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Summary record of the 4016th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 12 July 2023, at 10 a.m.

Chair: Ms. Abdo Rocholl

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Second periodic report of Lesotho (continued) (CCPR/C/LSO/2;
CCPR/C/LSO/QPR/2)

1. *At the invitation of the Chair, the delegation of Lesotho joined the meeting.*
2. **Mr. Ramoeletsi** (Lesotho) said that the establishment of the national human rights institution, for which the Government had given itself 18 months, would begin once Parliament had adopted the Omnibus Bill.
3. **A representative of Lesotho** said that, in addition to complying with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), the intention was to make the national human rights institution a body of constitutional rank to solidify its basis in law. The Office of the Ombudsman had been allocated a budget of 10 million maloti in 2022/23, to be increased by 1 million maloti in 2023/24. Thanks to financial assistance from the United Nations Development Programme and the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Ombudsman could conduct inspections countrywide.
4. Recalling that the death penalty was not applied in practice, he noted that its abolition would require a referendum because any amendments to chapter 2 of the Constitution, on the protection of fundamental human rights and freedoms – under which the matter of capital punishment fell – had to be put to the people. Foreign judges were currently assigned to high-profile criminal cases. The difficulty had always been the lack of resources to attract and retain foreign judges; Lesotho would welcome financial assistance in that respect.
5. While sodomy was an offence against law and morality for which no arrest warrant was required, section 187 (5) of the Criminal Procedure and Evidence Act, containing the prohibition of homosexuality, had in effect been replaced with the Penal Code, which had no provisions on sodomy and could therefore be interpreted as decriminalizing sexual activity between consenting men. Moreover, the provision making sodomy an offence had not been enforced even prior to the adoption of the Penal Code, and sexual activity between women had never been criminalized.
6. **Mr. Ramoeletsi** (Lesotho) said that the members of the body responsible for follow-up to recommendations by international and regional human rights mechanisms, who represented the line ministries, the Office of the Ombudsman, the Police Complaints Authority and civil society, had been appointed in 2022 and had received training in reporting, with support from OHCHR and the Commonwealth. The body's tasks consisted in preparing reports to international and regional bodies and in tracking and systematizing their recommendations and decisions. The body was currently working on the State party's common core document and periodic reports to the Committee on the Elimination of Discrimination against Women and the Committee against Torture.
7. Of the 107 complaints lodged with the Police Complaints Authority between 2013 and 2018, 79 had been transmitted to the police authority for action, 14 were under investigation and 11 had been withdrawn; one perpetrator had been reassigned to other duties. There had been 33 complaints during the period from 2019 to 2022, of which 9 had been transmitted to the police authority for action, 23 were under investigation and one had been withdrawn.
8. The people accused of witchcraft were typically older persons displaying behaviour caused by dementia. Accordingly, awareness-raising had been conducted to sensitize the population and encourage tolerance and, as a result, individuals who became disoriented and behaved erratically were increasingly being brought to safe places and returned to their families instead of being accused of witchcraft.
9. Victims of domestic violence could come to the shelter provided for them either of their own accord or by referral from relatives, traditional leaders, faith-based organizations, schools, health-care providers and the Child and Gender Protection Unit of the Lesotho

Mounted Police Service, among others. The shelter had a capacity of 30 people and provided health-care, counselling and social services. Boys between the ages of 13 and 17 must be accompanied by their mother. A total of 72 victims of violence had stayed at the shelter in 2019/20, 88 in 2020/21, 56 in 2021/22 and 147 in 2022/23.

10. The non-governmental organization that had claimed that forced HIV testing and sterilization were being carried out had not responded to the Government's request for information. No formal complaints of forced sterilization of women living with HIV had been registered. Only pregnant women had to undergo mandatory HIV-screening to prevent mother-to-child transmission of the virus.

11. **A representative of Lesotho** said that the Government did not know which clinics might be performing illegal abortions. No women had been prosecuted for undergoing an abortion; however, individuals had been charged with concealment of birth. The Government planned to strengthen the independence of the Police Complaints Authority by ensuring that the procedure no longer involved the Commissioner of Police or the Ministry of Police and Public Safety. To his knowledge, there had been no cases of wrongful conviction. In any event, there was no mechanism to handle such situations. Concerning extrajudicial killings and enforced disappearances, the suspects in the murder of Police Constable Khetheng were currently on trial, while the case of the deaths of Mr. Makibinyane, Mr. Pakela and Mr. Noko was before the High Court.

12. **Ms. Šurlan** said that she wished to know what steps the State party had taken to end torture as a practice among law enforcement personnel, and how many officials had been prosecuted for such acts; whether law enforcement personnel could be tried *ex officio* for violating the prohibition of torture; why the domestic legal system did not yet reflect the fact that the prohibition of torture was a *jus cogens* norm; whether the State party envisaged raising awareness of the issue among victims and law enforcement personnel alike; and what training in the rights under the Covenant was provided to police officers. As for the Police Complaints Authority, it would be useful to hear about the steps being taken to strengthen it, especially in terms of its response to allegations of torture and its availability outside the capital, and about plans to establish a more efficient body with a specific mandate to combat torture by the police that could receive complaints directly from the public.

13. Concerning prison conditions, she wished to learn about any budgetary measures taken to improve living conditions and about the steps taken to ensure that prisoners had access to medical care from a doctor. She would welcome information on the outcome of the human rights training provided to inmates and prison staff – for instance, whether the number of complaints filed had increased, what the content of the complaints was and what investigations, prosecutions and penalties had ensued. It would be helpful to know how often prison visits were conducted, whether the State party had established an independent mechanism with a mandate to inspect all places of deprivation of liberty and how the authorities treated the findings and recommendations arising from the visits.

14. The Committee welcomed the creation of the National Reforms Authority and would appreciate further details about its impact, the status of the reforms pursued by the Government after the Authority had been dissolved in 2022 and any effect of the reforms on the 2022 and upcoming elections. She wondered whether, following a period of multiple elections between 2012 and 2017, subsequent elections had been organized in keeping with international standards. What was the status of the Omnibus Bill and might it be replaced with separate laws on specific topics?

15. **Mr. Yigezu** said that, while he commended the State party for several of the legislative, institutional and budgetary measures it had taken with regard to human trafficking, concerns remained about the considerable backlog of investigations and prosecutions in cases of trafficking, including some allegedly involving State officials, and about the reliance on non-governmental organizations for the provision of services to victims. Accordingly, he invited the delegation to explain how the State party intended to boost investigative and prosecutorial capacity, provide appropriate reparations to victims and increase the allocation to the trust fund for victims of trafficking. He would like the delegation to provide data, for the past five years, on the number of trafficking cases brought before the

courts, the number of people prosecuted and convictions handed down, and the reparations awarded to victims.

16. Noting that despite the State party's efforts, children continued to engage in some of the worst forms of child labour, including animal herding, he would welcome information on the specific measures envisaged to remove children from hazardous work and provide them with rehabilitation and reintegration services, as well as information on the impact of the Minimum Employment Guidelines for Shepherds/Herdboys. Similarly, he wished to know what measures the State party intended to take to protect child domestic workers, particularly girls, from abuse and whether it was considering prohibiting the use of children in domestic work.

17. Further details on the contents of the Receipt and Access to Information Bill and the time frame for its enactment would be appreciated, as would information on the status and contents of the bill to address the challenges faced by the Directorate on Corruption and Economic Offences, especially with regard to its operational and financial autonomy.

18. **Mr. Santos Pais** said that he wished to know whether the State party would consider issuing specific recommendations to encourage police officers to undertake proper investigations before arresting suspects. It would be good to know how many complaints of failures to bring detainees before a judge within 48 hours and to respect the maximum detention period had been received, what the outcome of the complaints had been and whether disciplinary or criminal proceedings had been launched against the police officers involved. He would welcome information on the available alternatives to pretrial detention, as well as clarification of whether police officers' power to search individuals or homes without a warrant was subject to prior judicial authorization or subsequent judicial review. Was that power monitored by the police force alone and had there been any complaints of its misuse?

19. The Committee would appreciate details of any planned measures, other than those described in the report, to increase the effectiveness of the judiciary and the Office of the Director of Public Prosecution, to increase the judicial system's budget and to recruit more skilled judges and prosecutors. He would particularly like to know whether the recent recruitment of judges to the High Court would continue in future. He wished to know whether the Court of Appeal would be made a permanent institution, whether there was a timetable for justice sector reform, how delays in the administration of justice were to be reduced and whether the recruitment of qualified professionals, such as ballistics experts, to the criminal justice system would be increased significantly and the necessary equipment purchased. It would be useful to know how the State party dealt with misconduct and corruption among judges, what legal provisions applied to judges and prosecutors subject to disciplinary or criminal proceedings and whether staff members of the Office of the Director of Public Prosecution were required to declare their assets and income.

20. It would be interesting to hear what reforms to the Judicial Service Commission had been proposed. He would like to know how it would be ensured that the selection, appointment, career progression, discipline and removal of judges complied with the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors, and whether the State party would consider establishing self-governing bodies for judges and prosecutors. He would welcome confirmation that judges and prosecutors enjoyed security of tenure and were appointed for life, and he wondered whether the State party would consider reviewing their conditions of service, including their salaries. It would be good to have information on the size and gender composition of the judiciary and the Office of the Director of Public Prosecution and on allegations that high-profile and political cases were subject to prolonged delays and judged with partiality, and that the legal practitioners involved sometimes faced intimidation. How would legal aid be strengthened?

21. **Mr. El Haiba** said that the Committee would welcome information on the progress made in establishing the Data Protection Commission envisaged in the Data Protection Act, or, if such a commission already existed, on its mandate and budget. He would also be interested to hear what legal guarantees applied to security agencies' power to intercept postal and telephone communications, whether the interception of telephone communications was

subject to judicial control and what recourse was available to citizens whose right to privacy had been violated.

22. He wished to know whether the reasons for denying the registration of a newspaper were limited to similarities in names, as set out in paragraph 165 of the report, how many national newspapers were registered and how many times registration had been refused. He would welcome examples of cases in which journalists had appealed refusals in the courts, including information on the follow-up given to those complaints. It would be important to know on what grounds, other than reasons of national security, the Ministry of Communications could restrict, suspend or withdraw broadcasting licences and whether such decisions could be appealed. Information would be welcome on the nature of the disputes addressed by the Broadcasting Disputes Resolution Panel, including examples of suspensions or withdrawals of broadcasting licences, and the reasons, since the lifting of the moratorium on new licences. It would also be useful to know what progress had been made in the drafting of a broadcasting code and what its main objectives were. Clarification was required as to the relationship between the Lesotho Telecommunications Authority and the Media Institute of Lesotho. Lastly, he would welcome information on the circumstances surrounding the death of a journalist working for a local radio station in Maseru on 14 May 2023.

23. **Mr. Ndiaye** said that he would appreciate clarification of the regulatory framework for the registration and operation of trade unions and political parties, as well as information on cases from the previous five years in which such organizations had been denied registration. He would also welcome details of the system for organizing public demonstrations and other peaceful assemblies, and of any demonstrations that had been authorized by the courts after being prohibited by the executive in recent years. It would be important to hear how the State party had followed up the arrests of student leaders and prosecuted those responsible for the excessive use of force during student demonstrations in the previous five years, including information on the status of those prosecutions and the reparations granted to victims.

The meeting was suspended at 11 a.m. and resumed at 11.30 a.m.

24. **A representative of Lesotho** said that although torture and other cruel and degrading treatment did occur, efforts were being made to combat it, including through education campaigns and the dissemination of information on torture perpetrated by security and law enforcement agencies. The Cabinet had approved the drafting of a policy on torture, which would pave the way for legislation that would prevent and punish the act and provide redress to victims. The Government was preparing its initial report to the Committee against Torture and would undertake consultation on ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. All law enforcement agencies had benefited from human rights training provided by the Government or civil society organizations. Officers of the Lesotho Correctional Service implicated in cases of torture had been disciplined and charged with crimes under the Penal Code. The courts awarded damages to victims of torture.

25. **A representative of Lesotho** said that the Government intended to establish a trust fund for victims of human trafficking, who received care at a dedicated centre. New anti-trafficking legislation provided for lengthy prison sentences for perpetrators, without the option of paying a fine. Police officers received both initial and in-service training on human trafficking; human rights matters, including trafficking, had been incorporated into modules taught at the Police Training College. The investigatory capacity of the Directorate on Corruption and Economic Offences had been boosted by a 67 per cent increase to its budget that would permit an increase to its staff and improved training on the conduct of investigations and prosecutions. The current requirement for the Directorate to obtain the authorization of the Office of the Director of Public Prosecution was being examined. The claim that it did not prosecute persons with political connections was untrue, as illustrated by several recent cases in which such persons, some of them ministers, had been found guilty and fined.

26. **A representative of Lesotho** said that, thanks to the awareness-raising efforts of the Legal and Human Rights Unit of the Lesotho Correctional Service, there had been a fall in complaints lodged by inmates, from 15 in 2020 to one in 2023. The International Committee

of the Red Cross and the African Commission on Human and Peoples' Rights had both made recent visits to prisons, and their recommendations were being implemented gradually, resulting in improvements to, for example, inmates' health and training.

27. **Mr. Ramoetsi** (Lesotho) said that the Government was working with employers' and workers' organizations to develop guidelines that would improve working conditions for children working as herdboys, for example by ensuring that they were remunerated in cash, rather than in kind. The Ministry of Labour and Employment was leading the implementation of the plan of action to eliminate child labour, and awareness was being raised of the change to the compulsory school age, which now encompassed secondary school. Compulsory education was free and, in an effort to address the fact that children from disadvantaged families commonly sought employment once they had completed primary education at the age of 12, bursaries were provided until they completed secondary school at the age of 18.

28. **Mr. Matjama** (Lesotho) said that, owing to limited financial resources, it had not yet been possible to establish the Data Protection Commission. The Government would consider doing so when the financial situation permitted.

29. Under the Constitution, the use of wiretapping to gain access to an individual's personal information was allowed only with the authorization of a competent court of law.

30. There was a clear dividing line between the Lesotho Telecommunications Authority (LTA), a statutory regulatory body, and the Media Institute of Lesotho, an advocacy body set up under the Societies Act. The two collaborated in journalist training programmes, particularly in the field of electoral reporting, and both were represented on the dispute resolution body established under LTA. The Government's 2021 Media Policy would help guide decisions relating to the review and possible repeal of the media laws currently in force, as part of the National Reform Process.

31. Four suspects had been arrested in relation to the death of the journalist working for a local radio station in Maseru in May 2023. Based on the official police statement released the following month, the Government had concluded that the unfortunate incident was completely unrelated to the issue of freedom of expression.

32. **Mr. Ramoetsi** (Lesotho) said that the Government continually sought the support of foreign judges, who made up all the judges at the Court of Appeal apart from its president. Budgetary constraints had delayed the recommended increase in the number of local judges. The Government would welcome assistance to reduce the current backlog of court cases, responsibility for which lay not only with judges but also with prosecutors and private lawyers, who had postponed cases unnecessarily.

33. Public officials, including the Prime Minister, cabinet ministers and judges, were required by law to declare their assets to the Directorate on Corruption and Economic Offences on an annual basis.

34. **A representative of Lesotho** said that nine new judges had been recruited to the High Court. The recruitment process had been transparent: the positions had been advertised, candidates had applied and been vetted, and the interviews had been conducted in public and broadcast live. The Witness Protection Act of 2021 had established a witness protection programme to encourage witnesses who might otherwise have feared reprisals to testify in court. The Government intended to set up a permanent court of appeal, which would be called the Supreme Court. Judges retired at 75 years of age and the aim was for the Chief Justice, the Deputy Chief Justice and other judges of the Supreme Court to retire at 75 years of age or after serving for 15 years, whichever came first. Judges were removed from office by the King, acting on the advice of the Judicial Service Commission, which was expected to maintain its advisory role after the National Reform Process. When the Commission received a complaint about a judge being unable to perform the necessary functions, it appointed a tribunal to look into the matter and advise the Commission on the course of action to take.

35. The Judicial Service Commission was currently composed of four members: the Chief Justice, who served as chair, a high-court judge, the Attorney General and the chair of the Public Service Commission. Under the National Reform Process, the future membership would be amended and expanded to include the Chief Justice, the Judge-President of the High Court, the President of the Labour Court, the chief magistrate, the Attorney General, a senior

legal practitioner designated by the Law Society, a senior law lecturer from the National University of Lesotho and a representative of a civil society organization nominated by the Lesotho Council of Non-Governmental Organizations.

36. The judiciary was currently hamstrung by a lack of financial resources. Its budget would hopefully be fixed at a percentage of the annual budget by an act of parliament.

37. **A representative of Lesotho** said that freedom of assembly was governed by the Public Meetings and Processions Act of 2010. In the case of *Socialist Revolutionaries v. COMPOL et al.*, the court had cited the right to freedom of expression and the right to freedom of assembly in its decision to overturn the refusal by the police to grant the political party in question a permit to hold a peaceful demonstration. That showed how the rights enshrined in the Constitution were protected by the courts and how corrective measures were taken seriously.

38. The National Reforms Authority had been replaced by a transitional authority which was coordinating all activities involved in the National Reform Process. The Process had not been under way at the time of the 2022 elections and therefore could not be said to have had an impact on them. However, the elections had been held in compliance with international standards. International observers, including United Nations representatives who had been present before, during and after the elections, had declared unanimously that they had been conducted in a free and fair manner.

39. **Mr. Ramoeletsi** (Lesotho) said that the Government had ratified the International Labour Organization (ILO) Labour Relations (Public Service) Convention, 1978 (No. 151); it had also amended the provisions of the Public Service Act (2005) and presented them to Cabinet for approval in July 2023. As a result, public officials would be allowed to join trade unions of their choice and take strike action. The 50 per cent threshold which public officials had to meet before their association could bargain with the Government would also be repealed. Labour legislation was being amended accordingly.

40. **A representative of Lesotho** said that health-care staff working in correctional facilities were fully qualified and the quality of the care provided was monitored by the Ministry of Health, ensuring that inmates in such facilities enjoyed decent primary health care. There were three main centres attending to the primary health-care needs of inmates, while all correctional facilities in all of the country's 10 districts had small dispensaries. The fact that places of detention were situated close to public hospitals was helpful in an emergency or when a specialist was needed.

41. Measures designed to reduce prison overcrowding included the Speedy Court Trials Act of 2002 and the release of prisoners on parole for good behaviour. The country's southern districts had a shortage of prison and correctional facilities for women and young offenders, who therefore had to be transported to and from the central prison in Maseru; transporting them was expensive, logistically problematic and inconvenient for the courts and correctional facilities involved. The Government was hopeful that budgetary allocations would allow suitable facilities to be provided in the south in the future.

42. **A representative of Lesotho** said that measures undertaken to stop law enforcement agencies from using torture as a means to obtain evidence when investigating crimes included a training manual for new police recruits drawn up by the Government and the National University of Lesotho. The Ministry of Police and Public Safety was a member of the Southern Africa Regional Police Chiefs Cooperation Organization and other regional and international bodies which provided training on how to investigate crimes without resorting to torture and other inhuman treatment, and staff of the Ministry of Police received human rights training from OHCHR. The Government was confident that, with more training and capacity-building initiatives, it would be possible to draw up a policy on the accountability of law enforcement agencies for cases of torture perpetrated by them.

43. **A representative of Lesotho** said that efforts were being made to combat the incidence of arbitrary arrest by law enforcement officials, including education designed to instil a culture in which investigations were conducted before arrests were made. A shortage of financial and human resources negatively affected the ability of the police to conduct

investigations. Their facilities were limited to a single laboratory and their specialist staff consisted of five ballistics experts, four fingerprint experts and one pathologist.

44. **A representative of Lesotho** said that the conditions for the registration of political parties were laid down in the Societies Act. The relevant body was the Office of the Registrar General, which reported to the Ministry of Justice, Law and Parliamentary Affairs. No statistics were kept on political parties whose application for registration was rejected. The number of political parties had increased from 27 to 65 between the 2017 and 2022 elections.

45. **A representative of Lesotho** said that the Office of the Director of Public Prosecution was staffed by 47 prosecutors: 22 were women and 25 men. The Director was a woman.

46. **Mr. Santos País** said that he wished to know whether the State party made use of non-custodial alternatives to pretrial detention to reduce the number of persons in prisons, whether the police were required to obtain judicial authorization prior to conducting searches of persons or premises and whether such searches were subject to judicial review. He also wished to know if the Attorney General, to whom the Director of Public Prosecution reported, was a member of Cabinet: if so, that might suggest that the Director was not sufficiently independent of the Government.

47. **Mr. El Haiba** said he would appreciate clarification of the role that non-governmental organizations (NGOs) played in disseminating and promoting the Covenant in the State party. He wished to know when the Data Protection Commission was expected to be established, what steps the State party took to ensure that political parties were able to express their political views on State-run media during elections, and whether the circumstances surrounding the recent killing of a journalist would be determined by the courts.

48. **Ms. Šurlan** said that she wished to know what mechanisms victims of torture could use to obtain compensation and whether their ability to obtain compensation was hindered by the fact that torture was not a specific criminal offence. She would be grateful for further information on the cases of the 30 police officers facing criminal prosecution or disciplinary hearings who were mentioned in paragraph 119 of the State party's second periodic report.

49. **Mr. Yigezu** said that he wished to know whether any legislative amendments were planned that would prohibit the use of corporal punishment on children and in prisons, what had caused the backlog in the handling of cases of human trafficking, whether the State party intended to end the involvement of children in the hazardous work of herding cattle, and what the status was of the bills on the Directorate on Corruption and Economic Offences and access to information that were before Parliament.

50. **A representative of Lesotho** said that Lesotho had one national television station, about 10 independent radio stations and 16 newspapers. During elections, all political parties received coverage in both electronic and print media. The parties did not have to pay for appearances on either the national television station or national radio stations.

51. **A representative of Lesotho** said that NGOs had been involved in various activities relating to the Covenant, including the drafting of the periodic report and the establishment of the National Human Rights Commission. A list of the relevant NGOs would be provided to the Committee.

52. **Mr. Matjama** (Lesotho) said that the Government could not commit to a specific time frame for the establishment of the Data Protection Commission because of the financial challenges that it faced, including those related to the country's recovery from the coronavirus disease (COVID-19) pandemic.

53. The four suspects in the unfortunate death of the journalist referred to by Mr. El Haiba had been remanded in custody. One of the four had made a claim of wrongful arrest and requested that his case should be considered separately. The hearings on that request had been completed the previous day, and the main court proceedings would now continue.

54. **Mr. Ramoeletsi** (Lesotho) said that the motivations behind the killing of the journalist would be determined by the court.

55. **A representative of Lesotho** said that, in the recent past, no newspaper registrations had been withdrawn and no applications for the registration of a newspaper had been denied.

The Government planned to disconnect the base transceiver station that it used from the ones used by other radio stations because, whenever it performed maintenance on the base transceiver station, the other radio stations' broadcasts were disrupted. The Government planned to set up another base transceiver station specifically for private radio stations. Political parties were free to appear on radio and television, criticize the Government and express their views on the Government's work even in the run-up to elections.

56. **A representative of Lesotho** said that, in civil court claims lodged by torture victims, the Attorney General's representatives typically did not deny liability. The issue for the judge to decide was how much compensation should be granted. Under the Constitution, the Director of Public Prosecution had sole authority to institute or stop criminal proceedings. The Attorney General was not a Cabinet member but did attend formal Cabinet meetings.

57. **A representative of Lesotho** said that prisons in Lesotho were not congested. With respect to alternatives to pretrial detention, bail was provided for by law and restorative justice measures were applied. Diversion programmes were also in place.

58. **Mr. Ramoeletsi** (Lesotho) said responses to the questions that the delegation had not yet been able to answer would be provided in writing.

The meeting rose at 1 p.m.