

Press Statement at the Conclusion of the Promotion Mission of the African Commission on Human and Peoples' Rights to the Kingdom of Lesotho

Feb 05, 2024



Further to its mandate under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), and following authorization by the Government of the Kingdom of Lesotho (Lesotho), a delegation from the African Commission on Human and Peoples' Rights (the Commission) undertook a Promotion Mission in Lesotho from 29 January to 02 February 2024.

The Commission's delegation comprised:

- Honourable Commissioner Ourveena Geereesha Topsy-Sonoo, Commissioner Rapporteur on the human rights situation in Lesotho, and the Commission's Special Rapporteur on Freedom of Expression and Access to Information in Africa (the Head of the Delegation);
- Honourable Commissioner Dr. Litha Musyimi-Ogana, Chairperson of the Working Group on Indigenous Populations/Communities and Minorities in Africa, and Chairperson of the Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV; and
- The Promotion Mission was supported by Ms. Eva Heza, from the Commission's Secretariat.

The objectives of the mission were, inter alia: to promote the African Charter and other regional and international human rights legal instruments; collect information on the general human rights situation in Lesotho; engage in dialogue with the Government on the legislative and other measures taken to give full effect to the provisions of the African Charter and other instruments ratified by Lesotho, in addition to identifying any challenges faced; evaluate the impact of HIV/AIDS in the

country, as well as the situation of the rights of people living with HIV/AIDS, those at risk, vulnerable and affected by HIV/AIDS, identify progress made, as well as the obstacles which hinder the exercise and full enjoyment of their rights; gather information on the situation of freedom of expression and access to information, the prevention of torture, the rights of women, children, asylum seekers, refugees, internally displaced persons, migrants, older persons, persons with disabilities, and other categories of vulnerable persons living in Lesotho, including indigenous communities and minorities.

During the Mission, the delegation met with various stakeholders in Government, the media, CSOs, as well as other actors involved in the promotion and protection of human rights in Lesotho.

The mission commenced with a courtesy call to the Minister of Law and Justice. During the course of the promotional mission, the delegation also paid a courtesy call to the Minister of Foreign Affairs and International Relations, and the Secretariat of the African Committee of Experts on the Rights and Welfare of the Child.

The delegation held meetings with the following senior Government officials:

- The Minister of Health;
- The Minister of Gender, Youth and Social Development;
- The Permanent Secretary, Ministry of Public Service;
- The Permanent Secretary, Ministry of Education;
- The Permanent Secretary, Ministry of Labour and Employment;
- The Deputy Principle Secretary, Ministry of Communication;
- The Director of Legal Affairs, Ministry of Home Affairs;
- The Vice President and the Clerk of the Senate;
- The Deputy Speaker, Clerk and Deputy Clerk of the National Assembly.

The delegation also met with the following:

- The Commander and Senior Officers of the Lesotho Defence Forces (LDF);
- The Senior Assistant Commissioner of Police;
- The Deputy Commissioner of the Lesotho Correctional Service, and senior officers of the Maseru Correctional Institution;
- The Ombudsman;
- The Chairperson and Commissioner, Independent Electoral Commission;
- The Leader of the Opposition in the National Assembly;
- The Dean and the UNDP Human Rights Chair in the Faculty of Law, National University of Lesotho;
- The Directorate on Corruption and Economic Offences;
- The Chief Executive Officer of the National AIDS Commission (NAC);
- The UN Resident Coordinator and representatives from UN agencies;
- The Chairperson and representatives of the Lesotho National Federation of Organizations of the Disabled (LNFOD);
- Representatives of the Law Society of Lesotho;
- Representatives of the Media Institute of Southern Africa (Lesotho) and media houses;
- Representatives of Indigenous and Minority Groups; and
- The Lesotho Council of Non-Governmental Organizations (LCN), in addition to representatives of civil society organizations working in Lesotho.

The delegation also conducted a visit to the Maseru Correctional Institution.

The delegation commends the Government of Lesotho for its political will and commitment towards the effective enjoyment of human rights, including through the adoption, since the last visit of the Commission, of further legislative and other measures to implement the African Charter and other ratified regional and international human rights instruments. Whereas a comprehensive report will be adopted in due course, the Commission would like to highlight the following preliminary observations.

Positive observations:

In particular, the delegation notes the following positive developments:

The national reforms process which resulted in the 11th Amendment to the Constitution and other laws, also referred to as the Omnibus Bill, which has been undertaken by the Government of Lesotho, albeit not yet passed through the National Assembly;

ii. The establishment of a National Mechanism on Reporting and Follow up, which will spearhead the Government's reporting obligations to various treaty bodies, including the African Commission;

iii. The adoption of legislation to enhance human rights, including inter alia, the Harmonization of the Rights of Customary Widows and the Legal Capacity of Married Persons Act (2022), the Persons with Disabilities Equity Act (2021) and the Counter Domestic Violence Act (2022);

iv. The commendable effort towards the attainment of HIV epidemic control progress in Lesotho, with estimation of 92% of people living with HIV knowing their status, 97% of them on treatment and 99% on treatment being virologically suppressed;

v. The significant reduction in the number of new HIV infections in the years 2017, 2022 and 2023;

vi. The rehabilitation of two blocks housing inmates in the Maseru Correctional Institution;

vii. The commendable adoption of the Disability Equity Rules by the Government, which increases access to justice for persons with disabilities;

viii. The increased budget provided to the Directorate on Corruption and Economic Offences, which will enhance execution of its important mandate;

ix. The commitment of the Government to recognize languages of indigenous communities such as the language of the Baputi, as an official language in Lesotho;

x. The ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons, in order to ensure the rights of the elderly in Lesotho.

Challenges observed:

The delegation, however, remains concerned about certain challenges which inhibit the full realisation and enjoyment of human rights by the citizens, and in this regard wishes to highlight the following:

Instances of reported political instability in the country, which affects the enjoyment of human rights in Lesotho;

ii. The delay in the adoption of the Omnibus bill, which was occasioned by an appeal judgement relating to the national reforms;

iii. The delay in the domestication of relevant regional and international human rights treaties ratified by Lesotho;

- iv. The delay in the establishment of a National Human Rights Institution (NHRI) endowed with a broad mandate in the field of human rights in accordance with the Paris Principles Relating to the Status of National Human Rights Institutions;
- v. Reports received by the delegation regarding acts of torture perpetrated on inmates in the Maseru Correctional Institution;
- vi. The concerning reduction in the food budget of the Maseru Correctional Institution over the past eight (8) years, and the lack of adequate facilities and materials for the training of convicted persons to enable them develop skills;
- vii. The reluctance to provide medical abortion as stipulated in Article 14(2)(c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), to which Lesotho is a State Party, which calls on State Parties to protect the reproductive rights of women by authorizing medical abortion in certain prescribed cases;
- viii. The delay in the establishment Persons with Disability Advisory Council, which is an advisory body to Government on issues related to persons with disabilities;
- ix. In spite of existing inclusive education policies, the persisting challenges related to access to education faced by learners with disabilities, thereby denying children with disabilities the right to an education;
- x. The lack of legislation on access to information, which is a fundamental human right and indispensable component of democracy and development, including socio-economic development;
- xi. The persistence of child marriage, regardless of existing legal provisions which prohibit children under the age of 18 from getting married;
- xii. The existence of repressive laws on the media, which have the effect of restricting the rights to freedom of expression and access to information of journalists and other media practitioners;
- xiii. The absence of legislation ensuring the protection of whistleblowers;
- xiv. Reports received regarding violations of rights such as the expropriation of land and lack of free, prior and informed consent of communities in relation to the Lesotho Highlands Development Authority (LHDA);
- xv. The use of a narrow definition on indigenous persons, in addition to lack of outreach to remote areas through mobile services, for example access to voter registration;
- xvi. Reports received regarding the forced sterilization of HIV positive women, and lack of access to sexual health and reproductive services by certain key populations, including persons with disabilities;
- xvii. Overdue periodic reports under the African Charter and the Maputo Protocol which were due in May 2023; in addition to the initial report on implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention).

Recommendations:

In light of the above, the Commission urges the Government to:

- Expedite adoption of the Omnibus bill to ensure that the national reforms proceed;
- ii. Expedite the establishment of a National Human Rights Institution endowed with a broad mandate to monitor, promote and protect human rights in Lesotho;
- iii. Urgently appoint independent persons to investigate the reported acts of torture allegedly perpetrated on inmates in the Maseru Correctional Institution, ensure prosecution of the suspected

- perpetrators and provide redress to the victims of torture;
- iv. Address the reduction in the food budget of the Maseru Correctional Institution, to ensure that inmates have adequate access to meals while incarcerated;
 - v. Ensure the provision of medical abortion as stipulated in Article 14(2)(c) of the Maputo Protocol, including by adopting policy to guide, among others, Magistrates courts and medical professionals;
 - vi. Prioritize establishment of the Persons with Disability Advisory Council to ensure promotion and protection of persons with disabilities;
 - vii. Ensure implementation of the Government's inclusive education policies, in order to guarantee the fundamental right of education to children with disabilities;
 - viii. Enact legislation on access to information in accordance with international and regional human rights standards, as elaborated in the Commission's Model Law on Access to Information for Africa;
 - ix. Urgently address child marriage, including through accountability of persons who engage in the practice;
 - x. Repeal repressive laws on the media, in order to ensure freedom of expression and access to information of journalists and other media practitioners, in view of the key role of the media and other means of communication in promoting the free flow of information and ideas, assisting individuals in making informed decisions, in addition to facilitating and strengthening democracy;
 - xi. Enact legislation to ensure the protection of whistleblowers;
 - xii. Investigate reports of violations of the rights of communities by companies extracting natural resources in Lesotho;
 - xiii. Expand the definition of indigenous peoples in line with the standard developed by the African Commission, and enhance and ensure provision of Government services to persons living in remote areas;
 - xiv. Investigate the allegations of forced sterilization of HIV positive women, and ensure access to sexual health and reproductive services for key populations, including persons with disabilities;
 - xv. Ensure submission of Lesotho's next Periodic Reports on implementation of the African Charter and the Maputo Protocol, in addition to the initial report on the Kampala Convention, in accordance with the Commission's Resolution on the Method of Calculation of Periodic Reporting Deadlines, adopted in March 2022.

Additionally, the delegation recommends ratification of the following regional and international instruments including;

- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;
- Protocol on the Statute of the African Court of Justice and Human Rights;
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Citizens to Social Protection and Social Security;
- Optional Protocol of the Convention against Torture;
- Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty;
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- Optional Protocol to the Convention on the Rights of Persons with Disabilities.

The delegation wishes to thank the Government of the Kingdom of Lesotho and its people for their very warm reception and hospitality, as well as for the frank and constructive dialogue during the Mission. The delegation is truly grateful to the Government for the facilities and services placed at its disposal during the Mission, and singles out for special gratitude the Ministry of Foreign Affairs and International Relations and the Ministry of Law and Justice for the excellent arrangements put in place which enabled the delegation to meet a cross-section of the society, in order to have a fairly representative view of the human rights situation in the country.

The delegation will prepare a Report of the Mission, which will be tabled before the Commission for consideration and adoption at one of its upcoming sessions, followed by onward transmission to the Government of Lesotho.

Done in Maseru, Kingdom of Lesotho, 02 February 2024