government generally enforced these laws; however, such laws did not apply in the informal sector, where child labor was a problem.

According to the Labor Inspectorate, the labor code contains prohibitions against the employment of children and young persons in commercial, industrial, or other nonfamily enterprises involving hazardous or dangerous working conditions. The legal minimum age for employment in commercial or industrial enterprises is 15 years, or 18 years for hazardous employment. Hazardous work included mining and quarrying, carrying of heavy loads, manufacturing where chemicals were

produced or used, working in places where machines were used, herding, producing or distributing tobacco, and working in places such as bars, hotels, and places of entertainment where a person could be exposed to immoral behavior. The law protects children from night work. Any employer who breaches these provisions is liable to a fine not exceeding 20,000 maloti (\$2,857) or imprisonment for a period not exceeding 20 months or both. Employers with second or subsequent convictions are liable to imprisonment for a minimum period of two years without the option of a fine. The Ministry of Labor reported no trials or convictions during the year.

Although child labor is prohibited, the high unemployment rate, increasing levels of poverty, and high prevalence of HIV/AIDS (23 percent) resulted in children working to support themselves and their families. The Bureau of Statistics (BOS) estimated unemployment at 22.7 percent. The majority of trade unions, however, estimated unemployment to be between 40 and 50 percent. They attributed it to jobs lost in the textile and garments sector, the largest formal employer after the government.

The BOS stated that 3 percent of children ages 6-14 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 5 and 14 were working. Two of every three of these children were engaged in subsistence farming, while the rest were engaged mainly in private households. Child labor was higher among boys (86.6 percent of child workers) than girls (13.4 percent). This was true for all economic activities considered. Herd boys were sometimes attacked by armed stock thieves, caught in fights over ownership of animals, and subjected to harsh weather conditions. In traditional rural society, these rigorous and occasionally dangerous working conditions were considered a prerequisite to manhood, essential to the livelihood of families, and beyond the reach of labor laws.

According to 2000 and 2004 reports produced by the Ministry of Labor in collaboration with UNICEF and other partners, the worst forms of child labor included herding, street work and domestic work. Most jobs performed by children were often gender specific: boys were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus taxis; girls were domestic servants; and both boys and girls worked as street vendors.

The labor survey indicates that children working in the streets typically start at the age of 12. The most common work they do is selling fruits and vegetables.

Children worked more than eight hours a day, which is the maximum stipulated in the law for an adult. They also worked without breaks six or seven days a week. Domestic workers also started as young as 12 years.

The Ministry of Labor, in collaboration with the police CGPU, is responsible for investigating cases of working children. Child labor inspections are conducted as part of general labor inspections. Approximately 1,000 labor inspections were completed during the year. No child labor cases have been reported, and hence no prosecutions, convictions, or penalties have been imposed. Scarcity of resources hindered labor inspections; the labor commissioner noted the difficulty of tracking child labor because the government had no child-labor-specific strategy or program.

The commissioner indicated that the Ministry of Labor, the CGPU, and the Ministry of Gender and Youth, Sports, and Recreation generally disseminated information on prevention of child labor as part of their other programs, but did no child-labor-specific outreach.

e. Acceptable Conditions of Work

There is a sector-specific national minimum wage and a general minimum wage. The general minimum monthly wage varies from 878 to 958 maloti (\$125 to \$136). Examples of minimum monthly wages for other job categories include textile workers, 778 maloti (\$111); construction workers, 1,040 maloti (\$148); security guards, 1,181 maloti (\$168); food service workers, 1,110 maloti (\$158); and domestic workers, 339 maloti (\$48).

Minimum wages are updated every October 1 through the amended labor code minimum wage schedule. The national minimum wage does not provide a decent standard of living for a worker and family. Trade unions continue to engage the government on the matter. Since the Wage Advisory Board started negotiations in July, there were deep divisions between the Factory Workers Union (FAWU) and Lesotho Congress of Apparel Workers Union (LECAWU), the two main textile and garments trade unions; both of which are part of the board. FAWU proposed the board increase the minimum wage for a textile worker to 1,300 maloti (\$185), while LECAWU proposed an increase to 816 maloti (\$116). FAWU believed that LECAWU's proposal does not provide a minimum "living wage, but rather a poor minimum wage," and accused the Wage Advisory Board of serving the interests of employers and not workers.

The Ministry of Labor is responsible for enforcing the minimum wage. However, budget resources impacted the enforcement of the law; in practice, businesses operating in the formal sector, including the apparel industry, were subject to more enforcement than businesses operating in the informal sector. The Labor Inspectorate reported that many locally owned businesses did not keep records of employees' salaries to facilitate labor inspections as required by law. Minimum wage provisions do not cover significant portions of the workforce. The approximately 30,000 Basotho men working in South African mines and workers in agriculture or other informal sectors were not covered by Lesotho's labor laws.

The law stipulates standards for hours of work, including a maximum 45-hour work week, 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 were 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 shall be liable to a fine not exceeding 600 maloti (\$85) or to imprisonment for a period not exceeding six months or both. Labor laws do not cover the agricultural and other informal sectors, where most workers were employed. The Labor Inspectorate stated that employers did not always observe these standards. According to the labor commissioner, employers in the retail sector were the worst violators. The most common allegations involved ignoring labor regulations for ordinary work hours, overtime, and public holidays.

The law requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize injury. It also requires a registered health and safety officer that promotes safe conduct. Employers must provide first aid kits, safety equipment, and protective clothing. However, the law does not specify the contents of first aid kits. According to health and safety inspectors in the Ministry of Labor, larger employers generally followed health and safety regulations, but smaller employers failed to appoint or train registered health and safety officers. With the exception of the mining industry, employers' compliance with health and safety regulations was generally low. Inspectors stated that employers in the retail sector were not fully compliant with standards, as they had no registered health or safety officers, complete first aid kits, or protective clothing.

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 stated, however, that conditions were not detrimental to workers' health and could cite few examples of serious safety violations. Third party auditors hired by U.S. and European textile buyers conducted spot checks on most African Growth and Opportunity Act exporting factories, customarily sought union input, and briefed the unions on their findings. Unions believed the third party auditors kept factory owners in line with health and safety regulations.

The labor code empowers the Ministry of Labor to issue regulations on work safety, and the ministry did so. The labor code does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections of the code on safety in the workplace and dismissal imply that such a dismissal would be illegal. The law also provides for a compensation system for industrial injuries and diseases related to employment.

The commissioner of labor is charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Inspections in mountain districts, however, were conducted quarterly.

The Labor Code Amendment Act of 2006 provides for the further development of HIV/AIDS policies in the workplace. The Ministry of Labor's HIV/AIDS Support Group was responsible for the rollout of the code countrywide and the translation of the act into Sesotho. The support group also provided testing and counseling services to employees in the private sector living with HIV/AIDS through funding support from the National Aids Commission. The Apparel Lesotho Alliance to Fight AIDS (ALAFA) described HIV/AIDS as the primary occupational health risk throughout the garment and textile factories. ALAFA reported that 43 percent of textile workers were infected with HIV. A total of 85 percent of textile workers were women. ALAFA characterized its success in combating HIV to a partnership between the ministries of health, trade, labor, and industry, donors, international companies, employees, and employers. In addition to space for exams, employers provided time off to see doctors, receive counseling, and participate in educational and antistigma programs. As a result, ALAFA raised HIV awareness with 90 percent of textile workers and also provided testing and treatment, reduced stigma, and dramatically reduced mother to child transmission.



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

The government supported the implementation of Better Work Lesotho, implemented by the International Labor Organization and the International Finance Corporation, in cooperation with the factories, unions, and Ministry of Labor. The Better Work program is designed to help apparel factories in the country compete in global markets, where many buyers demand compliance with international core labor standards.