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REPORT OF THE PROMOTION MISSION TO THE KINGDOM OF LESOTHO

BY

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and

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TABLE OF CONTENTS

ACKNOWLEDGMENTS

EXECUTIVE SUMMARY

1.0 INTRODUCTION

1.1 Composition of the Delegation

1.2 Terms of Reference

1.3 Previous Engagements between the Commission and Lesotho

1.4 Country Profile

1.5 Methodology

2.0 FINDINGS

2.1 Legislative and other measures to implement the provisions of the African Charter

2.2 The right to life

2.3 The prohibition and prevention of torture

2.4 Prisons, conditions of detention and the Police

2.5 Access to justice

2.6 Freedom of expression and access to information

2.7 Refugees, migrants, Internally Displaced Persons (IDPs)

2.8 The right to participate freely in Government

2.9 The right to health

2.10 The right to education

2.11 The rights of women

2.12 The rights of children

2.13 Persons with disabilities

2.14 Older persons

2.15 Indigenous populations/communities

2.16 Extractive industries

3.0 RECOMMENDATIONS

ANNEX

- **Annex 1: Mission Program**

ACKNOWLEDGEMENTS

The African Commission on Human and Peoples' Rights (the Commission) would like to express its gratitude to the Government of the Kingdom of Lesotho (Lesotho) for authorizing this Promotion Mission, and for putting at the disposal of its Delegation the necessary facilities and personnel to ensure the success of the Mission.

In particular, the Commission singles out the Focal Points from the Ministry of Foreign Affairs and International Relations and the Ministry of Law and Justice, who accompanied the Delegation throughout its Mission, for the arrangements put in place which enabled the Delegation to meet a variety of Government representatives and other actors, in order to have a fairly representative view of the human rights situation in the country.

The Commission also wishes to thank all the representatives from various Government ministries, independent statutory institutions and other individuals that met with its Delegation.

EXECUTIVE SUMMARY

The Commission undertook a five (5) day mission to Lesotho, from 29 January to 02 February 2024, and met with various Government authorities and representatives from inter-governmental and Civil Society Organizations (CSOs). This mission was undertaken in line with Article 45(1) of the African Charter on Human and Peoples' Rights (the African Charter), read together with Rule 76(1) of the Commission's Rules of Procedure, which mandate the Commission to promote human and peoples' rights on the continent, through promotion missions to States Parties of the African Charter. The Mission was led by the Country Rapporteur for the Kingdom of Lesotho Hon Commissioner Ourveena Geereesha Topsy-Sonoo.

During the mission, the Delegation took note of the political will displayed by the Government to ensure realization of the rights and freedoms enshrined in the African Charter. In this regard, the commendable effort to initiate the national reforms process was noted. Furthermore, laudable initiatives such as the measures taken by the Government to address violence against women, and the progress towards attainment of HIV epidemic control in Lesotho were also noted.

In this Report a number of areas of concern were noted, for which the Commission proposes a number of recommendations. These include: prioritizing adoption of the Omnibus bill to ensure that the national reforms proceed; the urgent need to launch an independent investigation into the reported acts of torture which reportedly occurred at the Maseru Central Correctional Institution; and the need to ensure protection of the rights of persons with disabilities in Lesotho, including through enabling the effective functioning of the Persons with Disability Advisory Council and ensuring implementation of the Government's inclusive education policies in order to guarantee the fundamental right of education to children with disabilities.

1.0 INTRODUCTION

1.1 Composition of the Delegation

1. The Commission's Delegation comprised the following:
 - **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 (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.
 - The Mission was supported by Ms. Eva Heza, from the Commission's Secretariat.

1.2 Terms of Reference

2. The Terms of Reference for the Mission to Lesotho were as follows:
 - i. Promote the African Charter, in addition to other international human rights instruments and soft law documents adopted by the Commission;
 - ii. Advocate for the ratification of integral regional and international human rights legal instruments which have not been ratified by the Kingdom of Lesotho;
 - iii. Strengthen the collaboration between the Commission and the authorities of the Kingdom of Lesotho in relation to the promotion and protection of rights guaranteed under the African Charter, as well as under other relevant international human rights instruments;
 - iv. Engage in dialogue with the Government of the Kingdom of Lesotho on the legislative measures and other measures taken to implement provisions of the African Charter and other human rights instruments ratified by the Kingdom of Lesotho;
 - v. Meet with representatives of Civil Society Organizations (CSOs) involved in the promotion and protection of the human rights;
 - vi. Raise awareness and visibility on the Commission in Lesotho, particularly among the relevant Government departments and CSOs;
 - vii. Exchange views and gather information on the right to freedom of expression and access to information in the Kingdom of Lesotho;
 - viii. Visit prisons and hold discussions with prison administrative officials and other stakeholders on all issues relating to detention and prisons, including conditions of detention;
 - ix. Gather relevant information on the situation of the rights of women, children, asylum seekers, refugees, internally displaced persons, migrants, older persons, persons with disabilities, persons in detention, indigenous populations/communities and other categories of vulnerable persons living

- in the Kingdom of Lesotho;
- x. Understand the level of enjoyment of economic, social and cultural rights of populations in the Kingdom of Lesotho, as well as measures taken by the Government to implement this category of human rights;
 - xi. 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 the progress made, as well as the obstacles which hinder the exercise and full enjoyment of their rights;
 - xii. Gather information on the implementation of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines);
 - xiii. Exchange views and gather information on extractive industries, to assess its effects on the environment, and mechanisms to ensure the protection of human rights in the country;
 - xiv. Gather information on the situation of human rights defenders in the Kingdom of Lesotho and discuss the challenges which hamper the effective enjoyment of their rights;
 - xv. Follow up on recommendations made by the Commission in its Report on the Promotion Mission undertaken in October 2018;
 - xvi. Follow up on recommendations arising from the Concluding Observations adopted by the Commission following its examination of Lesotho's Combined Second to Eighth Periodic Report under the African Charter and Initial Report under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted by the Commission during its 68th Ordinary Session, held in May 2021;
 - xvii. Advocate for the timely submission of Periodic Reports to Commission, in accordance with Article 62 of the African Charter, Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) and Article 14 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention).

1.3 Previous Engagements between the Commission and Lesotho

3. The mission was the fourth promotion mission of the Commission to Lesotho. Previously, the Commission undertook the following Promotion Missions to Lesotho:
 - Promotion Mission to the Kingdom of Lesotho, undertaken by Commissioner Sanji Monageng from 03 to 07 April 2006;
 - Promotion mission undertaken by Commissioners Faith Pansy Tlakula and Med. S. Kaggwa from 03 to 07 September 2012;
 - Promotion Mission undertaken by Commissioner Yeung Kam John Yeung Sik Yuen from 08 to 13 October 2018.

1.4 Country Profile

4. Lesotho is one of the smallest countries on the African continent, situated within the Republic of South Africa. Over 75% of the country is highland country, with the highest peak in Southern Africa found in Lesotho. The average height of the lowlands is between 1,000 and 1,800 meters, and this is where the capital city Maseru lies and where the majority of the population lives.¹
5. Lesotho has a population of 2,344,218,² has a per capita gross domestic product (GDP) of \$999.7 in 2022, and is classified as a lower middle-income country.³ English and Sesotho are the official languages of the country.⁴
6. The King of Lesotho is the Head of State, serving a largely ceremonial function, whereas the Prime Minister is the Head of Government and has executive authority. The current Government came into power in November 2022 led by the Prime Minister's Revolution for Prosperity (RFP) party, in coalition with the Movement for Economic Change (MEC) and Alliance for Democrats (AD) parties.
7. The Constitution of the Kingdom of Lesotho (the Constitution) provides for a Parliament which consists of the King, the Senate and a National Assembly.⁵ The Senate has twenty-two (22) Principal Chiefs and eleven (11) other Senators nominated in that capacity by the King and acting in accordance with the advice of the Council of the State.⁶ The National Assembly consists of one hundred and twenty (120) Members, elected to their positions through periodic national elections.⁷ The Senate of Lesotho is the upper chamber of the Parliament of Lesotho, which along with the National Assembly comprises the legislature of Lesotho.⁸
8. The Judiciary of Lesotho consists of the Court of Appeal as the apex court, the High Court, and the subordinate Courts which are established in terms Section 118 of the Constitution. The Courts administer the Constitution, statutes laws, the common law (Roman-Dutch), and customary law.⁹

1.5 Methodology

9. During the Mission, the Delegation met with various stakeholders in Government, the media, civil society organizations (CSOs), as well as other actors involved in the promotion and protection of human rights in Lesotho.

¹ Initial Report on the Implementation of the African Charter on Human and Peoples' Rights, August 2000, pg.1

² <https://www.worldometers.info/world-population/lesotho-population/>

³ <https://www.worldbank.org/en/country/lesotho/overview>

⁴ Initial Report on the Implementation of the African Charter on Human and Peoples' Rights, August 2000, pg.1

⁵ Article 54, the Constitution, https://www.constituteproject.org/constitution/Lesotho_2018

⁶ Article 55, the Constitution

⁷ Article 56, the Constitution

⁸ <http://senate.parliament.ls/>

⁹ <https://jud.gov.ls/>

10. The Delegation also conducted a visit to the Maseru Central Correctional Institution and the National University of Lesotho.
11. The Mission concluded with a Press Conference.

2.0 FINDINGS

12. During the Mission, which lasted five (5) days, the Delegation observed that the interaction during the meetings with the various Government representatives and other stakeholders was quite extensive, which enabled the Delegation to assess the human rights situation in the country.
13. However, whereas a number of stakeholders committed to provide additional information in writing to the Commission, to date responses have only been received from two Ministries; the Minister of Foreign Affairs and International Relations and the Ministry of Gender, Youth and Social Development. In this regard, it is noted that the following stakeholders did not provide responses to the questions which were transmitted to them by the Focal Points from the Ministry of Law and Justice, after the close of the Mission:
 - i. The Minister of Health;
 - ii. The Commissioner of Police, Lesotho Mounted Police Service;
 - iii. The Ministry of Home Affairs;
 - iv. The Ministry of Labour and Employment;
 - v. The President of the Senate;
 - vi. The Speaker of the National Assembly;
 - vii. The Chairperson, Independent Electoral Commission;
 - viii. The Directorate on Corruption and Economic Offences.
14. Furthermore, the Delegation held a very brief meeting with the newly appointed Permanent Secretary in the Ministry of Labour and Employment, and due to her recent appointment, the Delegation was unable to receive substantial information during the meeting. Regrettably, this was further exacerbated by the fact that the Ministry in question did not submit written responses to the questions which were posed and transmitted to the Ministry of Labour and Employment after the close of the Mission.
15. Lastly, the Delegation was unable to meet the Chief Justice, or any other representative from the Judiciary, in addition to representatives from the Ministry of Natural Resources.
16. Consequently, taking the above-mentioned factors into consideration, the findings of the Mission are discussed below are only based on interviews conducted and the information obtained by the Delegation.

2.1 Legislative and other measures to implement the provisions of the African Charter

➤ *The Omnibus bill*

17. The Delegation took note of effort made by the Government to give effect to the rights and freedoms enshrined in the African Charter, notably through the

national reforms process which resulted in the 11th Amendment to the Constitution and other laws, also referred to as the Omnibus Bill. The Omnibus bill included seven thematic areas, namely; the media sector reforms, economic reforms, judiciary reforms, public service reforms, security reforms, parliamentary reforms and constitutional reforms. Furthermore, a number of bills were attached to the Omnibus bill, such as the bill establishing the National Human Rights Commission (2020).

18. However, the Delegation was informed that the Omnibus bill had not been adopted by the National Assembly following an appeal to the Court of Appeal seeking *inter alia* that the national reforms should be introduced afresh in Parliament. As a result of the delay in the adoption of the Omnibus bill, adoption of several bills which have potential to positively affect the enjoyment of human rights in Lesotho, was pending. In addition, the establishment of the National Human Rights Commission had also been delayed as a result.

➤ *Adoption of laws to protect human rights*

19. The Delegation commended the adoption of legislation adopted with the view to enhance the protection of human rights in Lesotho, including *inter alia*, the Amendment to Harmonization of the Rights of Customary Widows with the Legal Capacity of Married Persons Act (2023), the Persons with Disabilities Equity Act (2021) and the Counter Domestic Violence Act (2022).
20. Furthermore, the Delegation was informed of the following bills which were due to be considered by Parliament, which will potentially enhance the promotion and protection of human rights in Lesotho, including the Occupational Health and Safety Bill, the Children's Protection and Welfare (Amendment) Bill and Older Persons Protection Bill.

➤ *Ratification*

21. The Delegation was informed that the Government of Lesotho signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (the Protocol on the Rights of Persons with Disabilities in Africa) on 16 February 2024.
22. However, the Delegation also took note of the fact that Lesotho had not ratified a number of human rights conventions. When questioned on this, the Delegation was informed that the Government was actively considering their ratification. Specifically, the Delegation noted that Lesotho was not a party to the following:
 - The Protocol on the Statute of the African Court of Justice and Human Rights;
 - The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Citizens to Social Protection and Social Security;
 - The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- The Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty;
 - The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
 - The Optional Protocol to the Convention on the Rights of Persons with Disabilities.
23. Additionally, the Delegation noted that, on ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Lesotho included a reservation on Article 2 which states the following: “*the Government of the Kingdom of Lesotho does not consider itself bound by Article 2 to the extent that it conflicts with Lesotho’s constitutional stipulations relative to succession to the Throne of the Kingdom of Lesotho and the law relating to succession to chieftainship.*”
24. In response to the Delegation’s question on this reservation, the Minister of Foreign Affairs and International Relations noted that the Government of Lesotho was actively considering the withdrawal. The Delegation was also informed that under the Constitutional Reforms process, the people of Lesotho and relevant stakeholders were asked to reconsider the question relating to succession to chieftainship, and the response was that the *status quo* remains.

➤ ***Submission of Periodic Reports***

25. The Delegation was informed that Lesotho was due to submit its UPR report in 2024; however, also took note of the fact that the last Periodic Report, covering the period from 2001 to 2017, was submitted to the African Commission in April 2018 and considered during the 64th Ordinary Session in May 2019.
26. In this regard, the Delegation was informed of, and commended, the establishment of a National Mechanism on Reporting and Follow up mandated to spearhead the Government’s reporting obligations to various treaty bodies, including its reporting obligation under the African Charter, the Maputo Protocol and the Kampala Convention.

➤ ***The Ombudsman***

27. The Delegation also took note of the establishment of the Office of the Ombudsman mandated to receive and investigate complaints from members of the public against Government, government ministries, corporations and their officials, related to, *inter alia*, maladministration, violations of human rights and corruption. As an example of the work done by the Office, the Ombudsman reported that the Office had received complaints from communities impacted by the Lesotho Highlands Water Project (LWHP), and was investigating the allegations. The Delegation was also informed of the lack of adequate human and financial resources facing the Office, which undoubtedly had a bearing on the execution of its mandate.

2.2 The right to life

28. During discussions on abolition of the death penalty, the Delegation learnt that Section 5 of the Constitution permits the infliction of any punishment authorized by law, including the death penalty, with the following crimes punishable by death: murder; treason, and rape where the accused is to his/her knowledge infected with HIV. Accordingly, Lesotho's laws still provide for imposition of death penalty sentences, restricted to the most serious crimes. However, the Delegation was informed that the Court of Appeal always commuted death penalty sentences to life imprisonment, on appeal.
29. When questioned on the possibility of total abolition of the death penalty, representatives of Government reported that the citizens of Lesotho were not in favour of this, and if the issue was submitted to a referendum, there was the likelihood that citizens may vote for renewed imposition and execution of death penalty sentences. The Delegation was informed that it is for this reason that the Government will not ratify the Optional Protocol on the abolition of the death penalty, given that this was an issue which would require a referendum and debate by the citizens. In response, the Delegation stressed the importance of ratification of the Optional Protocol, in addition to sensitizing the citizens of Lesotho on the importance of abolition of the death penalty.

2.3 The prohibition and prevention of torture

30. The Delegation was informed that Article 8 of the Constitution provides for freedom from inhuman treatment, in addition to the Penal Code which describes torture as "the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions." The Delegation was also informed that the Government had developed a Policy on Torture, in line with the country's obligation to prevent torture and provide remedies to victims.
31. However, the Delegation noted that, whereas there is a Constitutional provision prohibiting acts of torture, the Government has not enacted a specific law criminalizing torture. Furthermore, Lesotho has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, nor has it designated a National Prevention Mechanism (NPM) mandated to monitor prevention of torture and other cruel, inhuman or degrading treatment or punishment in the country.
32. During various interactions with both Government representatives and other stakeholders, the Delegation received reports of a recent incident of torture perpetrated on inmates at Maseru Correctional facility, following the reported escape of one of the inmates. The Delegation learned that one of the inmates killed during the incident. The Deputy Commissioner of the Lesotho Correctional Service informed the Delegation that the incident was being

investigated internally comprising senior management of the Prison.

33. However, other stakeholders met including the Law Society of Lesotho, requested the Commission to call for an independent Commission of Inquiry to investigate the incident, ensure prosecution of the perpetrators and provide remedies to the victims of torture.

2.4 Prisons, conditions of detention and the Police

➤ Prisons

34. Regarding Lesotho's Correctional Services (LCS), which is responsible for management of prisons in Lesotho, the Delegation was informed that the LCS is under the administration of the Ministry of Law and Justice. In addition to the delegation visiting one of the Correctional faculties within Maseru Metropolitan, the delegation was also informed there were fourteen (14) correctional facilities in Lesotho: five (5) female, nine (9) male, in addition to one (1) juvenile training center.
35. The Delegation took note of the fact that prison reforms were included in the national reform process, including the review of laws, policies and standard operating procedures (SOPs) related to prisons; which was regrettably stalled along with other proposed reforms until the Omnibus bill was adopted.
36. The Delegation also took note of information provided regarding collaboration between LCS and the National AIDS Commission (NAC), such as the provision of services to prisons including a condom distribution program which supplies condoms to all prisons. However, the Delegation was informed that the key issue of concern in the prisons is the lack of adequate health services, such as infrastructure. The Delegation was also informed that few prisons had trained nurses, which impacted the level of healthcare provided in the prisons.
37. Another area of concern provided to the Delegation was the issue of inmates with mental health issues, with a number of stakeholders reporting that the LSC did not have an adequate working relation with the proper health facilities who would be able to provide mental health assistance to these inmates.
38. The Delegation also took note of the fact, in spite of a court order on the salaries of correctional officers, salaries had not been increased.
39. Regarding the reports of inmates who were tortured, the Delegation was informed that the suspected prison officers had been suspended for two (2) weeks without pay, while the internal investigation was being carried out.

➤ Visit to Maseru Central Correctional Institution

40. During the Mission, the Delegation had the opportunity to visit Maseru Central

Correctional Institution which was conducted by the Deputy Commissioner of the Lesotho Correctional Service and senior officers of the prison.

41. The Deputy Commanding Officer informed the Delegation that the prison had four blocks, housing six hundred and ninety-nine (699) inmates, with two hundred and twenty-two (222) prison officers. The Delegation was informed that the facility has five (5) blocks, including a wing to house inmates sentenced to death, which was currently empty given that there were no inmates sentenced to death at the time of the visit.
42. The Delegation visited a newly renovated wing, which the Delegation was informed had improved facilities such as ventilation. The Delegation also visited the newly built health facility, which was funded by the World Bank, with twenty (20) beds for sick inmates. The health facility, which is serviced by a nurse, did not have any doctors stationed there; however, if a doctor was required, the Correctional facility requested a doctor from the nearby hospitals. Additionally, if required, sick inmates could be referred to nearby hospitals, escorted with the requisite security.
43. The Delegation also visited the health facility's pharmacy, which provided medication for common ailments such as the cold, diabetes, among others.
44. The Delegation toured the kitchen, which was still under renovation. As a result, cooking was done outside by the inmates, using coal and wood.
45. The Delegation was informed that inmates received three meals a day. However, the Delegation regrettably learned that the budget for feeding inmates had not been increased to accommodate the increased number of inmates, rather had been progressively reduced over a number of years. The Delegation also toured the garden where vegetables were being grown, and was informed by the Deputy Commissioner that the correctional facility grew enough vegetables to supply other prisons.
46. The Delegation was shown a dispenser of condoms in the wings housing inmates, and informed that the correctional facility had a policy of 'availing' condoms in the cells; however, this is not termed by prison officials as 'providing' condoms in light of existing laws prohibiting sodomy in Lesotho.
47. The Delegation also toured the maximum correctional wing, which held ten (10) individual cells housing inmates accused of high-profile crimes, such as an inmate accused of organ harvesting. During the visit, the Delegation had the opportunity to interview Mr. Tlali Kamoli, a former Lieutenant General in the Lesotho Defence Forces (LDF). Mr. Kamoli told the Delegation that, despite being arrested in 2017 on treason charges, he had repeatedly been detained bail, whereas his trial had not meaningfully progressed. Mr. Kamoli requested the Delegation to advocate for his release on bail, pending his trial.

➤ *Other places of detention*

48. The Delegation also received information on a category of persons deprived of their liberty in mental health institutions, referred to as “*His Majesty’s Pleasure Patients*.” The Delegation was informed that, as at 2023 there were approximately 20 to 30 of these inmates in Mohlomi Mental Hospital. In this regard, the Delegation was informed that these patients were hospitalized, however with no specific date for their release from the mental health facility. The Delegation learned that a Technical Advisory Committee, which was established to evaluate when these patients would be released, typically during celebrations of the King’s birthday, had been dissolved. Therefore, the patients were involuntarily detained in Mohlomi Mental Hospital without the prospect of release. The Delegation was also informed that the Ministry of Health did not have any authority to intervene in the case of these patients.

➤ *The Police*

49. The Delegation was scheduled to meet the Commissioner of Police, however due to his unavailability, met the Senior Assistant Commissioner of Police. During this meeting, the Delegation inquired on reports received regarding the torture of inmates. In response, the Senior Assistant Commissioner indicated that the incident had occurred in the Correctional Services; however, had not been reported to the Police. He noted that the Correctional Services had decided to investigate the matter internally.
50. The Delegation was further informed that if a complaint is made against a police officer, an internal investigation was instituted, following which a criminal case would be pursued if the investigation revealed commission of a crime. When questioned by the Delegation on whether Lesotho had an independent police oversight mechanism which investigates complaints against police officers, the Senior Assistant Commissioner reported that the Police Complaints Authority (PCA) was established in 2003 to investigate complaints against the police. He further noted that the PCA was an independent statutory and civilian oversight body which monitored reports of abuse of power and human rights violations committed by the police.
51. The Senior Assistant Commissioner also noted that, internally the Lesotho police force had Complaints and Discipline units which conducted preliminary investigations into reports against police officers. Where necessary, the cases would then be referred to the PCA.
52. Regarding recruitment, the Senior Assistant Commissioner indicated that the Public Service Commission was the appointing authority of police officers. When questioned on the number of female police officers, the Senior Assistant Commissioner noted that the police force was committed to recruiting female police officers, further noting that 30% of senior officers, including the Assistant Commissioner, a Deputy Commissioner and two (2) Senior Assistant

Commissioners in Lesotho's Police force were women.

2.5 Access to justice

53. As earlier noted, the Delegation did not meet the Chief Justice, or any other representative from the Judiciary, in spite of this engagement being a staple of the Commission's promotion missions.
54. Regardless, during its meeting with civil society organizations (CSOs), the Delegation was informed that only one (1) judge was assigned to the Labour Court, whereas no judges were assigned to the Labour Appeal Court. The Delegation was also informed that there was a backlog of cases, with a number of cases dating as far back as 2017.
55. The Delegation took note of the fact that the national reform process included reform of the judiciary; however, as with other reforms, the proposed reforms of the judiciary were stalled pending adoption of the Omnibus bill.
56. The Delegation also learned that social and economic rights were not justiciable in the courts of Lesotho, as stipulated in Chapter 3 of the Constitution. Specifically, social and economic rights were not recognized as rights, but rather as principles of State policy, which rendered them unenforceable by Courts of law.

2.6 Freedom of expression and access to information

57. During the meeting with the Deputy Principle Secretary from the Ministry of Information, Communication, Science, Technology and Innovation, the Delegation inquired on the status of the Access and Receipt of Information Bill (2000), and in response was informed that the bill was being considered as part of the current media reforms included in the national reforms process. In spite of this, the Deputy Principle Secretary noted that the Ministry was committed to aligning the bill with the Commission's Model Law on Access to Information for Africa.
58. The Delegation was also informed that, in 2021 the National Assembly adopted a National Media Policy, which was as a framework document to guide media processes in Lesotho. Furthermore, the National Code of Conduct, Behavior and Practice of the media was also adopted.
59. The Deputy Principle Secretary noted the radio industry consisted of two (2) State-owned radio stations, eleven (11) commercial radio stations, four (4) community radio stations and four (4) religious stations, in addition to one (1) television station which was a State-run broadcaster. The Delegation was informed that the Lesotho Communication Authority was the media regulatory authority mandated with regulating the communications sector in Lesotho.
60. The Delegation also met with representatives from media organizations, who noted that existing laws related to the media were outmoded, archaic and

repressive to media freedom in Lesotho. It was noted that the absence of a national access to information law made the work of journalists difficult, given that there was limited access to classified information from Government ministries and agencies, in light of the fact that there was no existing law to guide how Government officials could provide information to journalists. In the absence of verified information, it was observed that this exacerbated mis-information.

61. With regards to the safety of journalists, the Delegation was also informed that there was no existing law or policy on whistleblower protection. It was reported that journalists faced harassment from various actors, for example some politicians urged their supporters to harass journalists, both in person and online.
62. Furthermore, journalists were frequently arrested by the police, usually in connection to sources of information; however, were typically not charged or taken to court. The result of this, the Delegation learnt, was self-censorship by journalists. The Delegation also noted that journalists were frequently arrested under the Internal Security Act (1994), which is one of the laws listed for repeal under the media reforms process.

2.7 Refugees, Internally Displaced Persons (IDPs) and stateless persons

63. The Delegation was informed that the Anti-Trafficking in Persons Act adopted in 2011, was amended in 2021 in order to ensure imprisonment of persons found guilty of trafficking, with the most severe sentences reserved offences for trafficking of children. Furthermore, a department was established in Lesotho's Police Force in order to enhance investigation of reports on trafficking of persons, in addition to a National Referral Mechanism, under the Ministry of Home Affairs, which was responsible for victim identification and referral to care. It was reported that Lesotho had a center which provided accommodation for women and children who were victims of trafficking. This center was serviced by dedicated social workers, who provided care to the victims of trafficking.
64. However, during the Delegation's meeting with CSOs, information was provided indicating that the main factor contributing to trafficking was the lack of effective implementation of the Anti-Trafficking in Persons Act. It was noted that the law provided for a trust fund to aid victims of trafficking; however, issues related to who should manage the trust fund impeded its effective functioning. Furthermore, it was noted that there was very little participation of CSOs in the multi-sectoral committee established by the Ministry of Home Affairs to address the crime of trafficking. Lastly, the Delegation was informed that the Government had not established a data hub on trafficking, therefore it was difficult to determine the extent of trafficking in Lesotho.
65. The Delegation was also informed that the Ministry of Home Affairs had commissioned a study on stateless persons in 2024, in order to determine the extent of this issue in Lesotho. Additionally, it was reported that Lesotho did not have a

policy on Internally Displaced Persons (IDPs), and further that the Kampala Convention had not yet been domesticated.

66. In response to a query from the Delegation, the Director of Legal Affairs in the Ministry of Home Affairs noted that the laws in Lesotho did not permit women to pass citizenship to spouses. Regarding children, the Delegation was informed that they are registered as citizens of the country, so long as they have one parent with citizenship in Lesotho.
67. Furthermore, the Delegation received a complaint from an NGO based in Lesotho, regarding the extended waiting period for issuance of new passports, with the unwarranted delays impeding citizens' ability to exercise the fundamental freedom of movement, and further posing risks to the right to life, particularly for those urgently requiring medical attention abroad. Regrettably, the Delegation did not receive any responses from the Ministry of Home Affairs to this particular issue, therefore was unable to obtain clarification on the steps being taken by the Government to address the reported long application periods for new passports in Lesotho.

2.8 The right to participate freely in Government

68. During the meeting with representatives of the Independent Electoral Commission (IEC), the Delegation was informed that prisoners were allowed to vote, therefore, during elections, polling stations were opened in prison wards. Additionally, in light of the fact that the law did not currently permit citizens in diaspora to vote during elections, the Government was working to pass a law in this regard.
69. Regarding voter education, it was reported that this was an ongoing function of the IEC. In response to a question, it was noted that that electoral education materials were available in Sesotho and English, and had also been made available in Braille. It was however noted, whereas the materials were available in SiPhuthi and Xhosa, these materials were not as comprehensive as those available in the country's national languages of Sesotho and English. The Delegation noted limited outreach services in general to Indigenous communities up in the mountains in general and particularly on civic education.

2.9 The right to health

70. The Delegation was informed that approximately 85% of the population in Lesotho had access to health services. This was because people residing in hard to reach areas such as the mountainous regions, did not have adequate access to health care. The Delegation learnt that some people in these regions had to walk more than three hours to get to health services. However, the Minister of Health noted that the Government was committed to building additional health centres to ensure access to the entire population; however, in the meantime provided health care through outreach clinics.

71. During an engagement with CSOs, the Delegation was informed of the need to improve access to sexual and reproductive health services, including contraception. Furthermore, it was observed that the Government should increase efforts to reduce maternal mortality and infant mortality rates, in addition to expanding access to postnatal clinics and post-abortion care, particularly in the rural areas.

➤ *HIV/AIDs*

72. The Delegation was informed of, and commended, Lesotho's commitment to eliminating HIV/AIDS by 2030. The Minister of Health informed the Delegation that Lesotho had obtained HIV epidemic control, noting that 92% of people living with HIV PLHIV knew their status, 97% were on treatment, and 99% of PLHIV on treatment were virologically suppressed.¹⁰ The Delegation was also informed that the estimated number of new infections had reduced significantly, with estimated new infections at 10,000, 4811, 4186 in the years 2017, 2022 and 2023 respectively. Additionally, AIDs related mortality marginally reduced, with an estimated 4342, 4026, 3887 annual mortality reported in 2021, 2022 and 2023 respectively. The Minister of Health also reported that the Government purchased 70% of ARVs supplied in the country.

73. From the meeting with representatives with the United Nations agencies based in Lesotho, the Delegation was informed that Lesotho was heavily impacted by the HIV/AIDS epidemic, at one point being the second highest in the world in terms of prevalence. However, it was noted that the political will to address HIV/AIDS was evident, with Lesotho being one of the first countries to adopt the 'test and treat' program.

74. The Delegation was also informed that young people, women, sex workers, textile workers, 'men who have sex with men' (MSM), migrant workers and persons with disabilities were the most vulnerable and at-risk populations, therefore the Government was committed to increasing awareness on HIV/AIDS targeting these vulnerable groups.

75. Furthermore, a national HIV key population technical Working Group was initiated by the Ministry of Health in collaboration with CSOs in 2018, to ensure a coordinated approach to addressing HIV/AIDS. However, the Delegation also learnt that there was need for greater collaboration between the Ministry of Health and CSOs working with minority groups, such as LGBTQ persons and persons with disabilities.

76. The Delegation was also informed of incidents of discrimination against LGBTQ persons and sex workers by health care workers, in addition to the lack of a

¹⁰ This relates to a Declaration adopted by United Nations Member States in June 2021, containing targets for primary prevention and supporting enablers, the 95-95-95 HIV testing, treatment and viral suppression targets aim to close gaps in HIV treatment coverage and outcomes in all sub-populations, age groups and geographic settings. https://www.unaids.org/sites/default/files/media_asset/progress-towards-95-95-95_en.pdf

national monitoring and evaluation (M&E) program which captured and reported data on key populations, including LGBTQ persons and sex workers, in order to assess the prevalence rate of these groups.

2.10 The right to education

77. The Delegation was informed that the Education Act (2010) made provision for free and compulsory education at the primary level. However, the Delegation also learned that, unlike the high enrollment numbers in primary school, there was a lower enrollment of students in secondary schools. Representatives from the Ministry of Education noted that this was likely due to the lack of financial resources to attend secondary school.
78. However, the Delegation was also informed that the Government was committed to enhancing attendance in secondary school, by implementing a policy which regulated school fees for secondary schools. Furthermore, the Government had implemented a book rental scheme, which provided parents the opportunity to rent school books, as opposed to purchasing them. In response to a question from the Delegation, representatives from the Ministry of Education stressed that the rental fee for procuring books was affordable, at a rate of 220 Maloti (approximately 10\$) per set of books.
79. With regards to the curriculum, the Delegation was informed that the Government was committed to developing an inclusive curriculum which promoted the use of languages of other ethnic groups besides the predominant language of Sesotho, such as SiPhuthi and Xhosa.
80. The Delegation was also informed that corporal punishment is proscribed in the Education Act; however, management of this provision is determined by the schools, resulting in reported cases of corporal punishment. In this regard, the Delegation was informed that teachers were being trained to equip them with skills to deal with difficult or disobedient children, in order to ensure that teachers did not resort to corporal punishment.
81. In response to a question on whether pregnant girls were allowed to access education, the Delegation noted with appreciation that the Ministry ensured strict adherence to the provisions of the Child and Welfare Protection of Children Act (2011), Section 11(4) which states that “no child shall be expelled or denied the right to education by any educational institute on account of pregnancy, initiation or other cultural rituals.”
82. In response to a question regarding access to education to children living in remote areas, the Delegation learnt that the Government had established learning centres targeting children living in remote areas. It was reported that these learning centre provided formal education according to adopted curriculum, with the same mode of instruction as schools in urban areas.

83. The Delegation also learnt that the Ministry prioritized provision of services to children orphaned as a result of HIV. These services included the Orphaned and Vulnerable Children (OVC) Bursary Scheme for children in secondary school, the Child Grants Program which aimed to alleviate poverty, in addition to a school feeding program.
84. During the visit to the National University of Lesotho, the Delegation was informed of the gender diversity among students, noting that two thirds of the student population were female students. It was noted that several campaigns had been implemented which encouraged girls to pursue their education, which could possibly account for the higher drop-out rate of boys.

2.11 The rights of women

85. During the meeting with the Minister of Gender, Youth and Social Development, the Delegation was informed of the enactment of the Counter Domestic Violence Act (2022), which aims to combat domestic violence and ensure protection of the rights of victims. This Act also criminalizes abuse in domestic relationships, and recognizes discrimination experienced by certain groups of people by virtue of their age, disability, sexual orientation or gender identity. The Delegation was informed that the Act includes provisions on the meaning and scope of domestic violence, in addition to providing protection to victims in the form of Court orders, called protection orders, in order to prohibit perpetrators from doing certain acts.
86. The Delegation was also informed of the Lapeng Care Centre, which is under the Ministry of Gender, Youth and Social Development, which provides temporary shelter and accommodation to survivors of gender-based violence, providing shelter up to six (6) months. The Delegation also learned that survivors are provided with psychosocial support and care, basic necessities such as shelter, food, clothes, counselling, medical and legal services, as well as referral services.
87. During a meeting with CSOs, the Delegation received reports of forced or coerced sterilization of HIV positive women. It was also reported that most of these cases involved married women, and that currently there was no support system in place for them. In response to a question to representatives from the Ministry of Justice on these allegations, the Delegation was informed that the reports were being investigated in order to determine the number of women who were subjected to this violation, in addition to addressing the allegations. The Commission expressed interest in the outcomes of the investigations.

➤ Gender equality

88. Regarding gender equality, the Delegation was informed that the Government was committed to its promotion. Specifically, the National Strategic Development Plan (NSDP) requires all sectors to address gender concerns and issues through their development programs. This was further buttressed in the Gender and Development Policy (2018-2030), which the Delegation was informed, provided

guidance to all sectors of Government to ensure their contribution to gender equity and equality.

89. In response to a question, the Delegation was informed that, out of thirty-three (33) members of parliament, eight (8) were women.

➤ *Access to medical abortion*

90. The Delegation was informed that, as provided in Article 45 of the Penal Code, abortion was illegal in Lesotho, with the exception of medical abortion performed to prevent significant harm to the health of the mother, to prevent the birth of a child who would be seriously physically or mentally handicapped, both of which required a certificate from registered medical practitioner to the effect that the termination of the pregnancy was necessary, in addition to pregnancy as a result of incestuous relationship or rape. However, the Delegation was informed that in some cases, despite a Court order to the effect, health professionals were reluctant to provide abortion services because of their religious beliefs.

2.12 The rights of children

91. The Delegation was informed that the Counter Domestic Violence Act defines a “child” as a person below the age of 18 years, and includes ‘child marriage’ as one of the abusive practices which constitute domestic violence. The Delegation was informed that this is the provision in Lesotho’s laws which outlaws child marriage. However, the Delegation learned that child marriage was still prevalent in the country, particularly as a cultural practice. The Delegation was informed that poverty played a big part in this cultural practice. Furthermore, it was noted that Chiefs were largely responsible for formalizing agreements between families arranging child marriages, which was attributed to a lack of education of the Chiefs.

92. In this regard, the Delegation was informed that the Government had initiated a campaign to end child marriage in 2018, which assisted girls and young women, who were married as minors, to access justice.

93. The Delegation was also informed that the Children’s Protection and Welfare (Amendment) Bill (2023), which proposed amendments to the Children’s Protection and Welfare Act (2011), included specific provisions which criminalized child marriage. The Delegation learned that the bill had been submitted to Parliament for consideration.

➤ **Learners with disabilities**

94. The Delegation was informed that, as stated in Article 11(3) of the Children’s Protection and Welfare Act: “[A] child has a right to education regardless of the type or severity of the disability he has.” However, in spite of this the Delegation received information regarding persistent challenges facing learners with

disabilities (LWD), who faced difficulties attending schools which did not have the facilities to accommodate them. Representatives from the Government informed the Delegation that it was working to address these challenges, including by adopting and implementing the Inclusive Education Policy (2018), which aimed to ensure an adequate accessible physical environment and facilities in schools, in order to enable access to schools without difficulty.

95. The Delegation also learnt that the Government was committed to ensuring access for learners with disabilities to primary schools by preparing teachers to accommodate and address their special needs, as opposed to confining these learners to special schools.
96. Despite these efforts, the Delegation was informed that learners with disabilities still faced challenges participating in school activities, such as sports, owing to the lack of specialized equipment. Whereas schools had started to implement the Inclusive Education Policy and admitted learners with disabilities, without the necessary reasonable accommodation, the Delegation learnt that this was as good as not admitting learners with disabilities in school. Additionally, it was noted that school children were not being adequately taught or socialized to accept learners with disabilities.

2.13 Persons with disabilities

97. During the courtesy meeting with the Minister of Foreign Affairs & International Relations, the Delegation was informed that the Government of Lesotho was in the process of signing the Protocol on the Rights of Persons with Disabilities in Africa. The Ministry subsequently informed the Commission that the Government had signed the Protocol on the Rights of Persons with Disabilities on 16 February 2024.
98. Additionally, the Delegation was informed of enactment of the Persons with Disabilities Equity Act (2021), which provided for equal opportunities for persons with disabilities. The Delegation was also informed of, and commended, the initiative taken by the Chief Justice, acting in accordance with Article 32 of the Persons with Disabilities Equity Act, to adopt the Disability Equity (Procedure) Rules (2023), which provided guidance on the services to be provided to persons with disabilities attending court proceedings.
99. The Delegation was further informed that this law establishes the Persons with Disability Advisory Council, to provide for equal opportunities and recognition of the rights of persons with disabilities in Lesotho. However, the Delegation learned that, despite enactment of the law in 2021, the members of the Advisory Council had only recently been appointed and were currently being inducted in their duties. Further, the Council did not have a functional Secretariat which was impeding effective implementation of its mandate.
100. Additionally, the Delegation was informed about the onerous procedure in place to access the grants provided in accordance with the law, given to a person with

disability unable to take care of himself without full attendance from a caregiver. It was noted that this application procedure was particularly difficult for people who resided outside urban areas. Furthermore, it was noted that the amount of the grant, that is 600 Maloti (approximately \$30), was not commensurate with the current cost of living in Lesotho.

101. The Delegation also learned that women and girls with disabilities faced challenges accessing healthcare, particularly sexual and reproductive health services. The Delegation was informed that women and girls with disabilities were sometimes viewed as asexual, therefore were dismissed when they tried to access contraceptives, because of the assumption that they did not require these services. It was also noted that deaf persons seeking healthcare had to be accompanied by a sign language interpreter, which has implications on the patients right to privacy. Additionally, the issue of accessibility was also noted, particularly for persons with disabilities who lived in remote areas of the country.
102. Regarding employment, the Delegation was informed that, despite the provisions in the law, persons with disabilities still faced discrimination obtaining employment in the public and private sector. Representatives of the Lesotho National Federation of Organizations of the Disabled proposed that, the Government should put measures in place such as quotas, to ensure that persons with disabilities were able to obtain employment.

2.14 Older persons

103. The Delegation commended the Government for signing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons.
104. The Delegation was informed that the Ministry of Gender, Youth and Social Development was in the process of drafting a law on the rights of older persons in Lesotho. The drafting of the Bill was suspended pending finalization of the Social Service Professions Bill (2024), because the definitions of some key words in the Older Persons Protection Bill had to be aligned with those in the Social Service Professions Bill. However, the Delegation took note of the information that assault of elder women accused of witchcraft was criminalized in the draft bill on older persons.
105. The Delegation was also informed about Lesotho's National Policy for Older Persons (2014) which advocated for observance of the rights of the older persons by establishing structures to improve the status of older persons and their well-being. Further, the Ministry had developed and implemented the Strategy for Older Persons (2017) which provided strategic direction on implementation of the National Policy for Older Persons.
106. In addition, the Delegation learnt that the Harmonization of the Rights of Customary Widows with the Legal Capacity of Married Persons Act (2022) was adopted to ensure that older women were legally protected, including protection

of their inheritance rights, by abolishing the requirement of consultation with a family council before a widow was able to dispose of property.

107. The Minister also informed the Delegation that a consultant had been engaged to undertake a comprehensive situational analysis study on older persons in Lesotho in 2022, focusing on nine key areas: health; mental condition; income security; family support; community participation and contribution; rights of older persons; housing/living conditions, living arrangements; neglect, abuse and violence and social support; and security of older persons. The primary purpose of the study was to get baseline data on older persons in Lesotho, in order to enhance the programs which provided services to them. It was reported that this study would enable the Government to establish structures to improve the status of older persons in the country.
108. In addition, the Delegation was informed that, as a means to protect elderly persons against violence on the basis of witchcraft allegations, the Ministry had launched an advocacy and awareness raising program in 2017, which included various strategies such as public campaigns, training workshops for all elderly service providers, among others.

2.15 Indigenous populations/Communities

109. In response to a question on whether the Government had adopted a definition on definitions of indigenous people in Lesotho, the Delegation was informed that the Government does not formally recognize indigenous communities in Lesotho, rather distinguished by ethnic groups. The Delegation learned that the majority of the population were the Basotho, with Sesotho and English being the official languages in Lesotho. However, the Delegation was also informed of the Government's intention to include the issue of indigenous populations in the national reforms' discussion, including related issues on expanding the country's official languages to include the languages of certain ethnic minorities, that is SiPhuthi and Xhosa.
110. During the meeting with CSO representatives, it was proposed that languages of certain ethnic groups, including the SiPhuthi, should be officially recognized by the Government, in addition to the language being utilized as a medium of instruction in schools. Furthermore, it was proposed that paramount chiefs from ethnic minority groups should also be officially recognized by the Government.
111. During a number of meetings, including with Vice President of the Senate and Clerk of the Parliament, the meeting with the Deputy Speaker, in addition to the meeting with CSOs working with indigenous and Minority Groups, the Delegation took the opportunity to provide a definition of 'indigenous peoples,' adopted by the Commission's Working Group on Indigenous Populations/Communities and Minorities in Africa.

2.16 Extractive Industries

112. The Delegation was informed that Lesotho's most important natural resource was clean water, popularly referred to as 'white gold.' Whereas the Delegation was not able to meet with any representatives from the Ministry of Natural Resources during the promotion mission, information was provided by other stakeholders regarding the Lesotho Highlands Water Project (LHWP); an ongoing water supply and hydro-electric power project, developed in partnership between the Governments of Lesotho and South Africa.
113. The Delegation was informed that, by virtue of the Land Act (2010), full compensation was to be provided for land which had been expropriated. However, Section 39 of the Lesotho Highlands Development Authority Act granted extensive powers to the Lesotho Highlands Development Authority (LHDA) to expropriate land even before negotiations concluded.
114. In this regard, during a meeting with the Ombudsman, the Delegation was informed that a number of communities had been affected by the construction of the LHWP, including expropriation of land. The Delegation learned that the Office of the Ombudsman was providing legal support to these communities to ensure that they received adequate compensation. The Ombudsman also reported that the Office was working closely with the LHDA to ensure that affected communities were compensated fairly.
115. It was further reported that, for the next phase of the development the Office of the Ombudsman had visited forty-four villages to raise awareness on their rights, and to sensitize them on the mandate of the Ombudsman.
116. In addition, the Delegation learned the Ombudsman's Office had initiated a number of programs which targeted communities living within the vicinity of the LHWP, such as raising awareness on sexual exploitation of children.

3.0 RECOMMENDATIONS

117. Based on the findings of the Delegation, the Commission calls on the Government of Lesotho to adopt the following recommendations, in order to enhance the promotion and protection of human rights in the country.

Legislative and other measures to implement the provisions of the African Charter:

- i. Expedite adoption of the Omnibus bill to ensure that the national reforms process proceeds, in addition to adoption of laws related to the seven thematic areas.
- ii. Following adoption of the Omnibus bill, expedite the establishment of a National Human Rights Institution endowed with a broad mandate to monitor, promote and protect human rights in Lesotho.
- iii. Expedite adoption of bills which are not annexed to the Omnibus bill, which will enhance the promotion and protection of human rights, including the Occupational Health and Safety Bill, the Children's Protection and Welfare (Amendment) Bill and the Older Persons Protection Bill.
- iv. Expedite ratification and domestication of the Conventions to which Lesotho is not a State Party.
- v. Consider withdrawing the reservation on Article 2 of CEDAW.
- vi. Ensure timely submission of Lesotho's next Periodic Reports to the Commission, on implementation of the African Charter, the Maputo Protocol, and the initial report on the Kampala Convention, in accordance with the Commission's **Resolution on the Method of Calculation of Periodic Reporting Deadlines**, in addition to the State Reporting Guidelines.
- vii. Ensure provision of adequate human and financial resources to independent institutions, including the Office of the Ombudsman.

The right to life:

- i. Repeal the provisions in the statute books which provide for the death penalty, in addition to formalizing the moratorium on the death penalty as a step towards effective abolition of the death penalty.
- ii. Conduct sensitization of the public in order to educate them on the need for abolition of the death penalty.
- iii. Urgently consider ratification of the Optional Protocol on the abolition of the death penalty.

The prohibition and prevention of torture:

- i. Enact legislation which includes a specific legal provision criminalizing torture.
- ii. Urgently consider ratification of the Optional Protocol to the Convention against Torture.
- iii. Designate a National Prevention Mechanism (NPM) which is mandated to monitor prevention of torture and other cruel, inhuman or degrading treatment or punishment in Lesotho.
- iv. Urgently appoint independent persons to investigate the reported acts of torture

perpetrated on inmates in the Maseru Central Correctional Institution, ensure timely prosecution of the suspected perpetrators and provide redress to the victims of torture.

Prisons, conditions of detention and the police:

➤ Prisons and conditions of detention

- i. Expedite the prison reforms following adoption of the Omnibus bill.
- ii. Urgently address the lack of adequate health services in prisons, such as infrastructure and the need for increased numbers of trained nurses and mental health professionals in the prisons.
- iii. Direct the Ministry of Health to initiate collaboration between mental health facilities in Lesotho and the LSC, in order to ensure that inmates with mental health issues receive adequate and timely mental health care.
- iv. Ensure application of the Court order regarding the salaries of correctional officers.
- v. Address the reduction in the food budget of the Maseru Correctional Institution, to ensure that inmates have access to adequate meals while incarcerated.
- vi. Organize regular training sessions for correctional officers, including particular reference to the laws in Lesotho which proscribe torture and the Commission's **Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa** (the Robben Island Guidelines).

➤ Other places of detention

- vii. Urgently reconstitute the Technical Advisory Committee which was responsible for determining when "*His Majesty's Pleasure Patients*" can be released from Mohlomi Mental Hospital, under the oversight of the Ministry of Health.

➤ The Police

- viii. Organize regular training courses for the dissemination of the instruments related to the police, including the **Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa** (the Robben Island Guidelines), the **Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa** (the Luanda Guidelines), the **Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa**, and the **Principles on the Decriminalization of Petty Offences in Africa**.

Access to justice:

- i. Urgently initiate the national reform process regarding reform of the judiciary, following adoption of the Omnibus bill, in order to address the backlog of cases.
- ii. Address the acute shortage of Judges in the Labour Court and Labour Appeal

Court.

- iii. Amend the provision in the Constitution to ensure the justiciability of social and economic rights in accordance with the African Charter.

Freedom of expression and access to information:

- i. Expedite adoption of legislation on the right of access to information, in accordance with international and regional human rights standards as elaborated in the **Model Law on Access to Information for Africa**.
- ii. 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.
- iii. Enact legislation on the protection of whistleblowers.
- iv. Ensure protection of journalists from harassment and arbitrary arrest, as stipulated in **Principle 20 on the Safety of journalists and other media practitioners**, of the **Declaration of Principles on Freedom of Expression and Access to Information in Africa**.

Human Rights Defenders:

- i. Whereas the Commission did not receive any information on the situation of civil society organizations and other non-State actors, vis-à-vis the existence of laws which restrict freedom of assembly and association, in addition to limiting the operationalization of NGOs, the Commission calls on the Government to develop a legal framework for the protection of human rights defenders in conformity with the **UN Declaration on Human Rights Defenders 1998** and the Commission's **Resolutions on Human Rights Defenders** including **ACHPR/Resolution 69 (XXXV) 04**, **ACHPR/Resolution 119 (XXXII) 07**, and **ACHPR/Res.196 (L) 11**.

Refugees, migrants, IDPs:

- i. Urgently domestic the Kampala Convention, and adopt a policy on IDPs in Lesotho.
- ii. Ensure the effective implementation of the Anti-Trafficking in Persons Act.
- iii. Designate an oversight institution to manage the trust fund which provides aid to victims of trafficking.
- iv. Establish a data hub on trafficking, in order to collect relevant data on the prevalence of trafficking in Lesotho.
- v. Consider amending relevant legislation in Lesotho to enable women pass citizenship to their spouses.
- vi. Address the reported extended periods for issuance of new passports.

The right to participate freely in Government:

- i. Expedite revision of the law in order to permit citizens in diaspora to vote during

- elections.
- ii. Ensure production of comprehensive materials related to elections in languages of ethnic minority groups, including Siphuthi and Xhosa.

The right to health:

- i. Prioritize construction of health centres in remote areas of the country, in addition to significantly enhancing outreach to these areas through mobile services, in order to ensure adequate access to health care.
- ii. Prioritize provision of maternal and infant care, for example postnatal clinics and post-abortion care, particularly to the remote areas of the country.
- iii. Enhance outreach to the most vulnerable and at-risk populations in order to continue raising awareness on HIV/AIDs.
- iv. Initiate sensitization programs targeting healthcare workers on delivery of services to vulnerable groups, e.g. MSM and sex workers, in order to address the reports of discrimination.
- v. Enhance collaboration between the Ministry of Health and CSOs working with minority populations, such as LGBTQ persons and persons with disabilities, in order to ensure a coordinated approach to address HIV/AIDs within these vulnerable groups.

The right to education:

- i. Ensure strict adherence to the ban on corporal punishment in schools, including through sensitization campaigns in schools.

The rights of women:

- i. Urgently investigate and address the allegations of forced sterilization of HIV positive women, in addition to developing programs to provide support and redress to the affected women.
- ii. Ensure gender parity in the Parliament, including by instituting concrete measures to encourage women's participation in politics, such as sensitization campaigns.
- iii. Ensure the provision of medical abortion in accordance with the law in Lesotho and as stipulated in Article 14(2)(c) of the Maputo Protocol, including by adopting policy to guide medical professionals.
- iv. Enhance access to sexual health and reproductive services, including contraception.

The rights of children:

- i. Urgently address child marriage, including through ensuring accountability of all who engage in the practice.
- ii. Prioritize full implementation of the Government's Inclusive Education Policy in order to guarantee the fundamental right of education to learners with disabilities.

- iii. Prioritize provision of specialized equipment to schools, to facilitate reasonable accommodation and accessibility to learners with disabilities.
- iv. Develop sensitization programs aimed at educating students, and the general public, in order to encourage acceptance of learners with disabilities.

Persons with disabilities:

- i. Ensure prompt allocation of human and financial resources to the Persons with Disability Advisory Council in order to facilitate its effective functioning.
- ii. Consider revision of the grants provided to persons with disabilities who require a caregiver, in accordance with the current cost of living in Lesotho.
- iii. Review the application procedure for the grants provided to persons with disabilities with the view to simplify the process, and facilitate the process for applicants who reside outside urban areas in Lesotho.
- iv. Prioritize access to sexual health and reproductive services to persons with disabilities, with particular emphasis of provision of these services to girls and women with disabilities.
- v. Urgently address the issue of accessibility, particularly for persons with disabilities who live in remote areas of the country, to health care facilities and centers in Lesotho.

Older persons:

- i. Urgently prioritize adoption of the Older Persons Protection Bill.
- ii. Ensure protection of elder women, in accordance with **Article 22 on Special Protection of Elderly Women** of the Maputo Protocol.

Indigenous populations/communities:

- i. Ensure that the issue of indigenous populations is prominently included in the national reforms' discussion, including a definition of indigenous populations in Lesotho.
- ii. Take the necessary measures to expand the country's official languages in order to include the languages of certain ethnic minorities.
- iii. Consider adopting a law on the legal recognition of the rights of indigenous populations/communities in Lesotho.

Extractive industries:

- i. Ensure the free, prior and informed consent of communities whose land is expropriated for the Lesotho Highlands Water Project, in addition to any other extractive industry in the country.
- ii. Taking into consideration the State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights, and the Environment, provide relevant information on the regulatory framework governing extractive industries in Lesotho, issues of human rights in the extractive industries and measures to be taken to address

the issues, in the next Periodic Report submitted to the Commission.

To other stakeholders:

118. In addition, the Commission calls on CSOs, and other stakeholders, to continue their efforts to promote and protect human rights in the country, working in collaboration with the Government.

Annex 1: Mission Program

Day 1: Monday 29 January 2024:

- i. Courtesy call on Hon. Minister of Law and Justice

Day 2: Tuesday 30 January 2024:

- i. Hon. Minister of Health
- ii. Senior Assistant Commissioner of the Lesotho Mounted Police
- iii. Permanent Secretary, Ministry of Public Service
- iv. The Commander and Senior Officers of the Lesotho Defence Forces
- v. The Director of Legal Affairs, Ministry of Home Affairs
- vi. Meeting with Lesotho National Federation of Organizations of the Disabled
- vii. The Permanent Secretary, Ministry of Labour and Employment

Day 3: Wednesday 31 January 2024:

- i. The Vice President and the Clerk of the Senate
- ii. The Ombudsman
- iii. The Permanent Secretary, Ministry of Education
- iv. Meeting with CSOs working with indigenous and Minority Groups
- v. The Deputy Speaker, Clerk, Deputy Clerk of the National Assembly
- vi. Meeting with Independent Electoral Commission
- vii. Representatives of the Law Society of Lesotho
- viii. Meeting with the Directorate on Corruption and Economic Offences

Day 4: Thursday 01 February 2024:

- i. Courtesy call on the Ministry of Foreign Affairs & International Relations
- ii. The UN Resident Coordinator and representatives from UN agencies
- iii. The Lesotho Council of Non-Governmental Organizations and representatives of civil society organizations working in Lesotho
- iv. Representatives of the Media Institute of Southern Africa (Lesotho) and media houses
- v. Visit to Maseru Central Correctional Institution, and meeting with the Deputy Commissioner of the Lesotho Correctional Service, and senior officers of the Maseru Central Correctional Institution
- vi. The Chief Executive Officer of the National AIDS Commission

Day 5: Friday 02 February 2024:

- i. The Leader of the Opposition in the National Assembly
- ii. The Minister of Gender, Youth and Social Development
- iii. Dean of the Faculty of Law, National University of Lesotho
- iv. The Deputy Principle Secretary, Ministry of Information, Communication, Science, Technology and Innovation
- v. Press Conference
