

**Compilation of UN info for the second cycle of the
Universal Periodic Review (UPR) mechanism¹**

Lesotho

June, 2013

¹ UNDP, UNV, UNICEF, WHO, FAO, UNFPA, UNAIDS and WFP have made contributions to this report.

1. Background and framework

A. Scope of international obligationsⁱ

<i>Universal human rights treaties</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	4 Nov. 2071	None	Individual complaints (art. 14): No
ICESCR	9 Sept. 1992	None	-
ICCPR	9 Sept 1992	None	Inter-state complaints (art. 41): No
ICCPR-OP 1	6 Sept 2000	None	-
CEDAW	22 Aug. 1995	Yes (art. 2)	-
OP-CEDAW	24 Sep. 2003	None	Inquiry procedure (arts.8 and 9): Yes
CAT	12 Nov. 2001	None	Inter-state complaints (art. 21): No Individual Complaints (art. 22): No Inquiry procedure (art. 20): Yes
CRC	10 Mar. 1992	None	-
OP-CRC-AC	24 Sep. 2003	Binding declaration under art. 3: 18 years	-
OP-CRC-SC	24 Sep. 2003	None	-
ICRMW	16 Sep. 2005	None	Inter-state complaints (art. 76): No Individual complaints (art. 77): No
CRPD	2 Dec. 2008	None	-
CED	6 Dec 2013	None	-
<i>Core treaties to which Lesotho is not a party: OP-ICESCR, ICCPR-OP 2, OP-CAT, and OP-CRPD</i>			
<i>Other main relevant international instruments</i>		<i>Ratification, accession or succession</i>	
Convention on the Prevention and Punishment of the Crime of Genocide		Yes	
Rome Statute of the International Criminal Court		Yes	
Palermo Protocol		Yes	
Refugees and stateless persons		Yes	
Geneva Conventions of 12 August 1949 and Additional Protocols thereto		Yes, except Protocol III	
ILO fundamental conventions		Yes	
UNESCO Convention against Discrimination in Education		No	

B. Constitutional and legislative framework

C. Institutional and human rights infrastructure

1. As of June 2014, Lesotho does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions of the Promotion and Protection of Human Rights. In 1999, the Office of the Ombudsman was established under the Constitution. UNDP has supported the establishment of a Human Rights Unit under the Ministry of Law, Constitutional Affairs and Human Rights.
2. On 22 May 2014, The National Human Rights Commission Bill was approved by the Attorney General. The UNCT in Lesotho commended this vital step towards establishing an independent national human rights institution in accordance with the Paris Principles, while strongly recommending that the Commission should be operational by the end of the year.

2. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

<i>Treaty body</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
ICERD	1998	April 2000	-	15 th to 19 th reports overdue since 2000
ICESCR	-	-	-	Initial report overdue since 1994
HR Committee		April 1999		Second report overdue since 1996
CEDAW	2010	Nov. 2011	Aug 2013	Next state report due in Oct. 2015
CAT	-	-	-	Initial report overdue since 2002
CRC	1998	Feb. 2001	-	2 nd to 4 th reports overdue from 1999
OP-CRC-AC	-	-	-	Initial report overdue since 2005
OP-CRC-SC	-	-	-	Initial report overdue since 2005
ICRMW	-	-	-	Initial report overdue since 2007
CCPR	1998	April 1999	-	2 nd report overdue since 2002
CED	-	-	-	Initial report due in 2016
CRPD	-	-	-	Initial report overdue since 2011

3. UNCT noted with concern that Lesotho is only on-track with its reporting obligations on the CEDAW and the CED treaty bodies.

B. Cooperation with special procedures

C. Cooperation with the Office of the High Commissioner for Human Rights

4. Implementation of international human rights obligations

A. Equality and non-discrimination

5. The 2013 Annual Report of the Resident Coordinator noted that Lesotho is on track to achieve MDG 3. Gender balance has been attained in primary education with female to male ratio of 105. Women's participation in formal employment has increased progressively. Women's share in in wage employment in the non-agricultural sector reached 56.1% in 2012, surpassing the MDG target of 50%. However, serious challenges in the area of equality and non-discrimination persist.ⁱⁱ
6. Discriminatory practices are entrenched in the customs, beliefs and traditions of Lesotho, and these limit women's rights in many areas. Women's vulnerability is reflected in high levels of gender-based violence (GBV), the high prevalence of HIV and AIDS among women and girls, and the unequal participation of women in the decision-making.
7. A number of national laws and policies protect women and girls against discrimination. These include, but are not limited to: the Sexual Offences Act 2003; the Legal Capacity of Married Persons Act 2006 (promotes economic rights of women); the Gender and Development Policy of 2003 (identifies GBV as a priority area); National GBV Action Plan of 2008; the National Action Plan on Women, Girls and HIV (2013-2017) provides a comprehensive framework for protection of women and girls against HIV and identifies GBV as an issue that needs to be addressed in the context of HIV. However, UNFPA noted that despite these positive steps, gender issues are not prioritised in the national budget and this affects programmes in general. The Department of Gender is the least funded.
8. A Cross-sectional Assessment of Population Demographics, Sexual Practices, HIV Risk Status, and Human Rights Contexts of Sexual Minorities in Lesotho from UNFPA (2010) demonstrated serious human rights challenges for sexual minorities. 76% of men who have sex with men and 73% of women who have sex with women have experienced human rights abuses related to their sexuality such as being verbally harassed, afraid to seek health care services, being beaten up and other abuses.
9. The HIV Stigma Index Study (validated March 2014) shows that people living with HIV still experience stigma and discrimination. There are still major barriers in advancing treatment and accessibility to people living with HIV, and it becomes a barrier for people to test for HIV or disclose their HIV status for fear of discrimination and stigma.
10. UNAIDS noted with concern that sex workers and LGBTI persons are continually discriminated against as they are considered immoral and above all, engaging in illegal activities. In the absence of a human rights commission, as well as a national HIV and AIDS coordinating authority, most vulnerable groups have no institution advocating for their rights – especially given the weak civil society capacities and low levels of engagement with government and stakeholders.

B. Right to life, liberty and security of the person

11. Fundamental human rights and freedoms are enshrined in Chapter II of the Constitution, including the right to life, the right to personal liberty, the right to security of the person, and freedom from inhuman treatment.ⁱⁱⁱ
12. Lesotho still retains the death penalty for the following criminal offences: murder, treason and statutory rape. However, no death penalty has been executed since 1995.

13. The Constitution expressly prohibits torture. Lesotho is a state party to the CAT, but implementation and domestication of the convention remain weak. Apart from the constitutional provision, no law exist that prohibits torture. Further, Lesotho has never submitted a state party report to the CAT.
14. UNDP noted that police brutality, torture committed by the police and the police using excessive use of force are serious concerns. Most cases of police brutality, however, go unreported. In 2013, the Lesotho Mounted Police Service (LMPS) investigated 24 reported cases of police allegedly torturing suspects.
15. According to the LMPS, three suspects died in police custody during 2013.
16. In April 2014, nurses went on strike at the Queen Mamohato Hospital in Maseru. The police went to monitor the situation, but the situation went out of control and for no apparent reason, police officers decided to fire live bullets and injured a handful of nurses.
17. The constitution and law prohibit arbitrary arrest and detention, and the government generally observes these prohibitions. Although efforts are being made to improve the country's prisons, the conditions of detention in Lesotho are still poor. In 2011, the county's prisons ran out of food. Since that year, there have been no food shortages in Lesotho's prisons. However, the quality of food remains an issue. The prisons also suffer from inadequate medical care and poor sanitation. There were no reports of serious problems in the country's psychiatric institutions.
18. Although Lesotho has ratified the CEDAW in 1995 and submitted its initial report in 2010, domestication of the Convention remains weak. UNFPA noted that there are no specific national laws in place on violence against women.
19. In the absence of a Domestic Violence Bill, a lot of domestic violence issues are not properly prosecuted, with perpetrators serving very little time if at all. Reproductive health and women's rights issues are deemed to be family issues and therefore not fit for public discussion and litigation.
20. There is social acceptance of violence against children and women. For instance, the Lesotho Demographic and Health Survey 2009 shows that 37% of women and 48% of men state that a husband is justified in beating his wife under certain circumstances.^{iv}
21. From April 2012 to March 2013, 1,572 cases of rape and sexual assault were reported to the Child and Gender Protection Unit (CGPU). Police and the judiciary generally enforce the law when cases of rape and sexual abuse are reported; however, it is widely known that most incidents of rape and sexual assault are unreported.
22. There are no reliable and periodic data on child abuse, violence and exploitation. 2010 data from the Child and Gender Protection Unit (CGPU) indicate a total number of 423 cases of child sexual offence. The 2011 Situation Analysis of Orphans and Other Vulnerable Children estimates at 10,000 the number of children who were sexually abused in 2010-2011. The same study found that 6.8% of all children had been exposed to severe physical violence.^v
23. UNICEF noted that abduction of girls for forced marriage is prevalent in some regions. It is common for chiefs to oblige a perpetrator of child sexual abuse to marry the child victim (in line with (customary) Lerotholi Laws).
24. In January 2013, The Anti-Trafficking in Persons Act was enacted. As of June 2013, however, Lesotho is ranked on the Tier 2 Watch List, pointing to the fact that TIP is an area of major concern. The Government of Lesotho is taking the issue seriously, but has expressed a wish to be trained in handling cases of TIP.

C. Administration of justice and the rule of law

25. Judges and lawyers are independent in Lesotho. The Administration of Judiciary Act, 2011, guarantees the independence of the judiciary from the State.
26. Access to justice is granted by the Constitution. However, the quality of legal representation is often poor.
27. There have been no cases of impunity involving the National Security Service or the Lesotho Correctional Service recently.
28. In 2012, the Children's Court was established and caters for children's rights. It was put in place to enforce all criminal laws protecting children against child labour, child trafficking, commercial sexual exploitation, and the use of children in illicit activities. Training of law enforcement officers in child protection has been conducted and the costing of the Children Protection Welfare Act has been completed. UNICEF commended these positive steps to protect children's rights.
29. While the government has aggressively prosecuted cases of political corruption, it remains a problem. According to the African Peer Review Mechanism, corruption is rife in all sectors of government and public services, and cronyism is prevalent in state bidding procedures.
30. In June 2012, the Directorate on Corruption and Economic Offences (DCEO) was made an independent body with full control over its budget. DCEO functions as the government's anti-corruption watchdog.

D. Right to privacy, marriage and family life

31. UNICEF noted that abduction and early marriage were significant challenges raised in community and stakeholders discussions, but there is no reliable information on the scope and context of abductions or trends in early marriage. Early marriage and abductions are often perpetuated by cultural/traditional beliefs. According to UNICEF data collected between 2000 and 2009, an estimated 23 percent of women between the ages of 20 and 24 were married before the age of 18.
32. A number of institutions are responsible for preventing and / or responding to child abuse, violence and exploitation are in place. These include the Child and Gender Protection Unit of the Police, the Office of the Master of the High Court (protecting widows and orphans against property dispossession), the Department of Child Protection Services in the Ministry of Social Development, the Ministry of Labour and Employment, the Children's Court and the Child Help Line, among others. However, the capacity of all these institutions to operate effectively is constrained by limited human, financial and material resources, a lack of clear mandate, and the absence of a clearly-articulated referral pathway.
33. The numbers of herd-boys, child domestic workers, child victims of exploitation, including trafficking, etc. are unknown.
34. HIV & AIDS have a strong impact on the rights of children as children are sometimes forced to leave school and forfeit their right to education in order to take care of either ailing parents; or to take care of the family because their parents are deceased and they should therefore head the household.

E. Freedom of movement

35. No significant problems were reported in relation to the freedom of movement. However, slow progress by the Government of Lesotho to process travel documents for Basotho, e.g. granting of requisite documents to acquire a passport, is considered an impediment to the freedom of movement of the Basotho who need to cross the border to South Africa.

F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

36. Freedom of religion in this predominantly Christian country is widely observed.
37. The constitution and law provide for freedom of expression, and freedom of expression is generally respected. Independent newspapers and radio stations routinely criticize the government. However, privately owned media are to a large extent dependent on government advertising revenue. Continued capacity building for the media houses and civil society is still needed in order for them to effectively function as a government watchdog.
38. In general, citizens enjoy the freedom to associate and assemble as granted by the Constitution.
39. No law prevent women or minorities from voting or otherwise participating in political life on the same basis as men or nonminority citizens. A political party registered with the Independent Electoral Commission (IEC) must facilitate the full participation of women, youth and persons with disabilities. However, it is important to note that all major political parties are led by men and most cabinet ministers are male as well.

G. Right to work and to just and favourable conditions of work

40. The right to work is enshrined in Constitution. The Constitution guarantees just and favourable conditions of work and the protection of worker's rights and interests. However, the union movement in Lesotho is weak and fragmented.
41. The current Labour Code (section 134) does not require an employer to pay maternity leave
42. In 2012, an ILO report highlighted challenges relating to worker's rights in Lesotho's garment sector. In one textile factory, unions were denied access to visit their members, and in another, workers were intimidated by disciplinary measures to prevent them from participating in a strike. A third factory failed to implement the provisions of a collective agreement it had in place with one union. All ten textile factories assessed by the ILO were in non-compliance with worker protection. There were serious gaps under working environment and emergency preparedness.^{vi}
43. No reliable data exist on the informal sectors in both rural and urban areas, e.g. domestic work, livestock herding, street vendors, etc.
44. The minimum age for work is 15; the minimum age for hazardous work is set at 18. However, gaps in the law leave children working in domestic service, street vending, and most types of agriculture unprotected from labour violations. Children continue to be engaged in the worst forms of child labour, including in dangerous cattle herding and in domestic service.

H. Right to social security and an adequate standard of living

45. The 2013 Resident Coordinator Annual Report indicated that poverty and inequality are increasing in Lesotho, with poverty rates recording an increase from 56.6% in 2003 to 57.1% in 2013. The Gini coefficient is also high at 0.54 (2010/11).^{vii}
46. Though considerable strides have been made to roll out services and resources to rural areas, the mountainous terrain, poor rural infrastructure, and occasionally extreme weather conditions are all major barriers that leave big groups of populations far from public services and resources.
47. UNICEF noted with satisfaction that the Ministry of Social Development with the support by EU and UNICEF since 2007 has implemented the Lesotho Child Grants Programme (CGP), an unconditional social cash transfer targeted poor and vulnerable households. The CGP has, among other things, contributed to an increased household expenditure on education, clothing and footwear

(particularly for children). School enrolment rates increased by 10% for boys and child labour was reduced in the districts where CGP was rolled out.

48. In 2013, the Annual Report of the Resident Coordinator indicated that 38.7% of the population (726,000 people) required food assistance (sep-2012 march 2013).^{viii}
49. Malnutrition is a major challenge. WFP noted with concern that stunting for children under five years stands at 39% (Demographic Health Survey, 2009). The problem is more severe in the mountain districts. There are no clear government strategies to address the problem. The national Nutrition Policy has been in draft stage since 2009.
50. Access to health services and accessibility to proper nutrition still remains a challenge. The high unemployment rate (more than 25%) limits households' ability to acquire food.
51. WFP noted that Lesotho lacks a National Disaster Risk Reduction (DRR) programme to respond to crises relating to food security.
52. FAO noted that although the Right to Food is reflected in national policies, it is not sufficiently implemented through strategies and programmes.
53. Environmental degradation is another area of concern, which impacts negatively on food security and the right to food.
54. The National Water and Sanitation Policy is in place, but the challenge remains actual implementation. The number of households with improved sanitation is on-track while slow progress is recorded on the number of households with improved water.

I. Right to health

55. The Constitution defines the protection of health as one of the principles that should guide public policy. The National Health Policy 2011 has been enacted to enhance a system that will deliver quality health services efficiently, effectively and equitably to all Basotho. It aims at significantly reducing morbidity and mortality and thus contributing to attainment of improved health status among the people of Lesotho.
56. The Government of Lesotho provides an essential health package to the people of the Lesotho. The Government has abolished fees at all primary health care facilities and provided outreach services for communities residing far from health facilities. Maternal and child health care is a priority area in the National Health Policy 2011. Other policies in place include the draft National Health Strategic Plan 2013-2017, and The National Reproductive Health and Adolescent Health Policy.
57. Despite all these policies, however, Lesotho generally suffers from a weak health care system and the country lacks qualified human resources in the health sector. This has resulted in a progressive worsening of health indicators. In 2013, the Annual Report of the Resident Coordinator indicated that Lesotho is unlikely to achieve MDGs 4, 5 and 6 due to high rates of infant and maternal mortality. While infant mortality rose from 81 in 2001 to 91 in 2009, under-five mortality also increased from 113 to 117 in the same period. Immunisation coverage, around 60%, is low. Further, maternal mortality ratio increased from 410 in 2001 to a staggering 1,155 in 2009.
58. In recent years, however, there has been a slight improvement in some maternal health indicators including delivery by skilled health workers, utilization of modern family planning methods, access to antenatal care and adolescent pregnancy. However, overall maternal mortality remains unacceptably high.
59. To improve quality and increase coverage of Adolescent health services, Adolescent Health standards were developed and implemented by the Ministry of Health and other implementing partners. However, roll-out of the standards is slow. The slow roll-out poses a challenge in addressing coverage of adolescent health services. There is still high adolescent pregnancy (41%).

60. WHO noted that recently the government has rolled out the Human Papilloma Virus vaccine to cover all girls between the ages of 9-13 year in the country.
61. Overall, there are serious capacity gaps in the health sector. These include: limited access to health facilities; unwelcoming attitude of health staff; very long travel times in the rural areas of up to 5 hours by foot to a medical clinic; lack of essential medical supplies in health centres such as oxygen; denial of children to access health services without the consent of their parents.
62. Access to HIV/AIDS treatment, prevention, care and support are provided for and the country has committed to these through international, regional and national commitments and policies. However, challenges of access to health care still persist due to the country's mountainous terrain, limited Human Resources for Health (HRH), as well as some service delivery challenges, such as incidences of drug supply chain management - including ARV.
63. UNAIDS noted with serious concern that more than 365,000 people are HIV positive in Lesotho. The adult HIV prevalence has since 2000 stagnated around 23% with TB/HIV co-infection at 74%. There is a notable gender bias with the prevalence rate of 26.7% for women and 18% for men. The HIV prevalence among sex workers, men who have sex with men and injecting drugs users is unknown. According to UNAIDS, among the prison population, 31% are HIV positive (2,500 inmates tested), and for factory workers, the prevalence rate stood at 42.7% (out of a sample of 6,000 workers).
64. Over 25,000 new HIV infections and 15,000 AIDS related deaths occur annually. The ART coverage is low (52%) and very low for children (33%).
65. The country has improved its Prevention of Mother to Child Transmission (PMCT). As of June 2014, 207 out of 216 health facilities are providing PMTC. 61% of the facilities offer services for HIV infected children.
66. UNAIDS noted that the constitutional and legislative frameworks are in place though the challenge lies in the implementation. Lesotho does have good laws and policies, but implementation happens in an ad-hoc manner, and Basotho (including the local CSOs) are not empowered enough to demand their rights and hold both leaders and service providers accountable.

J. Right to education

67. Lesotho boasts one of the highest literacy rates in sub-Saharan Africa (87.4% for males; 98.2% for females), and the country is on-track on MDG 2. School feeding and OVC bursaries have stabilised attendance and increased enrolment rates above 80% since 2004, but quality of education remains low given the high repetition and dropout rates in the early grades.
68. Primary school is free and compulsory. However, UNICEF noted that the primary education system is not inclusive, e.g. for children with disabilities (only accommodated in a few schools), pregnant girls are still being discriminated in the country's schools (pregnant girls are prevented from attending classes, but allowed to sit for exams).
69. Children irregularly attend schools due to lack of study material, long distances to walk, or because they have to take care of sick family members. Sexual abuse by teachers is another cause for drop-outs. Due to poverty, cultural practices and the high HIV prevalence, a large number of girls are being forced to do domestic work and boys have to attend sheep in the mountains. This also impacts negatively on the school attendance and the right of the child.
70. The Integrated Early Childhood Care and Development (IECCD) policy was adopted in 2013.
71. In 2013, only 23% of boys and 37% of girls enrol in secondary school. Secondary and high school are unaffordable for most children, especially the most vulnerable.
72. UNICEF highlighted that qualified teachers are struggling to find teacher jobs despite the high demand for well-qualified teachers in the country.

K. Cultural rights

73. The Government does not restrict academic freedom or scientific research. Neither does the government restrict the right to conduct cultural practices.
74. Some cultural practices and traditional beliefs, however, impact negatively on human rights. These issues have been covered in other sections of this report.

L. Persons with disabilities

75. Lesotho ratified the CRPD in 2008, however this has yet to be domesticated into Lesotho legislation. In 2011 a National Disability Policy was introduced.
76. During public consultations in 2013 a number of issues relating to the rights of persons with disabilities were raised as causes of concern. These include: limited access of persons with disabilities (particularly children) to education especially due to lack of specialised equipment and other school materials and teachers who are not adequately trained; limited disability grants; lack of employment opportunities of persons with disabilities
77. The Child Protection and Welfare Act of 2011 and the Education Act of 2010 expressly affirm the right of children with disabilities to education. However, children with disabilities still face challenges in attending school because of cultural beliefs and because schools are not adapted to their needs. Ministry of Health Statistical Yearbook noted that in 2012 5.2% of children with disabilities attend mainstream primary education.
78. A study undertaken by Lesotho National Federation of the Disabled in 2011 examining the living conditions of persons with disabilities estimated that approximately 70% of individuals with disability reported to be unemployed, while the corresponding figure for non-disabled was around 30%.

M. Minorities and indigenous peoples

N/A

N. Internally displaced peoples

N/A

O. Right to development and environmental issues

79. The 2013 Annual Report of the Resident Coordinator noted that lack of data contributes to poor environmental governance. Inadequate capacity, lack of sectorial coordination and oversight undermines environmental protection and sustainable development.
80. Environmental degradation (such as soil erosion, decreased forestry coverage) is a serious concern that impacts negatively on food security and sustainable development. Lesotho is very prone to be seriously affected by climate changes.

P. Human rights and counter-terrorism

N/A

Q. Situation in or in relation to specific regions or territories

N/A

ⁱ The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance.

ⁱⁱ Resident coordinator, Annual Report 2013. Available at

http://www.ls.undp.org/content/dam/lesotho/docs/Other/RCAR_2013_LES_NAR.pdf

ⁱⁱⁱ Lesotho, the Constitution of. 1993. Available at: http://www.gov.ls/documents/Lesotho_Constitution.pdf

^{iv} Lesotho Demographic and Health Survey, 2009. Available at: <http://www.afro.who.int/en/lesotho/lesotho-publications.html>

^v Department of Social Welfare/ Ministry of Health and Social Welfare: Situation Analysis of Orphans and other Vulnerable Children. 2011

^{vi} ILO: Better Work Lesotho: Garment Industry. 1st Compliance Synthesis Report. 2012.

^{vii} Resident coordinator, Annual Report 2013.

^{viii} Resident coordinator, Annual Report 2013.