



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the second periodic report of Lesotho*

1. The Committee considered the second periodic report of Lesotho¹ at its 4015th and 4016th meetings,² held on 11 and 12 July 2023. At its 4031st meeting, held on 21 July 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its second periodic report in response to the list of issues prior to reporting prepared under that procedure,³ albeit more than 15 years late. It expresses its appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral replies provided by the delegation, for its frank and open approach and for the supplementary information provided to in writing after the dialogue.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative and policy measures:

- (a) National action plan for elimination of child labour, 2023–2027;
- (b) Countering Domestic Violence Act, 2022;
- (c) Harmonization of Rights of Widows with Legal Capacity of Married Persons Act, 2022;
- (d) Persons with Disability Equity Act, 2021;
- (e) Anti-Trafficking in Persons Amendment Act, 2021;
- (f) Witnesses Protection Act, 2021;
- (g) National strategic framework and action plan to combat trafficking in persons, 2021–2026;
- (h) Superior Courts Practices Direction No. 2 of 2021;
- (i) Children's Protection and Welfare (Amendment) Bill, 2021;

* Adopted by the Committee at its 138th session (26 June–26 July 2023).

¹ [CCPR/C/LSO/2](#).

² See [CCPR/C/SR.4015](#) and [CCPR/C/SR.4016](#).

³ [CCPR/C/LSO/QPR/2](#).



- (j) Gender and development policy, 2019–2030;
 - (k) Eighth Amendment to the Constitution Act, 2018.
4. The Committee also welcomes the State party's efforts to improve its institutional and regulatory framework, in particular through the ratification of, or accession to, the following international instruments:
- (a) International Convention for the Protection of All Persons from Enforced Disappearance, on 6 December 2013;
 - (b) Convention on the Rights of Persons with Disabilities, on 2 December 2008;
 - (c) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 16 September 2005;
 - (d) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 24 September 2004;
 - (e) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 24 September 2003;
 - (f) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 24 September 2003;
 - (g) Optional Protocol to the International Covenant on Civil and Political Rights, on 6 September 2000;
 - (h) Violence and Harassment Convention, 2019 (No. 190), of the International Labour Organization, on 15 March 2023;
 - (i) Worst Forms of Child Labour Convention, (No. 182) 1999, of the International Labour Organization, on 14 June 2001;
 - (j) Abolition of Forced Labour Convention, 1957 (No. 105), of the International Labour Organization, on 14 June 2001.

C. Principal matters of concern and recommendations

Constitutional and legal framework within which the Covenant is implemented

5. The Committee is concerned that several international and regional human rights instruments ratified by the State party have not yet been fully integrated into domestic law, and are therefore not yet fully applicable in domestic courts until an act of parliament has done so, and that, in case of conflict, national legislation takes precedence. The Committee remains concerned by the degree of compatibility with the Covenant of certain constitutional provisions and customary laws, due to imprecise wording and terminology that allows for restrictive interpretations of the law, including on freedom of movement, freedom of expression, peaceful assembly and freedom of association, fair trial guarantees, non-discrimination and derogations from Covenant rights (art. 2).

6. **The State party should fully integrate into domestic law, through legislation, all the regional and international human rights instruments that it has ratified and ensure that all national legislation is brought into full conformity with the Covenant. It should also ensure the effective, meaningful and informed participation of civil society organizations in the implementation of the Covenant, the present concluding observations and all initiatives concerning them, including their dissemination.**

National mechanism for implementation, reporting and follow-up

7. The Committee is concerned that there has not been an adequate campaign to raise awareness of the Covenant, the recommendations of the Committee or the Optional Protocol, including in local languages. The Committee regrets that civil society organizations were not adequately involved in the process. While the Committee welcomes the establishment of an inter-ministerial national mechanism for implementation, reporting and follow-up, in 2022, it notes with concern that according to reports, the mechanism is not well resourced (art. 2).

8. **The State party should raise awareness, including in local languages, of the Covenant and the recommendations of the Committee and the Optional Protocol, and ensure their effective implementation, in close coordination with all civil society organizations. In particular, the Committee calls upon the State party to consider engaging with regional and local actors in the dissemination process.**

National human rights institution

9. The Committee notes that the process of establishment of a human rights commission has been ongoing since 2016. The Committee also notes that the law to create a human rights commission has been incorporated into a bill to amend the Constitution to embed the human rights commission into the Constitution. The Committee regrets that the process of establishing a human rights commission has taken an inordinately long time. The Committee is concerned by the fact that the Office of the Ombudsman cannot effectively fulfil its functions due to a lack of resources (art. 2).

10. **The State party should fast track the enactment of the law creating the human rights commission and ensure its full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The State party should provide adequate human and financial resources to the Commission and to the Office of the Ombudsman so that they can carry out their functions effectively.**

Anti-corruption measures

11. The Committee takes note of the efforts carried out by the State party to combat corruption, however, it is concerned by reports that indicate that the Directorate on Corruption and Economic Offences still lacks the capacity to effectively investigate and prosecute corruption cases, which undermines its operational independence and its capacity to fully combat corruption, and the Directorate also faces serious financial constraints. The Committee notes that a prevention of corruption and economic offences bill was drafted in 2019, which was aimed at addressing challenges faced by the Directorate (arts. 2 and 25).

12. **The State party should:**

(a) **Step up its efforts to prevent and eradicate corruption at all levels, including through the effective implementation of legislative and preventive measures to combat corruption, including by adopting the prevention of corruption and economic offences bill, and promote good governance, transparency and accountability;**

(b) **Strengthen the capacity, autonomy and financial and human resources of the Directorate on Corruption and Economic Offences;**

(c) **Ensure that all cases of corruption are promptly and duly tried and the perpetrators adequately punished.**

State of emergency and security measures

13. The Committee remains concerned that derogations of rights authorized in section 21 (1) of the Constitution do not appear to fulfil the strict conditions for permissible derogations provided for under article 4 of the Covenant, including with regard to adequate safeguards on the principles of non-discrimination and proportionality. The Committee is concerned about the compatibility with the Covenant of the Internal Security (General) Act of 1984, including the discretionary powers granted to the Prime Minister to suspend fundamental human rights and freedoms provided for in the Covenant. The Committee is also concerned about allegations of torture and arbitrary detention during the state of emergency declared under the Act during the coronavirus disease (COVID-19) pandemic (art. 4).

14. **The State party should bring its domestic legislation governing states of emergency into line with article 4 of the Covenant, as interpreted in the Committee's general comment No. 29 (2001) on derogations from the Covenant during a state of emergency, and the Committee's statement on derogations from the Covenant in**

connection with the COVID-19 pandemic,⁴ in particular with regard to the non-derogable provisions of the Covenant. The State party should also investigate all allegations of human rights violations perpetrated during the pandemic, prosecute the perpetrators, and, if found guilty, punish them with penalties commensurate with the gravity of the offences, and provide victims with full reparations and means of protection.

Past human rights violations and impunity

15. The Committee notes with concern the lack of information regarding the establishment of the truth and the right to reparations for victims of past human rights violations, including the killings in Butha Buthe in 1995. The Committee is concerned by allegations of a lack of investigation and accountability regarding human rights violations, which leads to impunity, and the lack of effective remedies or compensation for the victims (art. 2, 6, 7 and 14).

16. **The State party should consider establishing a truth and reconciliation process that is in line with international law to address past human rights violations. The State party should take all measures necessary to investigate those violations, hold those responsible accountable, address impunity, provide adequate remedies to victims and promote an environment of peace, reconciliation and democracy.**

Non-discrimination and equality between men and women

17. While the Committee welcomes the adoption of legislation and policies to address discrimination against women, especially in relation to access to land, the Committee remains concerned by section 18 (4) (c) of the Constitution, which allows for the application of discriminatory provisions of customary law against women and girls, in particular regarding the inheritance of property, marriage, nationality and access to land and chieftaincy (Chieftainship Act, 1968, sect. 10) (arts. 2, 3, 25 and 26).

18. **The State party should:**

(a) **Consider revising section 18 (4) (c) of the Constitution so as to ensure that its provisions are clear and unequivocal and cannot be potentially used as grounds for discrimination against women;**

(b) **Ensure that customary law that is not in full conformity with the provisions of the Covenant is no longer applied in those matters.**

19. The Committee is concerned by the discrimination based on gender, sexual orientation and disability and discrimination against elderly women, sex workers, people living with HIV and others. The Committee regrets that the provision in the Sexual Offences Act, 2003, criminalizing sodomy as an offence, has not yet been explicitly repealed (arts. 2, 3, 25 and 26).

20. **The State party should:**

(a) **Combat all forms of stigmatization and discrimination on the basis of sexual orientation and gender identity, gender and disability and against elderly women, sex workers and people living with HIV, including by increasing awareness-raising activities and ensuring that any act of discrimination and violence is investigated, that perpetrators are brought to justice and that victims are provided with redress;**

(b) **Repeal the provision on sodomy from the Sexual Offences Act, 2003.**

Violence against women

21. The Committee welcomes the measures adopted by the State party to address violence against women and children, however, it notes with grave concern the high level of violence against women and girls, including the very high number of cases of domestic violence. The Committee notes with concern that victims are reluctant to report such incidents for fear of stigmatization, among other reasons, and, in cases of domestic violence for fear of losing

⁴ CCPR/C/128/2.

financial support. The Committee welcomes the establishment of the Gender and Child Protection Unit within the Lesotho Mounted Police Service but regrets that there is only one care centre to provide assistance to victims in the country and that there is a lack of adequate legal aid assistance. The Committee is concerned about reports of child marriage, however, it notes that the draft children's protection and welfare (amendment) bill of 2021 is aimed at criminalizing child marriage (arts. 2, 3, 7 and 26).

22. The State party should intensify efforts to:

(a) **Encourage the reporting of cases of violence against women and girls, including by ensuring that they have access to multiple forms of reporting and information about their rights and available remedies, and take measures to provide financial support to victims and for the economic empowerment of women;**

(b) **Investigate all allegations of violence against women and girls, including domestic and sexual violence, prosecute the perpetrators, and, if found guilty, punish them with penalties commensurate with the gravity of the offences, and provide victims with full reparations and means of protection;**

(c) **Ensure that police officers, prosecutors and judges receive appropriate training to effectively deal with cases of domestic and sexual violence and conduct awareness-raising campaigns for the general public, targeted at all kinds of audiences, on addressing violence against women and domestic violence, including by combating stereotypes and empowering women, in urban and rural areas;**

(d) **Increase the number of shelters across the country and provide adequate free legal aid to all persons without sufficient means.**

Termination of pregnancy, maternal mortality and reproductive rights

23. The Committee takes note of the steps taken by the State party to assess the prevalence of abortion in the State party and to consider the possibility of legalizing it. Nevertheless, the Committee is concerned by the high numbers of women and girls who have recourse to illegal and unsafe abortions, in private clinics or on the so-called "black market", that put their lives and health at risk. The Committee is also concerned about the legal provisions for charging staff working in private abortion clinics with a criminal offense for practising illegal abortions. The Committee is further concerned by reports of high maternal and infant mortality rates and by the lack of adequate postnatal checks and immunizations for mothers and their babies born outside public hospitals and clinics, especially in rural areas. The Committee is concerned by credible reports of forced sterilization (arts. 2, 3, 6 and 7).

24. Bearing in mind paragraph 8 of the Committee's general comment No. 36 (2018) on the right to life, the State party should:

(a) **Amend its legislation to guarantee safe, legal and effective access to abortion, including in rural and remote areas, where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable;**

(b) **Strengthen indiscriminatory access to sexual and reproductive health-care services, including affordable contraception and reproductive health-care services, paying particular attention to improving the maternal mortality and infant mortality rates, postnatal checks, immunizations and post-abortion health care, including in rural areas, and establish State control of the private clinics where illegal and unsafe abortions take place;**

(c) **Ensure that any allegation of forced sterilization is thoroughly investigated, that perpetrators are prosecuted, and, if found guilty, punished, and provide effective remedies and compensation to victims;**

(d) **Further develop and implement comprehensive sexual and reproductive health education programmes, addressed to women, men and adolescents, with a view to preventing unintended pregnancies and effectively combating the stigmatization of**

women and girls who have recourse to abortion, including on the prevention of sexually transmitted infections.

Death penalty

25. The Committee takes note that no sentence of the death penalty has been carried out since 1995 and that those sentenced to death are either commuted to life imprisonment or given longer years in prison by the Court of Appeals. However, it regrets that the State party still retains the death penalty and that no measures have been taken to repeal the legal provisions related to its imposition. The Committee also regrets that the State party has not yet ratified the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty. The Committee regrets the lack of information on measures taken to generate support for the abolition of the death penalty and on measures to allow for individuals convicted of capital crimes to challenge their convictions and sentences on the basis of newly discovered evidence of innocence and to receive appropriate remedies (art. 6).

26. **In accordance with its general comment No. 36 (2018), in which the Committee reaffirmed that States parties that were not yet totally abolitionist should pursue an irrevocable path towards complete eradication of the death penalty, de facto and de jure, the State party should consider:**

(a) **Establishing a de jure moratorium on the application of the death penalty, with a view to abolishing it;**

(b) **Acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty and, in the meantime, revising its legislation to make it compliant with article 6 (2) of the Covenant, prohibiting the mandatory imposition of the death penalty and restricting the crimes for which the death penalty may be imposed on perpetrators to the most serious crimes, understood to be crimes of extreme gravity involving intentional killing;**

(c) **Carrying out effective awareness-raising measures to mobilize public opinion in support of the abolition of the death penalty;**

(d) **Provide appropriate procedures to enable individuals convicted of serious crimes, including those sentenced to death or to life in prison, to seek the review of their convictions and sentences on the basis of newly discovered evidence of innocence.**

Excessive use of force and freedom of assembly

27. The Committee is concerned by reports of deaths and injury following the use of live ammunition and excessive force by the police in dispersing demonstrations, as was the case in the killings of student Kopano Makutoane, who was shot by the Lesotho Mounted Police Service at the National University of Lesotho in June 2022 during a student demonstration, at which six other students sustained severe injuries, and of textile factory worker, Motselisi Manase, who was shot in 2021 during strike protests, in addition to other cases of excessive use of force, as was the case in the killing of Tumelo Mohlomi, a student shot at the campus of the University of Lesotho in 2017. The Committee is concerned about the lack of effective investigations and prosecutions in cases of excessive use of force. The Committee takes note of the fact that, while the Police Complaints Authority investigates police conduct, it is not independent from the police and it only investigates cases approved by the Minister of Police, who does not need to provide reasons for or against approval (arts. 6, 7, 9, 21 and 22).

28. **The State party should:**

(a) **Prevent and eliminate the excessive use of force by law enforcement officers, including by providing appropriate training, in line with the Committee's general comment No. 37 (2020) on the right of peaceful assembly, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, draft written guidelines on the use of force on the basis of those international standards and continue rolling out human rights curriculum in all security sector training institutions;**

(b) **Ensure that allegations of excessive use of force during peaceful assemblies, including strikes by workers and student demonstrations, are investigated promptly, thoroughly and impartially, that those allegedly responsible are prosecuted, and, if found guilty, punished appropriately, and that the victims obtain redress;**

(c) **Raise awareness about the existence and mandate of the Police Complaints Authority, ensure its independence from the police, provide adequate human and financial resources for its functioning, facilitate access to the victims, ensure that its findings are made public and that it refers its cases directly to prosecutors.**

Extrajudicial killings and enforced disappearances

29. The Committee is concerned by the pattern of extrajudicial executions and enforced disappearances involving security forces, the Lesotho Defence Force and the Lesotho Mounted Police Service. In this regard, the Committee is concerned by the cases of Thelingoane Mota (2017), Mamoleboheng Besele (2016), Tumelo Mohlomi (2017), Khothatso Makibinyane (2016), Paseka Pakela (2016) and Lekhoele Noko (2016), as well as those of Tseliso Sekonyela (2021), Bibi Mohajane (2022) and Kopano Makutoane (2022), including by reports of a lack of accountability of members of the intervening security forces (arts. 6, 7, 9, 14 and 16).

30. **The State party should take urgent measures to investigate promptly and thoroughly any reported case of extrajudicial killing and enforced disappearance, ensure that perpetrators are prosecuted and punished with sanctions commensurate with the gravity of the crime and ensure that victims receive full reparations, including adequate compensation.**

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of their liberty

31. While the Constitution prohibits torture and ill-treatment, the Committee remains concerned by the absence of a specific anti-torture legislation that expressly defines and criminalizes torture and other ill-treatment and by the fact that the courts have not yet defined the term in their jurisprudence. The Committee is also concerned about the compatibility of section 32 of the Penal Code of 2010 with the Covenant, in particular the lack of clear criteria for law enforcement officers about the applicability of “reasonable force” (arts. 6, 7, 10 and 24).

32. **The State party should take urgent measures necessary to eradicate torture and ill-treatment, including by:**

(a) **Urgently adopting legislation that defines torture, including revising article 32 of the Penal Code to ensure that it is fully compliant with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and with article 7 of the Covenant;**

(b) **Considering ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

33. The Committee is concerned by reports indicating serious and escalating incidents of allegations of torture, ill-treatment and police brutality in recent years, without accountability. The Committee takes note with concern of information about the allegations of the torture of 35 people (16 women and 19 men) at the hands of the police, following their arrest while protesting against the power cuts in Liseleng, Thaba-Tseka district, in 2022.

34. **The State party should:**

(a) **Conduct prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment, in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), ensuring that perpetrators are prosecuted, and, if convicted, punished appropriately, and that victims receive full reparations;**

(b) **Provide law enforcement officials, members of the judiciary, prosecutors and penitentiary staff with effective training programmes that integrate international standards, such as the Principals on Effective Interviewing for Investigations and Information Gathering, and provide detainees with awareness-raising programmes on the prevention of torture and ill-treatment;**

(c) **Consider establishing a national mechanism for the prevention of torture and an independent mechanism with a direct mandate to investigate all allegations of torture and other cruel, inhuman or degrading treatment or punishment and/or providing the Police Complaints Authority with the support necessary to carry out this task.**

Corporal punishment

35. The Committee remains concerned by the fact that corporal punishment is still allowed of both adults, in the penal system, and children, including at home, and by the lack of legislation that explicitly prohibits corporal punishment in all settings. In this regard, the Committee is concerned in particular by article 16 (2) of the Children's Protection and Welfare Act, 2011 and section 32 of the Penal Code Act, 2010 (arts. 7 and 24).

36. **The State party should:**

(a) **Repeal legislation allowing for corporal punishment and enact legislation that explicitly and clearly prohibits all forms of corporal punishment of children and adults in all settings and encourage non-violent forms of discipline as alternatives to corporal punishment;**

(b) **Conduct awareness-raising campaigns about the harmful effects of corporal punishment.**

Conditions of detention

37. While the Committee takes note of the information provided by the State party about the lack of funds for the prison system, it is concerned by the harsh and life-threatening conditions in prisons, which include overcrowding, inmate violence, physical abuse at the hands of officers and lack of access to adequate medical care, food and sanitary conditions. The Committee takes note of the work of the Lesotho Correctional Services to improve the treatment, rehabilitation and reintegration of prisoners, despite its limited resources, including the establishment of the Legal and Human Rights Unit, and of the Unit's openness to outside inspections (arts. 9 and 10).

38. **The State party should:**

(a) **Take urgent measures to improve the conditions of detention and ensure that they are in compliance with relevant international human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(b) **Reduce prison overcrowding, in particular by continuing the wider application of non-custodial measures as an alternative to imprisonment;**

(c) **Consider increasing the financial resources allocated to the prison system, in order to improve conditions of detention, including better access to medical care, and to increase the capacity of the Lesotho Correctional Service and its Legal and Human Rights Unit, as well as the Office of the Ombudsman;**

(d) **Facilitate all places of detention remaining open to independent, effective and regular monitoring and inspection by national, regional and international bodies, without prior notice and on an unsupervised basis, and/or consider the establishment of an independent monitoring mechanism with the mandate to inspect all places of detention.**

Trafficking in persons, and elimination of slavery and servitude

39. While noting the State party's efforts to combat trafficking in persons, such as the criminalization of all forms of trafficking and the launch, in 2022, of a national action plan, the Committee is concerned by reports indicating a judicial backlog of the investigation of trafficking cases. The Committee also notes with concern that the State party continues to rely on one non-governmental organization to provide all services to trafficking victims and that the number of shelters for victims is insufficient (arts. 6, 7, 8 and 24).

40. **The State party should strengthen its efforts to effectively prevent and combat trafficking in persons, by, inter alia:**

(a) **Considering prioritizing in the annual budget resources to increase the capacity to investigate cases of trafficking, bringing perpetrators to justice and sanctioning them and providing further resources to the Anti-Trafficking and Migrant Control Unit;**

(b) **Strengthening its measures to protect victims of trafficking in persons, in particular women and children, by, inter alia, improving proper identification of victims, providing them with full reparations, including rehabilitation and adequate compensation, and access to effective means of protection and assistance, including shelters.**

Child labour

41. While the Committee takes note of the measures adopted by the State party to combat the worst forms of child labour, the Committee is concerned about reports that indicate that it still persists, including in the cattle herding sector, as does commercial sexual exploitation. It is also concerned by reports that children domestic workers do not fall within the protections of critical labour laws (arts. 7, 8 and 24).

42. **The State party should intensify efforts to eliminate forced labour and all forms of child labour, in particular commercial sexual exploitation, cattle herding and domestic service, including by increasing labour inspections and by establishing an effective, easily accessible and child-friendly complaint mechanism, available throughout the country, including in rural and remote areas. It should also ensure targeted measures to protect children and that they are rehabilitated within their communities.**

Liberty and security of person

43. While noting the training courses carried out with law enforcement officers in order to eliminate arbitrary arrests, the Committee is concerned by the culture prevalent in law enforcement institutions of arresting suspects in order to carry out investigations, rather than arresting them after an adequate investigation. The Committee is also concerned by credible reports about the extension of periods of pretrial detention to up to several months, due to judicial staffing shortages and the unavailability of legal counsel. The Committee notes that police officers at the rank of inspector or above can search individuals or homes without a warrant, and it is concerned that the exercise of those powers without previous judicial authorization or ensuing review might be incompatible with provisions of the Covenant (arts. 9 and 17).

44. **The State party should:**

(a) **Ensure that suspects are arrested following thorough, effective and impartial investigations and/or a reasonable suspicion and that appropriate safeguards are adopted, including judicial oversight;**

(b) **Ensure that pretrial detention is only used as an exceptional measure and for a limited period of time and increase the use of alternative measures to pretrial detention, as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

(c) **Ensure that searches of individuals and homes are carried out with prior judicial authorization and they are subject to judicial control and review and that any**

search complies with the principles of legality, proportionality and necessity, in conformity with the Covenant, and ensure access to effective remedies in cases of abuse.

Administration of justice

45. The Committee is concerned that, despite efforts to improve the functioning of the administration of justice, such as the enactment of the Judiciary Administration Act, 2011, credible reports refer to the negative impact of the limited resources and chronic underresourcing in the judicial system, which compromises the independence and integrity of individual judges and the institution as a whole. The Committee notes with concern the lack of skilled judges and prosecutors in the country and the use of foreign judges and prosecutors in so-called “high-profile” cases, the significant delays in the administration of justice and the delivery of judgments, the backlog of cases, in particular before the High Court and the Court of Appeals, the reduced numbers of qualified professionals, such as in the areas of ballistics and forensics, and the allegations of misbehaviour in public and cases of corruption among officials of the judiciary. The Committee is also concerned by the conditions of service, including the low salary of judges and prosecutors, which seem to be an obstacle in the recruitment of skilled legal practitioners to the bench or the prosecution service (art. 14).

46. The State party should intensify its measures to reform the administration of justice, and in particular it should:

(a) **Consider prioritizing an increase in the national budget dedicated to the administration of justice, in order to provide it with adequate human and financial resources and support its effective and timely functioning, including by improving access to justice through the provision of adequate legal aid, and reducing the significant delays in the administration of justice, the treatment of judicial affairs and the delivery of judgments;**

(b) **Reinforce the recruitment of qualified judges, prosecutors and other judicial professionals to ensure the proper administration of justice throughout its territory, including by improving their conditions of service.**

Independence of the judiciary

47. The Committee is concerned by the role of the executive in the appointment of certain members of the judiciary, such as the Chief of Justice and the President of the Court of Appeals, whose appointments are by recommendation of the Prime Minister, and by the composition of the Judicial Service Commission, which is in charge of the appointments of all judicial officers of all ranks, on which judges do not have a majority. The Committee is also concerned by the allegations that high-profile and political cases are often judged with prolonged delays or with partiality and that legal practitioners, including judges and lawyers, face intimidation in such cases (art. 14).

48. The State party should:

(a) **Ensure that the procedures for the selection, appointment, promotion, transfer and removal of judges and prosecutors are transparent and impartial and comply with the Covenant and relevant international standards, including such United Nations guidelines as the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors;**

(b) **Ensure that the entity responsible for the procedures mentioned above, the Judicial Service Commission, broadens the composition of its members to include members of the judiciary and that it is able to discharge its functions independently and impartially without any undue political interference;**

(c) **Strengthen the independence of the judiciary, eliminate all forms of interference by the other branches of power in the appointments to and work of the judicial branch and eliminate all forms of interference in the work of lawyers;**

(d) **Ensure prompt, thorough, independent and impartial investigations into all reports of undue interference and corruption of members of the judiciary and prosecute and punish the persons responsible.**

Right to privacy

49. The Committee regrets that the Data Protection Commission established by the Data Protection Act, 2011, is not yet operational. The Committee regrets the lack of detailed information regarding legal safeguards, such as judicial oversight, on the surveillance activities of the national security service and other security bodies (art. 17).

50. **The State party should:**

(a) **Provide adequate human and financial resources for the operationalization of the Data Protection Commission so that it can effectively ensure the protection of the right to privacy in an independent manner;**

(b) **Ensure that any surveillance activity complies with the principles of legality, proportionality and necessity, in full conformity with the Covenant, in particular article 17, and that surveillance activities are subject to effective judicial oversight mechanisms and ensure access to effective remedies in cases of abuse.**

Freedoms of expression

51. The Committee remains concerned by the lack of information regarding the Printing and Publishing Act, 1967, in particular on the grounds that allow for the refusal of a request to obtain a certificate of registration for newspapers and on the way to challenge the refusal. The Committee takes note of the Lesotho Communications Authority, established under the Communications Act, 2012, and that it is in charge of the regulation of the communications sector in the country, including the granting, suspension and revocation of licenses for the provision of communications services. The Committee notes with concern the fact that the members of the Board of the Communications Authority are all appointed by the executive, which, together with the amendments to the Communications Authority Act, 2000, undermines the independence and autonomy of the Authority. The Committee is also concerned about the worrying reports of attacks on journalists, which could seriously undermine freedom of expression. In this regard, the Committee notes with concern the murder of Ralikonelo Joki in May 2023, who had allegedly received death threats in connection with his work, and a series of violent incidents against journalists in November 2021. In those incidents and according to reports, journalists or members of their families were targeted, including by the police, including allegations of assaults and attacks, and in some cases, there were also threats of the revocation of radio broadcasting licences (arts. 2 and 19).

52. **The State party should take the measures necessary to guarantee the full enjoyment of the freedom of expression by everyone, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. In particular, the Committee calls upon the State party to:**

(a) **Ensure that its legislation related to freedom of expression, including the Printing and Publishing Act, 1967, the Communications Act, 2012, and the Communications Authority Act, 2000, comply with the provisions of article 19 of the Covenant and the Committee's general comment No. 34 (2011), and ensure the impartial and autonomous operation of the Lesotho Communications Authority;**

(b) **Effectively prevent and combat acts of harassment, intimidation and violence against journalists and media workers, to ensure that they are free to carry out their work without fear of violence or reprisals;**

(c) **Conduct prompt, effective and impartial investigations into allegations of threats or violence against journalists and media workers, bring the perpetrators to justice and provide victims with effective remedies, including compensation.**

Participation in public affairs

53. The Committee notes that, in order to address the political instability that has plagued the country in recent years, the Government initiated a national dialogue and stability process in order to strengthen the human rights regime and ensure efficient, transparent and accountable institutions. The Committee notes that the reform process led to a set of reforms now drafted and consolidated in the Eleventh Amendment to the Constitution Act, 2022, referred to as the omnibus bill. However, the Committee regrets that the reforms have not yet been approved by the Parliament (arts. 19 and 25).

54. The State party should speed up its reform process, with the active participation of civil society actors, and align the resulting legislation, policies and institutions with the principles and provisions of the Covenant.

55. While the Committee takes note of the efforts towards strengthening and ensuring accountability and transparency, it regrets that the State party has not yet adopted specific legislation to ensure the right of access to information on government decision-making to its citizens and the media in order to ensure the transparency and accountability of government operations. The Committee takes note that a legislative framework is being prepared on the matter, namely, the receipt and access to information draft bill.

56. The State party should ensure transparency and prompt and effective access to public information held by public bodies, including by developing an adequate legislative framework in consultation with civil society; in this regard, it should consider fixing a tentative timeline for the tabling and eventual adoption of the receipt and access to information draft bill.

D. Dissemination and follow-up

57. The State party should widely disseminate the Covenant, the two Optional Protocols thereto, its second periodic report and the present concluding observations, with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the other official language of the State party.

58. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 27 July 2026, information on the implementation of the recommendations made by the Committee in paragraphs 10 (national human rights institution), 28 (excessive use of force and freedom of assembly) and 32 (prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and treatment of persons deprived of their liberty) above.

59. In line with the Committee's predictable review cycle, the State party will receive in 2029 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its third periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next interactive and constructive dialogue with the State party will take place in Geneva in 2031.