

# CONSTITUTION OF LESOTHO

*Adopted in 1993,  
Amended 1996, 1997, 1998, 2001*

## CHAPTER I: THE KINGDOM AND ITS CONSTITUTION

### 1. The Kingdom and its territory

(1) Lesotho shall be a sovereign democratic kingdom.

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### 2. The Constitution

This Constitution is the supreme law of Lesotho and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void.

### 3. Official languages, National Seal, etc

(1) The official languages of Lesotho shall be Sesotho and English, and accordingly, no instrument or transaction shall be invalid by reason only that it is expressed or conducted in one of those languages.

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## CHAPTER II: PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

### 4. Fundamental human rights and freedoms

(1) Whereas every person in Lesotho is entitled, whatever his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status to fundamental human rights and freedoms, that is to say, to each and all of the following –

- (a) the right to life;
- (b) the right to personal liberty;
- (c) freedom of movement and residence;
- (d) freedom from inhuman treatment;
- (e) freedom from slavery and forced labour;
- (f) freedom from arbitrary search or entry;
- (g) the right to respect for private and family life;
- (h) the right to a fair trial of criminal charges against him and to a fair determination of his civil rights and obligations;
- (i) freedom of conscience;
- (j) freedom of expression;
- (k) freedom of peaceful assembly;
- (l) freedom of association;
- (m) freedom from arbitrary seizure of property;
- (n) freedom from discrimination;
- (o) the right to equality before the law and the equal protection of the law; and
- (p) the right to participate in government,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms, subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

(2) For the avoidance of doubt and without prejudice to any other provision of this Constitution it is hereby declared that the provisions of this Chapter shall, except where the context otherwise requires, apply as well in relation to things done or omitted to be done by persons acting in a private capacity (whether by virtue of any written law or otherwise) as in relation to things done or omitted to be done by or on behalf of the Government of Lesotho or by any person acting in the performance of the functions of any public office or any public authority.

## **5. Right to life**

(1) Every human being has an inherent right to life. No one shall be arbitrarily deprived of his life.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is necessary in the circumstances of the case -

- (a) for the defence of any person from violence or for the defence of property;
  - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - (c) for the purpose of suppressing a riot, insurrection or mutiny; or
  - (d) in order to prevent the commission by that person of a criminal offence,
- or if he dies as the result of a lawful act of war or in execution of the sentence of death imposed by a court in respect of a criminal offence under the law of Lesotho of which he has been convicted.

## **6. Right to personal liberty**

(1) Every person shall be entitled to personal liberty, that is to say, he shall not be arrested or detained save as may be authorised by law in any of the following cases, that is to say -

- (a) in execution of the sentence or order of a court, whether established for Lesotho or for some other country, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of the court punishing him for contempt of that court or of a tribunal;
- (c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;
- (d) for the purpose of bringing him before a court in execution of the order of a court;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Lesotho;
- (f) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care and treatment or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into Lesotho, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Lesotho or for the purpose of restricting that person while he is being conveyed through Lesotho in the course of his extradition or removal as a convicted prisoner from one country to another; or
- (j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Lesotho or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Lesotho in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as is reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained -

- (a) for the purpose of bringing him before a court in execution of the order of a court; or
- (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be brought before a court as soon as is reasonably practicable, and where he is not brought before a court within forty-eight hours of his arrest or from the commencement of his detention, the burden of proving that he has been brought before a court as soon as is reasonably practicable shall rest upon any person alleging that the provisions of this subsection have been complied with.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he

shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

**(5)** If any person arrested or detained upon suspicion of his having committed, or being able to commit, a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

**(6)** Without prejudice to the generality of any other provision of this Constitution or any other law by virtue of which a person is entitled to redress for a contravention of this section, any person shall be entitled to compensation from that other person or from any other person or authority on whose behalf that other person was acting.

## **7. Freedom of movement**

**(1)** Every person shall be entitled to freedom of movement, that is to say, the right to move freely throughout Lesotho, the right to reside in any part of Lesotho, the right to enter Lesotho, the right to leave Lesotho and immunity from expulsion from Lesotho.

**(2)** Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

**(3)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

(a) for the imposition of restrictions in the interest of defence, public safety, public order, public morality or public health on the movement of residence within Lesotho of any person or any person's right to leave Lesotho:

Provided that a person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in this paragraph except to the extent to which he satisfies the court that the provision or, as the case may be, the thing done under the authority thereof does not restrict the movement or residence within Lesotho or the right to leave Lesotho of the person concerned to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in this paragraph;

(b) for the imposition of restrictions, by order of a court, on the movement or residence within Lesotho of any person or on any person's right to leave Lesotho either in consequence of his having been convicted of a criminal offence under the law of Lesotho or for the purpose or ensuring that he appears before a court at a later date for trial in respect of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Lesotho;

(c) for the prohibition from entry into Lesotho of a person who is not a citizen of Lesotho;

(d) for the imposition of restrictions on the freedom of movement of any person who is not a citizen of Lesotho;

(e) for the imposition of restrictions on the acquisition or use by any person of land or other property in Lesotho;

(f) for the imposition of restrictions upon the movement or residence within Lesotho or on the right to leave Lesotho of any public officer;

(g) for the removal of a person from Lesotho to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence of which he has been convicted under the law of Lesotho; or

(h) for the imposition of restrictions on the right of any person to leave Lesotho that are necessary in a practical sense in a democratic society in order to secure the fulfilment of any obligations imposed on that person by law.

**(4)** If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) so requests at any time during the period of that restriction not earlier than one month after the order was made or three months after he last made such a request, as the case may be, his case shall be investigated by an independent and impartial tribunal presided over by a person appointed by the Chief Justice:

Provided that a person whose freedom of movement has been restricted by virtue of a restriction that is applicable to persons generally or to general classes of persons shall not make a request under this subsection unless he has first obtained the consent of the High Court.

(5) On any investigation by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendation.

(6) Nothing contained in or done under the authority or any provision of the customary law of Lesotho shall be held to be inconsistent with or in contravention of this section to the extent that that provision authorises the imposition of restrictions upon any person's freedom to reside in any part of Lesotho.

### **8. Freedom from inhuman treatment**

(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Lesotho immediately before the coming into operation of this Constitution.

### **9. Freedom from slavery and forced labour**

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression "forced labour" does not include -

- (a) any labour required in consequence of the sentence or order of a court;
- (b) any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably required in the interests of hygiene or for the maintenance of the place at which he is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a military or air force, any labour that that person is required by law to perform in place of such service;
- (d) any labour required during any period when Lesotho is at war or a declaration of emergency under section 23 of this Constitution is in force or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or
- (e) any labour reasonably required by law as part of reasonable and normal community or other civic obligations.

### **10. Freedom from arbitrary search or entry**

(1) Every person shall be entitled to freedom from arbitrary search or entry, that is to say, he shall not (except with his own consent) be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

- (a) in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of mineral resources or the development or utilisation of any other property in such a manner as to promote the public benefit;
- (b) for the purpose of protecting the rights or freedoms of other persons;
- (c) that authorises an officer or agent of the Government of Lesotho or of a local government authority or of a body corporate established by law for public purposes to enter on the premises of any person for the purpose of inspecting those premises or anything thereon in connection with any tax, rate or due or for the purpose of carrying out work connected with any property that is lawfully on those premises and that belongs to that government, authority or body corporate, as the case may be; or
- (d) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the entry upon any premises by order of a court.

**(3)** A person shall not be permitted to rely on any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the freedom guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b), (c) or (d).

#### **11. Right to respect for private and family life**

**(1)** Every person shall be entitled to respect for his private and family life and his home.

**(2)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedoms of other persons.

**(3)** A person shall not be permitted to rely on any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the right guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for the purpose specified in subsection 2(b).

#### **12. Right to a fair trial, etc**

**(1)** If any person is charged with a criminal offence, then unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

**(2)** Every person who is charged with a criminal offence -

(a) shall be presumed to be innocent until he is proved or has pleaded guilty;

(b) shall be informed as soon as reasonably practicable, in a language that he understands and in adequate detail, of the nature of the offence charged;

(c) shall be given adequate time and facilities for the preparation of his defence;

(d) shall be permitted to defend himself before the court in person or by a legal representative of his own choice;

(e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

**(3)** When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

**(4)** No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for a criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

**(5)** No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall be tried again for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

**(6)** No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

**(7)** No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

**(8)** Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

**(9)** Except with the agreement of all parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

**(10)** Nothing in subsection (9) shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority -

(a) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

(b) may by law be empowered or required to do in the interests of defence, public safety or public order.

**(11)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of -

(a) subsection (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(b) subsection (2)(e) to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of accused persons are to be paid their expenses out of public funds; or

(c) subsection (5) to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

**(12)** In the case of any person who is held in lawful detention the provisions of subsection (1), subsections (2)(d) and (e) and subsection (3) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

**(13)** Nothing contained in subsection (2)(d) shall be construed as entitling a person to legal representation at public expense.

**(14)** In this section "criminal offence" means a criminal offence under the law of Lesotho.

### **13. Freedom of conscience**

**(1)** Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of, freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

**(2)** Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any places of education which it wholly maintains or in the course of any education which it otherwise provides.

**(3)** Except with his own consent (or, if he is a minor, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

**(4)** No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

**(5)** Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion.

(6) A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (5) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the rights and freedoms guaranteed by this section to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (5)(a) or for the purpose specified in subsection (5)(b).

(7) Reference in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

#### **14. Freedom of expression**

(1) Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of, freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; or

(c) for the purpose of imposing restrictions upon public offenders.

(3) A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the freedom guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection 2(b) or (c).

(4) Any person who feels aggrieved by statements or ideas disseminated to the public in general by a medium of communication has the right to reply or to require a correction to be made using the same medium, under such conditions as the law may establish.

#### **15. Freedom of peaceful assembly**

(1) Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of freedom of peaceful assembly, without arms, that is to say, freedom to assemble with other persons.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

(a) in the interests of defence, public safety, public order, public morality or public health;

(b) for the purpose of protecting the rights and freedoms of other persons; or

(c) for the purpose of imposing restrictions upon public officers.

(3) A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the rights and freedoms guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b) or (c).

#### **16. Freedom of association**

(1) Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of freedom to associate freely with other persons for ideological, religious, political, economic, labour, social, cultural, recreational and similar purposes.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of any law to the extent that the law in question makes provision -

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights and freedoms of other persons; or
- (c) for the purpose of imposing restrictions upon public officers.

(3) A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the rights and freedoms guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b) or (c).

#### **17. Freedom from arbitrary seizure of property**

(1) No property, movable or immovable, shall be taken possession of compulsorily, and no interest in or right over any such property shall be compulsorily acquired, except where the following conditions are satisfied, that is to say -

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit; and
- (b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.

(2) Every person having an interest in or right over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for -

- (a) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled; and
- (b) the purpose of obtaining prompt payment of that compensation:

Provided that if Parliament so provides in relation to any matter referred to in paragraph (a) the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) from a tribunal or authority, other than the High Court, having jurisdiction under any law to determine that matter.

(3) The Chief Justice may make rules with respect to the practice and procedure of the High Court or any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) or (2) -

- (a) to the extent that the law in question makes provision that is necessary in a practical sense in a democratic society for the taking of possession or acquisition of any property, interest or right -
  - (i) in satisfaction of any tax, duty, rate, or other impost;
  - (ii) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Lesotho;
  - (iii) as an incident of a valid contract or of the terms and conditions of service of a public officer;
  - (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
  - (v) in circumstances where it is reasonably necessary to do so because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
  - (vi) in consequence of any law with respect to prescription or limitation of actions;



- (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purpose of carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out); or
- (viii) in satisfaction of the right conferred under section 14(4); or
- (b) to the extent that the law in question makes provision for the taking of possession or acquisition of the following property (including an interest in or right over property), that is to say -
  - (i) enemy property;
  - (ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of twenty-one years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
  - (iii) property of a person adjudged insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
  - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.
- (5) Nothing contained in or done under the authority of any Act of Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the Act in question makes provision for the compulsory taking possession of any property or the compulsory acquisition of any interest in or right over property where that property, interest or right is vested in a body corporate established by law for public purposes, in which no moneys have been invested other than moneys provided by Parliament.

#### **18. Freedom from discrimination**

- (1) Subject to the provisions of subsections (4) and (5) no law shall make any provision that is discriminatory either of itself or in its effect.
- (2) Subject to the provisions of subsection (6), no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.
- (3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.
- (4) Subsection (1) shall not apply to any law to the extent that that law makes provision -
  - (a) with respect to persons who are not citizens of Lesotho; or
  - (b) for the application, in the case of persons of any such description as is mentioned in subsection (3)(or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description; or
  - (c) for the application of the customary law of Lesotho with respect to any matter in the case of persons who, under that law, are subject to that law; or
  - (d) for the appropriation of public revenues or other public funds; or
  - (e) whereby persons of any such description as is mentioned in subsection (3) may be made subject to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those or to persons of any other such description, is reasonably justifiable in a democratic society.

Nothing in this subsection shall prevent the making of laws in pursuance of the principle of state policy of promoting a society based on equality and justice for all the citizens of Lesotho and thereby removing any discriminatory law.

- (5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards of qualifications (not being standard of qualifications specifically relating to race, colour, sex, language, religion,

political or other opinion, national or social origin, property, birth or other status) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, any office in the service of a local government authority or any office in a body corporate established by law for public purposes.

(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).

(7) No person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging houses, public restaurants, eating houses, beer halls or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

(8) The provisions of this section shall be without prejudice to the generality of section 19 of this Constitution.

### **19. Right to equality before the law and the equal protection of the law**

Every person shall be entitled to equality before the law and to the equal protection of the law.

### **20. Right to participate in government**

(1) Every citizen of Lesotho shall enjoy the right –

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) to vote to stand for election at periodic elections under this Constitution under a system of universal and equal suffrage and secret ballot;
- (c) to have access, on general terms of equality, to the public service.

(2) The rights referred to in subsection (1) shall be subject to the other provisions of this Constitution.

### **21. Derogation from fundamental human rights and freedoms**

(1) Nothing contained in or done under the authority of an Act of Parliament shall be held to be inconsistent with or in contravention of section 6, section 18 or section 19 of this Constitution to the extent that the Act authorises the taking during any period when Lesotho is at war or when a declaration of emergency under section 23 of this Constitution is in force of measures that are necessary in a practical sense in a democratic society for dealing with the situation that exists in Lesotho during that period.

(2) When a person is detained by virtue of any such law as is referred to in subsection (1) the following provisions shall apply, that is to say –

- (a) he shall, as soon as reasonably practicable after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;
- (b) not more than fourteen days after the commencement of his detention, a notification shall be published in the *Gazette* stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
- (c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be investigated by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice;
- (d) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to appear in make representations to the tribunal appointed for the investigation of the case of the detained person; and
- (e) at the hearing of his case by the tribunal appointed for the investigation of his case he shall be permitted to appear in person or by a legal representative of his own choice.

(3) On any investigation by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

(4) Nothing contained in subsection (2)(d) or (e) shall be construed as entitling a person to legal representation at public expense.

### **22. Enforcement of protective provisions**

(1) If any person alleges that any of the provisions of sections 4 to 21 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction -

- (a) to hear and determine any application made by any person in pursuance of subsection (1); and
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3).

and may make such orders, issue such process and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 4 to 21 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of sections 4 to 21 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3), the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal under section 129 of this Constitution to the Court of Appeal, in accordance with the decision of the Court of Appeal.

(5) Parliament may confer upon the High Court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purposes of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

### **23. Declaration of emergency**

(1) In time of war or other public emergency which threatens the life of the nation, the Prime Minister may, acting in accordance with the advice of the Council of State, by proclamation which shall be published in the *Gazette*, declare that a state of emergency exists for the purposes of this Chapter.

(2) Every declaration of emergency shall lapse at the expiration of fourteen days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of each House of Parliament.

(3) A declaration of emergency may at any time be revoked by the Prime Minister acting in accordance with the advice of the Council of State, by proclamation which shall be published in the *Gazette*.

(4) A declaration of emergency that has been approved by a resolution of each House of Parliament in pursuance of subsection (2) shall, subject to the provisions of subsection (3), remain in force so long as those resolutions remain in force and no longer.

(5) A resolution of either House of Parliament passed for the purposes of this section shall remain in force for six months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding six months from the date of the resolution effecting the extension.

(6) Where the resolutions of the two Houses of Parliament made under subsection (2) or (5) differ, the resolution of the National Assembly shall prevail.

(7) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

(8) The King may summon the two Houses of Parliament to meet for the purposes of this section notwithstanding that Parliament then stands dissolved, and the persons who were

members of either House immediately before the dissolution shall be deemed, for those purposes, still to be members of that House, but, subject to the provisions of sections 61(4) and 63(4) of this Constitution, neither House shall, when summoned by virtue of this subsection, transact any business other than debating and voting upon resolutions for the purposes of this section.

...

### **CHAPTER III: PRINCIPLES OF STATE POLICY**

#### **25. Application of the principles of state policy**

The principles contained in this Chapter shall form part of the public policy of Lesotho. These principles shall not be enforceable by any court but, subject to the limits of the economic capacity and development of Lesotho, shall guide the authorities and agencies of Lesotho, and other public authorities, in the performance of their functions with a view to achieving progressively, by legislation or otherwise, the full realisation of these principles.

#### **26. Equality and justice**

(1) Lesotho shall adopt policies aimed at promoting a society based on equality and justice for all its citizens regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) In particular, the state shall take appropriate measures in order to promote equality of opportunity for the disadvantaged groups in the society to enable them to participate fully in all spheres of public life.

#### **27. Protection of health**

(1) Lesotho shall adopt policies aimed at ensuring the highest attainable standard of physical and mental health for its citizens, including policies designed to -

- (a) provide for the reduction of stillbirth rate and of infant mortality and for the healthy development of the child;
- (b) improve environmental and industrial hygiene;
- (c) provide for the prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) create conditions which would assure to all, medical service and medical attention in the event of sickness; and
- (e) improve public health.

*[there is no section 27(2) – ed]*

#### **28. Provision for education**

Lesotho shall endeavour to make education available to all and shall adopt policies aimed at securing that –

- (a) education is directed to the full development of the human personality and sense of dignity and strengthening the respect for human rights and fundamental freedoms;
- (b) primary education is compulsory and available to all;
- (c) secondary education, including technical and vocational education, is made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;
- (d) higher education is made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by the progressive introduction of free education; and
- (e) fundamental education is encouraged or intensified as far as possible for those persons who have not received or completed their primary education.

#### **29. Opportunity to work**

(1) Lesotho shall endeavour to ensure that every person has the opportunity to gain his living by work which he freely chooses or accepts.

(2) Lesotho shall adopt policies aimed at -

- (a) achieving and maintaining as high and stable a level of employment as possible;
- (b) providing technical and vocational guidance and training programmes; and

- (c) achieving steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

### **30. Just and favourable conditions of work**

Lesotho shall adopt policies aimed at securing just and favourable conditions of work and in particular policies directed to achieving -

- (a) remuneration which provides all workers, as a minimum with -
  - (i) fair wages and equal remuneration for work of equal value without distinction of any kind, and in particular, women being guaranteed conditions of work, including pension or retirement benefits, not inferior to those enjoyed by men, with equal pay for equal work; and
  - (ii) a decent living for themselves and their families;
- (b) safe and healthy working conditions;
- (c) equal opportunity for men and women to be promoted in their employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) the protection of women who are in employment during a reasonable period before and after childbirth; and
- (e) rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

### **31. Protection of workers' rights and interests**

Lesotho shall take appropriate steps in order to encourage the formation of independent trade unions to protect workers' rights and interests and to promote sound labour relations and fair employment practices.

### **32. Protection of children and young persons**

Lesotho shall adopt policies designed to provide that -

- (a) protection and assistance is given to all children and young persons without any discrimination for reasons of parentage or other conditions;
- (b) children and young persons are protected from economic and social exploitation;
- (c) the employment of children and young persons in work harmful to their morals or health or dangerous to life or likely to hamper their normal development is punishable by law; and
- (d) there are age limits below which the paid employment of children and young persons is prohibited and punishable by law.

### **33. Rehabilitation, training and social resettlement of disabled persons**

With a view to ensuring the rehabilitation, training and social resettlement of disabled persons, Lesotho shall adopt policies designed to -

- (a) provide for training facilities, including specialised institutions, public or private; and
- (b) place disabled persons in employment and encourage employers to admit disabled persons to employment.

### **34. Economic opportunities**

Lesotho shall adopt policies which encourage its citizens to acquire property including land, houses, tools and equipment; and shall take such other economic measures as the state shall consider affordable.

### **35. Participation in cultural activities**

(1) Lesotho shall endeavour to ensure that every citizen has an opportunity to freely participate in the cultural life of the community and to share in the benefits of scientific advancement and its application.

(2) Lesotho shall adopt policies designed to protect the interests of any citizen in any scientific, literary or artistic production of which he is the author.

### **36. Protection of the environment**

Lesotho shall adopt policies designed to protect and enhance the natural and cultural environment of Lesotho for the benefit of both present and future generations and shall

endeavour to assure to all citizens a sound and safe environment adequate for their health and well-being.

...

## CHAPTER V: THE KING

### 44. The Office of King

(1) There shall be a King of Lesotho who shall be a constitutional monarch and Head of State.

(2) The King shall do all things that belong to his office in accordance with the provisions of this Constitution and of all other laws for the time being in force and shall faithfully comply with the terms of the oath of the office of King set out in Schedule I to this Constitution.

...

### 50. Protection of the King and of certain persons in respect of legal proceedings

(1) Whilst any person holds the office of King, he shall be entitled to immunity from suit and legal process in any civil cause in respect of all things done or omitted to be done by him in his private capacity and to immunity from criminal proceedings in respect of all things done or omitted to be done by him either in his official capacity or in his private capacity.

...

## CHAPTER VI: PARLIAMENT

### PART 1: Composition of Parliament

...

### 57. Elections to National Assembly

...

(2) Subject to the provisions of subsections (3) and (4), every person who -

(a) is a citizen of Lesotho;

(b) has attained the age of eighteen years; and

(c) possesses such qualifications as to residence as may be prescribed by Parliament,

shall be qualified to be registered as an elector in elections to the National Assembly under a law in that behalf; and no other person may be so registered.

...

## CHAPTER VII: ALTERATION OF CONSTITUTION

### 85. Alteration of Constitution

(1) Subject to the provisions of this section, Parliament may alter this Constitution.

(2) A bill for an Act of Parliament under this section shall not be passed by Parliament unless it is supported at the final voting in the National Assembly by the votes of the majority of all the members of the Assembly and, having been sent to the Senate, has become a bill that, apart from this section, may be presented to the King for his assent under subsection (80)(1) or (3) as the case may be, of this Constitution.

(3) A bill to alter any of the following provisions of this Constitution, that is to say -

(a) this section, sections 1(1) and (2), Chapter II except sections 18(4) and 24(3), sections 44 to 48 inclusive, 50(1) to (3), 52, 86, 91(1) to (4), 92, 95, 103, 104, 107, 108, 118(1) and (2), 119(1) to (3), 120(1), (2), (4) and (5), 121, 123(1), (3), (4), 125, 128, 129, 132, 133 and sections 154 and 155 in their application to any of the provisions mentioned in this paragraph; and

(b) sections 37, 38, 54 to 60 inclusive; sections 66, 67, 68, 69(1) and (6), 70, 74, 75(1), 78(1), (2), (3) and (4), 80(1), (2), and (3), 82(1), 83 and 84; sections 134 to 142 inclusive, 150 and 151 and sections 154 and 155 in their application to any of the provisions mentioned in this paragraph,

shall not be submitted to the King for his assent unless the bill, not less than two nor more than six months after its passage by Parliament, has, in such manner as may be prescribed by or under an Act of Parliament, been submitted to the vote of the electors qualified to vote in the election of the members of the National Assembly, and the majority of the electors voting have approved the bill:

Provided that if the bill does not alter any of the provisions mentioned in paragraph (a) and is supported at the final voting in each House of Parliament by the votes of not less than two-thirds of all the members of that House it shall not be necessary to submit the bill to the vote of the electors.

...

## **CHAPTER IX: LAND**

### **107. Land vested in Basotho nation**

Without prejudice to any allocation of land that was made before the commencement of this Constitution and was subsisting immediately before such commencement or to any interests or rights in or over land that were otherwise vested in any person immediately before such commencement and without prejudice to any allocation of land or any grant of any interest or right in or over land that may, in accordance with the provisions of this Constitution and, subject thereto, of any other law, be made after the commencement of this Constitution, all land in Lesotho is vested in the Basotho nation.

### **108. Power to allocate land, etc in the King in trust for Basotho nation**

(1) The power to allocate land that is vested in the Basotho nation, to make grants of interests or rights in or over such land, to revoke or derogate from any allocation or grant that has been made or otherwise to terminate or restrict any interest or right that has been granted is vested in the King in trust for the Basotho nation.

(2) The power that is vested in the King by subsection (1) of this section shall be exercised in accordance with this Constitution and any other law.

### **109. Laws regulating principles on which land may be allocated, etc**

Parliament may make provision prescribing the allocations that may be made and the interests or rights that may be granted in exercise of the power conferred by section 108 of this Constitution, the grounds upon which and the circumstances in which such allocations or grants may or shall be so made or may or shall be revoked or derogated from or the interests or rights which may or shall otherwise be so terminated or restricted, appeals in respect of the allocation or refusal to allocate land or the revocation of interests to or in land and, generally, regulating the principles according to which and the manner in which the said power shall be exercised.

...

## **CHAPTER XI: THE JUDICATURE**

### **PART 1: The Judiciary**

#### **118. The Judiciary**

...

(2) The courts shall, in the performance of their functions under this Constitution or any other law, be independent and free from interference and subject only to this Constitution and any other law.

(3) The government shall accord such assistance as the courts may require to enable them to protect their independence, dignity and effectiveness, subject to this Constitution and any other law.

### **PART 2: The High Court**

...

#### **121. Tenure of the office of Chief Justice and other judges of High Court**

...

(3) The Chief Justice and any other judge of the High Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

...

**134. The Ombudsman**

(1) There shall be an Ombudsman .