
Advance unedited version

Distr.: General
2 April 2019

Original: English
English, French and Spanish only

Human Rights Committee**List of issues prior to submission of the second periodic report of Lesotho*****A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

1. Please provide information on processes in place to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/79/Add.106). Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol and whether there exists sufficient awareness of its existence among those who believe that their human rights under the Covenant were violated.

2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, including examples of cases in which the provisions of the Covenant have been referred to by national courts.

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee**Constitutional and legal framework within which the Covenant is implemented (art. 2)**

3. In light of the dualist approach applied by the State party, please provide information on measures to ensure that the provisions of the Covenant are fully incorporated in the domestic legal system and might be invoked before and applied by the Lesotho Courts. With reference to the previous concluding observations (para. 6, 7, 8 and 9), please report on any progress to ensure that the national legal framework is fully consistent with the Covenant, including the following sections of the Constitution: (a) sections 7 (3) (f) and 6, 14 (2) (c), 15 (2) (c) and 16 (2) (c) that respectively extend restrictions exceeding those permitted by article 12 (freedom of movement), 19 (freedom of expression), 21 (peaceful assembly) and 22 (freedom of association) of the Covenant; (b) sections 12 (11) (a) and 13 that may raise issues of compatibilities with article 14 (2) and (3) (d) of the Covenant; and (c) section 18 (4) (a) (b) and (c) that seem to allow the application of discriminatory laws incompatible with articles 2 (1), 3, 23 and 26 of the Covenant. Please provide information on any instances in which customary laws have conflicted with rights protected by the Covenant and on measures taken to review, identify and repeal the provisions of the Laws of Lerotholi that are incompatible with the provisions of the Covenant.

* Adopted by the Committee at its 125th session (4-29 March 2019).

4. Please provide information on the status of the National Human Rights Commission Bill of 2014 and whether this commission is now established and works in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). As regards to the Ombudsman office, provide information: (a) on its mandate; (b) on measures to ensure the effective fulfilment of its mandate, in particular, the provision of human and financial resources; and (c) the complaints received and the number of complaints related to provisions of the Covenant.

State of emergency and security measures (art. 4)

5. In light of the previous concluding observations (para. 8), please report on measures to ensure the compliance of section 21 (1) of the Constitution, and of existing regulations governing states of emergency, with article 4 of the Covenant. Please provide information on the Internal Security (General) Act of 1984 and on its compatibility with the provisions of the Covenant.

Past human rights violations and impunity (art. 2, 6, 7 and 14)

6. In view of paragraph 19 of the previous concluding observations, please report on the steps taken to shed light on past and more recent human rights violations and to ensure the establishment of the truth and the right to reparation for victims and their family, in particular regarding the killings in Butha-buthe in 1995. In light of the August 2014 events, please provide information on the measures undertaken to shed light on the resulting human rights violations, to combat impunity.

Non-discrimination and equality between men and women (arts. 2, 3, 25 and 26)

7. In addition to the Constitutional provisions on discrimination, please indicate whether specific laws or other measures that deal with discrimination exist in the domestic system and if so please provide details. Please clarify whether domestic law: (a) provides a definition of discrimination that encompasses all prohibited grounds of discrimination including race, color, property, birth, sexual orientation, gender identity, language, health, social and other status; (b) covers direct, indirect and intersecting forms of discrimination; and (c) provides for effective judicial and administrative remedies. Describe the measures taken to combat and prevent acts of discrimination, stigmatization and violence specifically against elderly persons, sex workers, persons with HIV/AIDS and LGBTI persons. In this regard and in view of paragraph 13 of the previous concluding observations, please provide clarification on the current legal status of sexual acts between consenting adults of the same sex. Also, please provide an update about the status of the National Disability Bill.

8. With reference to paragraph 10 of the previous concluding observations and in light of the national Vision 2020, please provide information on the measures aiming at: (a) ensuring the respect of equality between men and women; and (b) reviewing and repealing all discriminatory laws against women, both positive and customary, in particular with regard to nationality, marriage and its dissolution, property rights and inheritance. In this regard, please also provide information on the Constitutional Court Case *Masupha vs. The Senior Resident Magistrate for the Subordinate Court of Berea and Other*. Please report on measures to enhance the representation of women in political and public life, including senior leadership and decision-making positions.

Violence against women and harmful practices (arts. 2, 3, 7 and 26)

9. In view of the widespread societal acceptance of violence against women, please provide detailed information on the content of the Domestic Violence Bill 2018 and on measures to ensure its speedy adoption. Please comment on allegations that sexual and domestic violence cases remain largely underreported and provide information on measures to: (a) do away with related social taboos and women's fear of being stigmatized and encourage victims to file complaints; (b) support victims of violence; and (c) increase the capacities of the Gender and Child Protection Unit, the Victims' Support Unit and shelters for victims. With reference to paragraph 12 of the previous concluding observations, please report on measures taken to address, prohibit and eliminate harmful practices against women and girls such as: female genital mutilation, early marriages, abductions (forced elopements)

or rape of girls resulting in forced marriages, virginity testing and labia elongation. Please provide information on the number of complaints, prosecutions, and convictions handed down for those responsible for such harmful practices.

Termination of pregnancy, maternal mortality and reproductive rights (arts. 2, 3, 6 and 7)

10. With reference to paragraph 11 of previous concluding observations and in light of article 45 of the 2010 Penal Code, please provide information on the number of legal abortions and estimated number of clandestine termination of pregnancies annually performed and indicate whether the State party intends to repeal restrictions in its legislation that may compel women and girls to resort to unsafe abortions. Provide updated statistical data on maternal and infant mortality rates and detail efforts to: (a) ensure access to safe and affordable contraceptive methods and to education about reproductive health, particularly to prevent teen pregnancies; and (b) improve access to health services for pregnant women and for postnatal checks for women and new-borns. Please respond to allegations of forced HIV testing of pregnant women and forced sterilization without consent and knowledge.

Right to life and excessive use of force by law enforcement agents (arts. 6, 7 and 21)

11. With reference to paragraph 15 of the previous concluding observations and in light of section 5 of the Constitution, please indicate whether the long-standing moratorium on the death penalty has been officially proclaimed. Describe the measures taken towards repealing the legal provisions related to death penalty and elaborate on the compatibility of section 298 (1) of the Criminal Procedure and Evidence Act n° 9 of 1981 with the provisions of the Covenant. Please indicate whether the State party considers ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Please also provide information on measures taken to generate support for a move away from the death penalty.

12. As regard to paragraph 17 of the previous concluding observations, please provide information on the legal standards applied in the State party for the appropriate use of force and firearms by law enforcement officials and on the compliance of such standards with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please respond to allegations of police forces using live ammunition to disperse and suppress riots and provide information on the use of live ammunition against a nurses' strike in 2014. Please report on the compatibility of section 5 (2) of the Constitution, and in particular its allusion to protection of property, with article 6 of the Covenant as interpreted in the Committee' general comment 36 (2018).

13. Please provide information on measures taken to address the allegations of extrajudicial killings and enforced disappearances by law enforcement officials, in particular members of the Lesotho Defense Force (LDF) and the Lesotho Mounted Police Service (LMPS), particularly after 2016. Provide detailed information on measures to ensure that all reported cases of such killings and enforced disappearances are promptly and thoroughly investigated, that the perpetrators are prosecuted and punished with sanctions commensurate with the gravity of the crime and that the victims receive full reparation, including adequate compensation. Specifically, please provide information on measures of investigation and accountability taken in connection with the deaths of Thelingoane Mota, Mamoleboheng Besele, Tumelo Mohlomi, Khothatso Makibinyane, Paseka Pakela and Lekhoele Noko.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (arts. 6, 7, 10 and 24)

14. With reference to paragraph 16 of the previous concluding observations, please indicate whether the State party intends to adopt a specific anti-torture law that would *inter alia* criminalize torture, as defined in international human rights instruments, and specify on which legal grounds those responsible for torture are currently prosecuted, and victims compensated. Please report on the compatibility of section 32 of the 2010 Penal Code with article 7 of the Covenant.

15. In light of paragraph 20 of the previous concluding observations and paragraph 27 of the latest concluding observations of the Committee on the Rights of the Child, please provide information on recent measures taken to repeal all provisions related to corporal punishment both on adults in the penal system, particularly sections 8 (2) and 307 of the Criminal Procedure and Evidence Act n° 9 of 1981, and on children, particularly article 16 of the Children's Protection and Welfare Act 2011, in school, home, juvenile legal system and any other setting, and to ensure that in practice corporal punishments are never perpetrated.

16. Please comment on the allegations that torture and other cruel, inhuman or degrading treatment remain a widespread practice among law enforcement officers, in particular by police members, LDF and LMPS members, notably for the purpose of interrogation and extraction of forced confessions. Respond to allegations of a low rate of prompt and impartial criminal investigations, prosecutions, convictions and sanctions for complaints of torture and ill-treatment. Provide information on the Police Complaints Authority established by the Police Service Act of 1998, in particular on measures aimed at ensuring its independence, and geographic reach throughout the country, and clarify whether the Authority may receive complaints directly from the public and whether it may publish its finding and refer cases to criminal prosecution.

17. Please provide information related to allegations of harsh and life threatening conditions in prisons including, overcrowding, inmate violence, rape, physical abuse from officers, inadequate access to medical care, lack of special facilities for incarcerated persons with disabilities; and inadequate sanitary conditions. Provide information on the July 2013 shooting by correctional officers at Maseru Central Prison resulting in the alleged death of 13 prisoners. Report on: (a) the existence of any independent mechanism established to regularly monitor and inspect all places of detention and entitled to receive official complaints and investigate them; (b) the ability of prisoners to directly complain to such a mechanism; (c) the annual number of cases of ill-treatment, investigations and sanctions against officers in places of detention; and (d) steps taken to build new prison facilities and renovate existing ones.

Trafficking in persons, elimination of slavery and servitude (arts. 6, 7, 8 and 24)

18. In light of the Anti-Trafficking in Persons Act of 2011, please clarify whether all forms of trafficking, including sex trafficking and child sex trafficking, and forced labor are criminalized and enhanced with penalties commensurate with the gravity of the crime. Please provide information about any efforts to effectively detect, prevent and investigate cases of trafficking and punish the perpetrators of trafficking. Please provide the Committee with the specific data from the last five years on the number of complaints of human trafficking received, the investigations and prosecutions pursued, the convictions secured, the nature of the sentences imposed and the reparation and protection afforded to victims.

19. Please describe measures designed to implement the recommendations of the Committee on the Rights of the Child relating to ending the subjection of children to the worst forms of child labor, particularly agricultural work, including animal herding, and on forced domestic work of girls that commonly leads to sexual abuses.

Liberty and security of persons (arts. 9 and 17)

20. With reference to paragraph 18 of the previous concluding observations, please report on measures to eliminate arbitrary arrests by law enforcement agents and to respect in practice the 48-hour period of detention before being brought before a magistrate. Please also provide information on: (a) the percentage of persons in pretrial detention among the prison population; (b) the average time spent in pretrial detention; and (c) the non-custodial alternative measures to pretrial detention and their application in practice. Please clarify whether police officers of the rank of inspector or above can search individuals or homes without a warrant and, if so, please provide information on the safeguards aimed at limiting the abuses that may arise from such powers.

Administration of justice (art. 14)

21. Please provide information on measures taken to strengthen the capacity of the judicial system, in particular to: (a) ensure the development of a pool of qualified judicial candidates, in particular at the highest judiciary level; (b) address the lack of financial and human resources; (c) to reduce delays in administration of justice and backlog of cases, particularly before the High Court; and (d) to ensure the full dissemination and implementation in practice of the Code of Judicial Ethic. Please respond to reports that the Court of Appeal did not schedule any session since 2016 and that the appointment process of the President of the Court of Appeal has been subject to undue prolonged delays. Indicate whether the State party intends to transform the Court of Appeal into a permanent institution.

22. With reference to paragraph 21 of the previous concluding observations, please report on any measures aimed at ensuring the independence of the judiciary and particularly: (a) clarify whether to date judges do benefit from a permanent status; and (b) indicate whether the State party intends to review the process of appointment of the Chief Justice of the High Court, of the judges of the Court of Appeal and the composition of the Judicial Service Commission, in charge of appointing regular judges, composed of members mostly appointed by the executive. Please provide information on allegations that high profile and political cases are likely to be judged with prolonged delays or with partiality and that legal practitioners, including lawyers and judges, may face intimidation in such cases.

Right to privacy (art. 17)

23. With reference to paragraph 24 of the previous concluding observations, please provide information on the Lesotho's Data Protection Act of 2011. Indicate particularly: (a) the legal safeguards on National Security Service and other security agencies activities and abilities to intercept mails and tap telephones; and (b) whether the Data Protection Commission has been established and specify its budget and mandate, particularly in relation to the National Security Service.

Freedoms of expression and assembly (arts. 2, 19 and 21)

24. With reference to paragraph 23 of the previous concluding observations, please indicate whether newspapers still have to obtain a certificate of registration under the Printing and Publishing Act of 1967 and, if so, indicate the process to obtain such certificate and to challenge any granting refusal. Please provide details on the Lesotho Communications Authority (LCA) established under the Lesotho Communications Authority Act of 2000, particularly on: its mandate; the appointment process of its members; the processes followed to deliver broadcasting licensing for the communication service providers; and any safeguard aimed at ensuring its independence. Clarify the role of the Minister in broadcasting matters, including the policies on revocation or suspension of existing licenses and moratorium on new licenses, since the 2006 Amendment Act to the LCA Act of 2000.

25. With reference to paragraph 22 of the previous concluding observations, specify the measures aimed at addressing the hostility to which journalists are reportedly frequently subjected. Please comment on reports that journalists are the targets of serious acts of intimidation, including death threats and judicial harassment, notably for covering political matters, both from authorities and private citizens. In this regard, please inform the Committee on the outcome of the prosecution of five members of the LDF for the attempted murder of journalist Lloyd Mutungamiri. Comment on reports of arbitrary suspension of radio signals for allegedly broadcasting defamatory content against officials. Provide information on the regulatory frameworks regarding: (a) censorship and content restrictions of media; and (b) prosecution for libels against journalists and specify the number of related prosecutions, including their detailed rationale, for the last five years against journalists as well as their outcome. Please also report on measures to implement the Lesotho's constitutional Court's ruling of 21 May 2018 declaring that criminal defamation is unconstitutional.

26. Please provide information on the regulatory frameworks regarding the registration of trade unions and indicate whether the State party intends to review its labor legislation to ensure that trade unions that do not represent 50 per cent or more of the employees may be

registered and exercise their right of assembly. Please comment on allegations that employees face obstacles when attempting to join trade unions.

27. Please provide information on the permit system governing the organization and holding of demonstrations and other peaceful assemblies. Please provide details on the alleged use of violence by police to disperse student protests on the campus of the National University in April 2017.

Participation in public affairs (arts. 19 and 25)

28. Please provide information on measures aimed at addressing political instability in the country, notably since 2014, that lead to challenges for the National Assembly's functioning. Please also comment on allegations of acts of intimidation against opposition leaders.

29. Please provide information on measures to strengthen accountability and transparency of the government and indicate particularly whether the State party intends to adopt a legislative framework related to access to public information. Please also provide information on the measures taken to tackle corruption in law and in practice and on current investigations, prosecutions, convictions and penalties imposed against government officials at all levels for acts of corruption.
