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**STATUS OF HUMAN RIGHTS IN THE KINGDOM OF LESOTHO  
FOR THE 49<sup>TH</sup> SESSION OF THE  
UNIVERSAL PERIODIC REVIEW**

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## Status of Human Rights in Lesotho for the 49<sup>th</sup> Session of the Universal Periodic Review

### Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Kingdom of Lesotho (Lesotho) for the 49<sup>th</sup> session of the Universal Periodic Review (UPR).

### Background

2. Lesotho is a country surrounded by South Africa with a population of approximately 2.1 million people.<sup>1</sup> The population is predominantly Christian, with approximately 37.5% identifying as Roman Catholic, 17.7% as Protestant, 23.9% as unaffiliated Christian, 11.8% as independent Christian, 7.7% practicing traditional beliefs, and 1.4% belonging to various other religions.<sup>2</sup>

3. Lesotho's last review was held on January 22, 2020.<sup>3</sup> As a result of the review, Lesotho received 211 recommendations, 168 of which it supported.<sup>4</sup> It was recommended by the Solomon Islands, and noted by Lesotho, that the government “[r]esist calls to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn.”<sup>5</sup> It was further recommended by the Solomon Islands, and noted by Lesotho, that the government “[a]ffirm that the right to life applies from conception until natural death, and as such that the unborn child has the right to protection of his or her life at all points.”<sup>6</sup>

4. On the issue of human trafficking, it was recommended by the United Kingdom of Great Britain and Northern Ireland, and supported by Lesotho, that the government “[f]ully implement the Anti-Trafficking in Persons Act 2011, including by taking measures to ensure investigation, prosecution and conviction of human traffickers in fair trials, including officials complicit in trafficking crimes.”<sup>7</sup> No recommendations made regarding religious freedom.

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<sup>1</sup> James Hamilton Cobbe & Colin Legum, *Lesotho*, BRITANNICA (July 7, 2024), <https://www.britannica.com/place/Lesotho>.

<sup>2</sup> *Id.*

<sup>3</sup> *Universal Periodic Review – Lesotho*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/ls-index> (last visited July 10, 2024).

<sup>4</sup> *Infographic – Lesotho*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session35/LS/lesotho\\_50779015.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session35/LS/lesotho_50779015.pdf) (last visited July 10, 2024).

<sup>5</sup> OHCHR, UPR of Lesotho (3rd Cycle – 35th Session) Thematic List of Recommendations, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session35/LS/MatriceRecommendations\\_Lesotho\\_E.docx](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session35/LS/MatriceRecommendations_Lesotho_E.docx) (last visited July 11, 2024).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

## Legal Framework

### *Abortion*

5. Under Article 5 of the Constitution of Lesotho, “[e]very human being has an inherent right to life. No one shall be arbitrarily deprived of his life.”<sup>8</sup>

6. In Lesotho abortion is restricted and is only permitted in limited circumstances. Under Article 45 of the Penal Code, abortion is only allowed to prevent significant harm to the health of the mother, to prevent the birth of a child who will be seriously physically or mentally handicapped, or in cases of incest or rape.<sup>9</sup>

7. Lesotho is a party to the International Covenant on Civil and Political Rights (ICCPR).<sup>10</sup> Under Article 6 of the ICCPR, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>11</sup> Further, the Convention on the Rights of Persons with Disabilities (CRPD), to which Lesotho is also a party,<sup>12</sup> requires that “States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.”<sup>13</sup>

8. Further, Lesotho has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, the Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

### *Human Trafficking*

9. Article 9 of Lesotho’s Constitution states that “[n]o person shall be held in slavery or servitude. No person shall be required to perform forced labour.”<sup>14</sup>

10. Article 5 of Lesotho’s Anti-Trafficking in Persons Act states that individuals guilty of human trafficking are “liable, on conviction, to a fine of M1,000,000.00 or imprisonment for a period of 25 years.”<sup>15</sup> If the victim is a child, then the convicted trafficker “shall be liable to a fine of M2,000,000.00 or life imprisonment.”<sup>16</sup>

11. Moreover, Article 8 of the ICCPR states that “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”<sup>17</sup>

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<sup>8</sup> CONSTITUTION OF LESOTHO 1993 (rev. 2019) art. 5,  
[https://www.constituteproject.org/constitution/Lesotho\\_2018](https://www.constituteproject.org/constitution/Lesotho_2018).

<sup>9</sup> Penal Code Act, 2010, art. 45, <https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Lesotho-Penal-Code.pdf>.

<sup>10</sup> Ratification Status for Lesotho, OHCHR,  
[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=97&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=97&Lang=EN) (last visited Sep. 5, 2024).

<sup>11</sup> International Covenant on Civil and Political Rights art. 6, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171,  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

<sup>12</sup> *Status for Lesotho*, *supra* note 10.

<sup>13</sup> Convention on the Rights of Persons with Disabilities art. 10, *adopted* Dec. 12, 2006, 2515 U.N.T.S. 3,  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>.

<sup>14</sup> CONSTITUTION OF LESOTHO 1993 (rev. 2019) art. 9, *supra* note 8.

<sup>15</sup> ANTI-TRAFFICKING IN PERSONS ACT, 2011 art.5, [HTTPS://ANTISLAVERYLAW.AC.UK/COUNTRY/LESOTHO/](https://antislaverylaw.ac.uk/country/lesotho/)

<sup>16</sup> *Id.*

<sup>17</sup> ICCPR art. 8, *supra* note 11.

12. Additionally, Lesotho is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>18</sup> Under Article 9 sec. 1 of this Protocol:

States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.<sup>19</sup>

## Abortion

13. In Africa, numerous countries have begun to legalize abortion in recent years. In fact, since 2000, twenty-one countries in Sub-Saharan Africa have expanded access to abortion.<sup>20</sup> Tragically, this has led to an increase in abortions being carried out across the region. Between 1995 and 1999, there were approximately 4.3 million abortions carried out annually in the region.<sup>21</sup> Between 2014 and 2019, abortions skyrocketed, with more than eight million abortions being carried out annually.<sup>22</sup> Considering this record, it is not surprising that Lesotho received a recommendation during its last review to resist calls to further legalize abortion.<sup>23</sup>

14. Just because many countries in Sub-Saharan Africa have expanded access to abortion, it does not mean that Lesotho is obligated to do so, nor does it mean that there is an international consensus regarding abortion laws. U.N. Member States have not reached a consensus that a so called “right to abortion” exists. This can be observed simply by analyzing abortion legislation across U.N. Member States. Out of the 193 U.N. Member States, a majority of them have strict limits on abortion (outlawing it altogether or only allowed for the life or health of the mother).<sup>24</sup> Moreover, forty-nine of the sixty-nine U.N. Member States that have varying gestational limits for abortion, have gestational limits of twelve weeks or less.<sup>25</sup>

15. It was also recommended that Lesotho “[a]ffirm that the right to life applies from conception until natural death, and as such that the unborn child has the right to protection of

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<sup>18</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, UNITED NATIONS TREATY COLLECTION, [HTTPS://TREATIES.UN.ORG/PAGES/VIEWDETAILS.ASPX?SRC=IND&MTDSG\\_NO=XVIII-12-A&CHAPTER=18](https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18).

<sup>19</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9 § 1, *adopted* Nov. 15, 2000, 2237 U.N.T.S. 319, [https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch\\_XVIII\\_12\\_ap.pdf](https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf).

<sup>20</sup> *From Unsafe to Safe Abortion in Sub-Saharan Africa: Slow but Steady Progress*, GUTTMACHER INSTITUTE, <https://www.guttmacher.org/report/from-unsafe-to-safe-abortion-in-sub-Saharan-africa> (last visited Aug. 30, 2024).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> OHCHR, *supra* note 5.

<sup>24</sup> *The World’s Abortion Laws*, CTR. FOR REPROD. RTS (June 9, 2023), [https://reproductiverights.org/wp-content/uploads/2023/07/CRR\\_WALM\\_2023\\_FINAL-1.pdf](https://reproductiverights.org/wp-content/uploads/2023/07/CRR_WALM_2023_FINAL-1.pdf); *The World’s Abortion Laws*, CTR. FOR REPROD. RTS (June 9, 2023), <https://reproductiverights.org/our-regions/global-advocacy-united-nations/>

<sup>25</sup> *The World’s Abortion Laws*, CTR. FOR REPROD. RTS, <https://reproductiverights.org/maps/worlds-abortion-laws/law-and-policy-guide-gestational-limits/>

his or her life at all points.”<sup>26</sup> This recommendation is appropriate as Lesotho’s law allows abortion in cases where the child may be physically or mentally handicapped. This provision means that it is permissible to kill a preborn baby if the child might be born with a disability. Being handicapped should not lead to a death sentence. The ICCPR explicitly states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>27</sup> Similar language is also found in the UDHR which states that “[e]veryone has the right to life.”<sup>28</sup> These rights are for all people, not just those deemed to be healthy.

16. While Lesotho has not taken concrete steps to further expand abortion, it has been discussing the possibility of doing so. In March 2021, members of Parliament discussed the possibility of holding a referendum to determine if abortion should be legalized.<sup>29</sup> While lawmakers claimed that expanding access to abortion is critical to protecting the lives of women,<sup>30</sup> the opposite is true. Studies have shown that abortion can result in numerous physical and psychological side effects. This is particularly true of women in Sub-Saharan Africa where an estimated 44% of abortions result in complications.<sup>31</sup> A 2023 study examined data from Nigeria and the Central African Republic to document complications caused by abortion.<sup>32</sup> This study looked at data from 520 women in Nigerian hospitals and 548 women in Central African Republic hospitals and found that 19.8% of women studied in Nigeria and 6.2% of women studied in the Central African Republic were classified as having “severe maternal outcomes” as defined as near-miss cases and death.<sup>33</sup> Further, a staggering 47.1% of the women studied in Nigeria, and 44.5% of the women studied in the Central African Republic, were classified as having potentially life threatening complications.<sup>34</sup>

17. Lesotho has an obligation under both its Constitution and international human rights instruments to protect both women and preborn babies from the dangers of abortion. Further, Lesotho has an affirmative commitment to “reduce the recourse to abortion” under the 1994 Cairo Conference on Population and Development.<sup>35</sup> All of the reasons discussed above show why Lesotho must resist efforts to expand abortion and expand its protection of life from conception, and why it would be justified in doing so.

## Human Trafficking

18. Lesotho is a country that is surrounded by South Africa. Human traffickers take advantage of Lesotho’s location to traffic victims from Lesotho to South Africa with

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<sup>26</sup> OHCHR, *supra* note 5.

<sup>27</sup> ICCPR art. 6, *supra* note 11.

<sup>28</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 3 (Dec. 10, 1948).

<sup>29</sup> *Lesotho – “Let the People Decide”?*, INTERNATIONAL CAMPAIGN FOR WOMEN’S RIGHT TO SAFE ABORTION (Apr. 9, 2021), <https://www.safeabortionwomensright.org/news/lesotho-let-the-people-decide/>.

<sup>30</sup> *Id.*

<sup>31</sup> *From Unsafe to Safe Abortions in Sub-Saharan Africa: Slow but Steady Progress*, GUTTMACHER (Dec. 2020), <https://www.guttmacher.org/report/from-unsafe-to-safe-abortion-in-sub-Saharan-africa#3-abortion-incidence-and-trends>.

<sup>32</sup> Estelle Pasquier et. al, *High Severity of Abortion Complications in Fragile and Conflict-Affected Settings: a Cross-Sectional Study in Two Referral Hospitals in Sub-Saharan Africa (AMoCo Study)*, BMC PREGNANCY & CHILDBIRTH, Mar. 4, 2023, <https://bmcpregnancychildbirth.biomedcentral.com/articles/10.1186/s12884-023-05427-6#:~:text=Our%20results%20suggest%20that%20women%20who%20accessed%20post-abortion>

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> International Conference on Population and Development, *Report of the International Conference on Population and Development*, ¶ 8.25, U.N. Doc. A/CONF/F.171/13/Rev. 1, <https://digitallibrary.un.org/record/206701?v=pdf>

impunity.<sup>36</sup> Women are taken advantage of and trafficked to South Africa where they are often forced into providing sex work.<sup>37</sup> Human traffickers lure their victims by posting positions for jobs online and on social media.<sup>38</sup> Given Lesotho's high poverty and unemployment rates, individuals are more likely to accept fake job offers without doing further research.<sup>39</sup> Women who accept these fake job offers have been forced into prison-like conditions and forced into sexual servitude.<sup>40</sup>

19. One of the primary reasons that human trafficking between Lesotho and South Africa has been able to flourish is because of corruption at the border, involving complicit officials who will take bribes to allow people to cross. According to a 2023 report by the Institute for Security Studies, “the borders between these two countries are porous and loosely managed, making human trafficking from Lesotho into South Africa easy.”<sup>41</sup> One teacher from Lesotho was accused of trafficking five women to South Africa for sexual exploitation.<sup>42</sup> The teacher was able to traffic the individuals to South Africa by bribing border officials.<sup>43</sup>

20. Below we have highlighted some cases of Lesotho women being rescued and traffickers being arrested. Because of Lesotho's weak borders many of these stories take place in South Africa because border officials in Lesotho have been unable or unwilling to stop traffickers from trafficking individuals out of Lesotho.

21. In February 2024, authorities in South Africa rescued eight Lesotho women who were trafficked to South Africa by an “employment” agent.<sup>44</sup> The individual who claimed to be an employment agent was arrested for human trafficking.<sup>45</sup>

22. In January 2024, a thirty-two-year-old woman appeared before a Magistrate in Lesotho and was charged with human trafficking.<sup>46</sup> The woman had trafficked her sixteen-year-old relative to be sexually exploited in South Africa.<sup>47</sup>

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<sup>36</sup> Teboho Khatebe Molefi, *Sex Trafficking of Basotho Women Soars*, PUBLIC EYE (Aug. 21, 2024), <https://publiceyenews.com/2024/08/21/sex-trafficking-of-basotho-women-soars/>.

<sup>37</sup> SA, *Lesotho Officials Accused of Enabling Women Sex Trafficking*, SABC (Aug. 14, 2024), <http://web.sabc.co.za/sabc/home/channelafrica/news/details?id=ff7f30ef-db83-4e0c-8f32-3c8b0557e009&title=SA,%20Lesotho%20officials%20accused%20of%20enabling%20women%20sex%20trafficking>.

<sup>38</sup> Molefi, *supra* note 36.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *How Corruption Facilitates, Fuels and Fosters Human Trafficking*, UNODC (Sep. 29, 2023), <https://www.unodc.org/unodc/en/human-trafficking/Webstories2023/how-corruption-facilitates--fuels-and-fosters-human-trafficking.html#:~:text=How%20corruption%20facilitates,%20fuels%20and%20fosters%20human>

<sup>43</sup> *Id.*

<sup>44</sup> *Recruitment Agent Arrested for “Holding Eight Women in Room”*, TIMES LIVE (Feb. 21, 2024), <https://www.timeslive.co.za/news/south-africa/2024-02-21-recruitment-agent-arrested-for-holding-eight-women-in-room/>.

<sup>45</sup> *Id.*

<sup>46</sup> Thoboloko Ntšonyane, *Woman Charged with Human Trafficking*, INFORMATIVE NEWS (Jan. 9, 2024), <https://informativenews.co.ls/2024/01/09/woman-charged-with-human-trafficking/>.

<sup>47</sup> *Id.*

23. In January 2023, four individuals appeared in court for trafficking poor children from Lesotho to South Africa.<sup>48</sup> Once the children were in South Africa, they were sexually abused and forced to sleep with a rich man.<sup>49</sup>

24. In August 2021, South African authorities arrested two individuals for trafficking a woman from Lesotho to South Africa.<sup>50</sup> The traffickers promised the woman employment, but she was instead raped repeatedly.<sup>51</sup> Thankfully, she escaped and reported the crime to the police.<sup>52</sup>

25. In September 2020, authorities in South Africa rescued eleven victims and arrested five suspected human traffickers.<sup>53</sup> The victims were women who were forced into sex work after being promised jobs in South Africa.<sup>54</sup> Of those rescued, three were from Lesotho.<sup>55</sup>

## Recommendations

26. We would like to echo Solomon Islands' recommendation for Lesotho to resist efforts to expand access to abortion and instead take steps to protect the lives of preborn babies. While Lesotho's laws generally protect lives of mothers and preborn babies, it must do more. We want to urge Lesotho to reform its laws to protect all life, including the lives of preborn babies who may be physically or mentally handicapped. This is a position supported by numerous fundamental human rights documents.

27. Lesotho must also take serious action to protect its citizens from the dangers of human trafficking. As discussed above, human traffickers have been permitted to traffic individuals out of Lesotho with impunity, in part with the help of corrupt authorities. Lesotho must commit to aggressively prosecuting corrupt officials who have helped traffickers leave the country. Resources and training must be implemented to secure the border and identify victims before they leave the country. Further, educational awareness campaigns need to be conducted to educate the population on the dangers of human trafficking and to bring awareness to fake job postings.

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<sup>48</sup> Lenin Ndebele, *Four Appear in Court for Allegedly Trafficking Girls from Lesotho to South Africa*, NEWS 24 (Jan. 3, 2024), <https://www.news24.com/news24/africa/news/four-appear-in-court-for-allegedly-trafficking-girls-from-lesotho-to-south-africa-20230103#:~:text=Four%20people%20appeared%20in%20court%20on%20Tuesday%20over%20allegations>

<sup>49</sup> *Id.*

<sup>50</sup> Nicole McCain, *Two People Arrested in Limpopo for Allegedly Trafficking 23-Year-Old Lesotho Woman*, NEWS 24 (Aug. 11, 2021), <https://www.news24.com/News24/two-people-arrested-in-limpopo-for-allegedly-trafficking-23-year-old-lesotho-woman-20210811#:~:text=Two%20people%20have%20been%20arrested%20in%20Limpopo%20in,of%20employment.%20The%20woman%20was%20allegedly%20raped%20repeatedly.>

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Naledi Shange, *Hawks Rescue 11 Women in Raids on "Brothels" in Two Towns*, TIMES LIVE (Sep. 28, 2020), <https://www.timeslive.co.za/news/south-africa/2020-09-28-hawks-rescue-11-women-in-raids-on-brothels-in-two-towns/>.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*