

POLICY PAPER

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# AFRICAN UNION TRANSITIONAL JUSTICE POLICY IMPLEMENTATION GUIDANCE:

## LESOTHO

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## Introduction

A major challenge confronting Lesotho is violence of various types since its independence from Britain in 1966.<sup>1</sup> This violence has had deleterious effects on democratic governance, sustainable peace and inclusive socio-economic development. In particular, it has generated intractable instability and contributed hugely to violations of human and peoples' rights.

In order to redress this challenge, key stakeholders in Lesotho need to inculcate a culture of peace by, inter alia, implementing the African Union Transitional Justice Policy (AUTJP) and thereby ensuring justice, reconciliation, social cohesion, stability and nation-building. This policy paper provides guidance on how to implement the 11 indicative elements of transitional justice in the AUTJP and address several cross-cutting issues in the country.

Five key phases of Lesotho's violent conflicts are discernible, all linked to its governance systems at different historical moments. After the post-independence period of 1966–1970, which was relatively stable and peaceful, the country entered its first phase of violent conflict under one-party autocratic rule by the Basotho National Party (BNP) from 1970–1985, characterised by various forms of rights violations.

The second phase of conflict occurred under military dictatorship, which followed a coup that deposed the BNP government in 1986 with the tacit support of apartheid South Africa. Military rule lasted until 1992 and, in that period, repression against political parties, civil society organisations, human rights defenders and others with opposing views intensified.

The third phase came with the transition to democracy, which occurred with the 1993 general election. The election was won resoundingly by the Basotho Congress Party (BCP), whose core leadership had just returned to the country following years in exile due to the brutality of the BNP regime. Despite the overwhelming optimism about the dawn of democracy, Lesotho's governance continued to be enmeshed in violent conflicts. This led to the temporary dislodgement of the BCP government by King Letsie III, which prompted an intervention by the Southern African Development Community (SADC).

It was the SADC Troika of Ketumile Masire (Botswana), Nelson Mandela (South Africa) and Robert Mugabe (Zimbabwe) that restored BCP to power through a memorandum of understanding signed by then Prime Minister Ntsu Mokhehle and King Letsie III. Fast-forward 30 years, SADC remains a key actor in mediating peace processes and redressing the effects of violent conflict in Lesotho. During their 2022 summit, the SADC heads of state and government urged the government of Lesotho to “continue with peace, transitional justice and reconciliation process to engender national unity, and bring about national healing and cohesion.”<sup>2</sup> Lesotho's security and stability again featured on the agenda at SADC's 2024 summit.<sup>3</sup>

While the third phase of violent conflict was marked by a fragile multi-party system, this changed with the split of BCP and the emergence of the Lesotho Congress for Democracy (LCD) party in 1997, which dislodged BCP and took over government without resorting to a snap election. This development ushered in the fourth era of dominant party rule, by LCD until 2011. However, LCD dominance was broken by intra-party factional fighting that resulted in its split and the emergence of the Democratic Congress (DC) in 2012.

- 1 M. Kapa, “Roles of Civil Society in Conflict Situations in Sub-Saharan Africa: The Case of Lesotho,” in K. Berhanu and D. Chimankire, *The Roles of Civil Society in Conflict Management and Peace Building in Eastern and Southern Africa* (Addis Ababa: Organisation for Social Research in Eastern and Southern Africa, 2017); K. Matlosa, “Pondering the Culture of Violence in Lesotho: A Case for Demilitarization,” *Journal of Contemporary African Studies* 38(3), 2020, 381–398; M. Kali, “The Untold Story of Civil Society Organisations' Contribution to Peacebuilding in Lesotho,” *International Politics* 59, 2022, 1082–1100.
- 2 Southern African Development Community, “Communiqué of the 42nd Ordinary Summit of the SADC Heads of State and Government, Kinshasa, DRC,” 17 August 2022, 3.
- 3 Southern African Development Community, “Communiqué of the 44th Ordinary Summit of Heads of State and Government,” 17 August 2024, 3.

The fifth and current era of coalition governance, since 2012, is also marked by violence, including inter- and intra-party strife, politicised security agencies, conflicts among security agencies, political intolerance, gangsterism and gender-based violence, among other issues. Lesotho is ranked first in Africa and third globally among countries with the highest homicide rate.<sup>4</sup> It is also ranked second globally among countries with the highest incidence of rape.<sup>5</sup>

This is the contextual background to Lesotho's violent conflicts, which have resulted in human and peoples' rights violations, arrested development, low levels of peace in the country, an engrained culture of fear, weak institutional and cultural foundations for democracy and peace, and psychosocial trauma. These consequences, which have disproportionately affected women, youth, children, persons with disability and older persons in society, demand a transitional justice response.

## Adapting AUTJP provisions to Lesotho

Transitional justice denotes a deliberate process of redressing past rights violations, dealing with present incidences of violence, and ensuring that egregious violations do not recur in the future, thereby guaranteeing an environment of peace, stability, justice, accountability, reconciliation and social cohesion.

The AUTJP defines transitional justice as “the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to

overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation.”<sup>6</sup> The AUTJP identifies 11 indicative elements of transitional justice, along with several cross-cutting issues. These will be discussed sequentially in the context of Lesotho, along with recommendations for how the country could ensure they are adapted to its particular environment and effectively implemented.

### *Peace processes*

This indicative element of the AUTJP provides guidance on how AU member states should go about peacebuilding following a large-scale violent conflict while redressing rights violations and mainstreaming transitional justice.

Historically, Lesotho has not experienced a large-scale violent conflict or a civil war. However, the country has a low state of peace by global standards. According to the 2024 Global Peace Index, Lesotho is ranked a low 125 among 163 countries.<sup>7</sup> A plethora of factors account for Lesotho's low state of peace, chief among which are socio-economic circumstances such as poverty, unemployment and inequality and political conditions such as political elites dominating public institutions. Furthermore, proliferation of illegal small arms and ammunition and enfeebled law enforcement, security and judicial institutions are contributing factors.

In 2019, Parliament promulgated legislation establishing the National Reforms Authority (NRA),<sup>8</sup>

4 World Population Review, “Violent Crime Rate by Country,” 2024, <https://worldpopulationreview.com> (accessed 30 September 2024).

5 Data Pandas, “Rape Statistics by Country,” <https://www.datapandas.org/ranking/rape-statistics-by-country> (accessed 30 September 2024).

6 African Union, “African Union Transitional Justice Policy,” 2019, 4.

7 Institute for Economics and Peace, “2024 Global Peace Index,” 2024.

8 The NRA was established by NRA Act No. 4 of 8 November 2019, comprising various sectors of society, politically led by its then Chairperson Pelele Letsoela, leader of the opposition Basotho Democratic National Party, and under the technical stewardship of its then Chief Executive Officer Mafiroane Motanyane. The NRA was tasked to coordinate, lead and manage the implementation of the reforms process in line with the resolutions and decisions of the 2019 Multi-Stakeholder Dialogue Plenary II Report. It was supposed to undertake its mandate over a period of 12 to 18 months. Its mandate was three-pronged: (a) initiate constitutional and legal reforms; (b) propose reforms of public institutions; and (c) recommend mechanisms for peacebuilding, national unity, reconciliation and transitional justice. Although it reported to the minister of law and justice, it was accountable to the two houses of Parliament, the National Assembly and the Senate. During its lifespan, between 6 February 2020 and 30 April 2022, the NRA undertook an enormous amount of work, making substantive reform proposals that cut across the seven governance domains as enshrined in the Plenary II report. Following the expiry of the NRA's mandate, government changed its name to the National Reforms Transitional Office in May 2022 and tasked it with completing the reforms process.

with a two-pronged mandate to spearhead and coordinate governance reforms and facilitate peacebuilding in the country. The NRA organised a national multi-stakeholder dialogue on peace in July 2021. During this dialogue, participants unanimously adopted provisions for the establishment of a National Peacebuilding and Reconciliation Commission (NPRC), with a Secretariat, an Investigation Unit, a Specialised Court, a Reparations and Rehabilitation Committee and an Amnesty Committee.<sup>9</sup>

Recommendations:

- The Law and Justice Cluster of Parliament should initiate a process, in line with parliamentary rules, aimed at establishing the NPRC or a similar body to integrate transitional justice within the broader framework of infrastructures for peace.
- Through its Democracy and Human Rights Commission, the Lesotho Council of Non-Governmental Organisations should lobby and advocate for the adoption of legislation establishing the NPRC or a similar body in line with AUTJP benchmarks.

### ***Transitional justice commissions***

The main thrust of this pillar of the AUTJP is guiding AU member states in developing a policy and institutional framework for official truth commissions. These commissions have had different names from one country to another, suggesting their context-specificity.

All stakeholders in Lesotho, including state and non-state actors, recognise the adverse effects of violence in the country. In addition to national dialogues on addressing violence – including the one organised by the NRA in 2021 – several commissions of inquiry have been established to identify the root causes of violent conflicts and suggest practical solutions.<sup>10</sup> Some have suggested the establishment of transitional justice

mechanisms to deal with political violence, but most of their recommendations have not been put into effect.

For instance, the Lesotho Council of Non-Governmental Organisations convened a national dialogue in September 1995 on the theme ‘Democracy, Stability and Development.’ It was co-facilitated by Michael Sefali, a former economics lecturer, and Lehlohonolo Machobane, a former history lecturer, both of the National University of Lesotho. The dialogue adopted a 13-point declaration in which participants renounced violence and unconstitutional means of resolving disputes. Most importantly, the conference recommended the establishment of a National Reconciliation Commission, whose primary purpose would be to heal the wounds of past injustices and gross violations of human rights. To this day, these recommendations remain unimplemented and continue to gather dust in libraries and archives.

In 2019, Lesotho convened a national dialogue on the theme ‘The Lesotho We Want: Dialogue and Reforms for National Transformation.’ This gathering culminated in the adoption of the Multi-Stakeholder National Dialogue Plenary II Report, in which key stakeholders adopted Resolution 23 on transitional justice. The resolution commits Lesotho to establishing an all-encompassing transitional justice commission suitable to the country context, to address human rights violations and injustices, with a focus on reconciliation, peacebuilding and reparations, without compromising justice and accountability.<sup>11</sup> The envisaged commission would aim to strike a fine balance between amnesty and prosecutions, while ending the culture of impunity.

Recommendations:

- One of the components of the proposed NPRC or a similar body should be a Truth and Reconciliation Unit, with the mandate to seek the truth of which human rights violations occurred from 1966 to the present, who the victims/survivors are and who the

9 National Reforms Authority, “The Path Towards Sustainable Peace, National Unity and Reconciliation: The Lesotho We Want,” National Stakeholder Consultative Forum, 21–23 July 2024, 54.

10 The latest of these is the SADC Commission of Inquiry into the Circumstances Surrounding the Death of Brigadier Maaparankoe Mahao, 5 November 2015.

11 Government of Lesotho, “Multi-Stakeholder National Dialogue Plenary II Report,” 2019, 47.

perpetrators are, and to provide recommendations on how to redress the pain of victims/survivors and hold perpetrators accountable.

- The National University of Lesotho, in collaboration with relevant think tanks such as the Strategic Institute for Research and Dialogue, should undertake empirical and evidence-based research in Africa and across the globe for lessons-learning on transitional justice commissions so as to inform Lesotho's national healing process. Lesotho's transitional justice process should evolve on the basis of what has worked and what has not worked elsewhere, in order to avoid a situation of reinventing the wheel.

### ***African traditional justice mechanisms***

The AUTJP recognises the significance of African traditional justice mechanisms in redressing the effects of violent conflicts and restoring the dignity and human rights of victims/survivors. These mechanisms are highly participatory, although they are often criticised for excluding women and youth. They tap into African traditions to ensure accountability of perpetrators and non-recurrence of human rights abuses.

Lesotho has a plethora of traditional justice mechanisms anchored in its customs and operating within the framework of customary law. They play a critical role in conflict prevention, management and resolution aimed at maintaining social cohesion, particularly in rural settings where more than 70 percent of Lesotho's population of 2.2 million reside. Chiefs, elders and traditional healers constitute the nuts and bolts of the traditional justice mechanisms in Lesotho. They lead on mediation, negotiation, conflict management, restorative justice, social cohesion, advising, traditional healing rituals, psychosocial counselling and consensus building.

As a constitutional monarchy, Lesotho's governance system gives a significant role to traditional leaders and

customary law. However, chiefs and customary law remain subservient to the colonially imposed statutory law. The king is the glue that holds the nation together as the premier peacemaker and peacekeeper. He is supported in this role by traditional authorities at various layers of society.

Recommendations:

- The College of Chiefs should promote the integration of traditional mechanisms for transitional justice into the modern systems, so that the two are accorded equal status in law and practice, and ensure that customary institutions and processes accord with principles of gender equality and equity and youth empowerment.<sup>12</sup>
- Government, working in cooperation with Parliament, should enhance the institutional capacities of chiefs, elders and traditional healers so that they effectively complement formal transitional justice mechanisms. These institutions should be insulated from partisan politics so that they are seen to be trusted brokers capable of spearheading national healing.

### ***Reconciliation and social cohesion***

Social cohesion denotes the form and substance of bonds that characterise trust and solidarity within and among communities. It is the glue that binds the social fabric together, sustaining national harmony and social peace. Reconciliation refers to the restoration of shattered communal relationships with a view to advance post-conflict forgiveness and social healing.

Lesotho's autocratic regimes had the net effect of weakening the institutional and cultural foundations for reconciliation and social cohesion. Furthermore, given the country's protracted violent conflicts, including under the democratic dispensation, Basotho

12 The College of Chiefs was established by the 1965 Constitution just a year before Lesotho's independence. It has been instrumental in harmonising and synergising traditional with modern governance systems, even though the latter continues to overwhelm the former. Be that as it may, the College is also meant to curate and preserve Sotho traditional and cultural norms, values, mores and practices. Its main functions include advice to the king, dispute resolution, legislation, policy making and ensuring the safety and welfare of community members at all layers of society. For details, see L.B.B.J. Machobane, *Government and Change in Lesotho, 1800–1966: A Study of Political Institutions* (London: MacMillan Press, 1990).

are highly traumatised. Divisions in the country, especially political intolerance and religious divides, have enfeebled social cohesion.

Recommendations:

- Through the Ministry of Education and Training, government should integrate and mainstream reconciliation and social cohesion into all levels of both formal and non-formal education.
- Non-state actors, notably the Lesotho Council of Non-Governmental Organisations and its member organisations, such as the Transformation Resource Centre and Development for Peace Education, should mount a comprehensive civic education programme, including modules on reconciliation and social cohesion.

### **Reparations**

Reparations refer to financial and non-financial compensation to individuals and communities as a form of redress for human rights violations and losses incurred as a result of violent conflict or repressive governance. Crucial in righting historical wrongs, healing social wounds and helping individuals and communities rebuild their lives, reparations include restitutive and restorative justice.<sup>13</sup>

Reparation in Lesotho requires, among other things, a definition of victims/survivors and the period within which wrongs committed should be corrected through some form of compensation. During the NRA dialogue in 2021, participants agreed that victims/survivors are persons who were individually or collectively harmed, either physically, mentally or emotionally, by acts that constitute violations of international human rights.<sup>14</sup> They include ordinary citizens, political activists, human rights defenders, security personnel and businesspeople, among others. Participants agreed that victims/survivors

could be identified based on violations committed from 1965 to the current era of coalition governance, which is still marked by sporadic violence.

Recommendations:

- The Lesotho Council of Non-Governmental Organisations should facilitate the establishment of a victims/survivors network to champion victims/survivors' interests as a collective.
- Government, through the Ministry of Law and Justice, should ensure that the proposed NPRC or a similar body has a Reparations and Rehabilitation Unit mandated with administering individual and collective reparation to victims/survivors.
- In order to enhance the capacity of this unit, academic institutions such as the National University of Lesotho and think tanks such as the Strategic Institute for Research and Dialogue, should undertake evidence-based research on reparations across Africa and beyond to draw out lessons for Lesotho.

### **Redistributive (socio-economic) justice**

This element of the AUTJP addresses the structural and institutional drivers of human rights violations. It delves deeper into the political economy dimensions of violence and its deleterious effects, dealing with socio-economic aspects such as underdevelopment, poverty, hunger, unemployment and inequality.

Lesotho is an underdeveloped and landlocked country totally surrounded by South Africa, and continues to provide skilled and unskilled labour to the South African economy. Data shows that about half of Lesotho's population lives below the poverty line and that extreme poverty stands at 24.1 percent.<sup>15</sup> In rural mountainous areas, where about 68 percent of the population lives, poverty is more entrenched at 61 percent.<sup>16</sup> Lesotho's overall

13 African Union, 13.

14 National Reforms Authority, 57.

15 World Bank, "Mapping Sub-National Poverty in Lesotho in 2017/2018," 2021.

16 African Development Bank, "Country Focus Report, 2024: Driving Lesotho's Transformation," 2024.

unemployment rate is estimated at 22.5 percent, while youth unemployment is higher at 29.1 percent. With a Gini coefficient of 44.6, Lesotho ranks among the most unequal societies in the world.<sup>17</sup>

In order to bring about redistributive justice, socio-economic ills have to be reversed through deliberate strategies, policies, programmes and projects aimed at inclusive and equitable development, shared prosperity, food security and adequate employment, especially for women and youth, who constitute the largest proportions of Lesotho's population.

Recommendations:

- The Lesotho Chamber of Commerce and Industry should mobilise the private sector to invest in transitional justice mechanisms as part of their corporate social responsibility, given that for the economy to grow, it requires sustainable peace and stability.
- Upon its operationalisation, the Human Rights Commission, contemplated as part of the national reform process, should be mandated with the promotion and protection of not just civil liberties and political rights, but also socio-economic and cultural as well as environmental rights of all Basotho.

### **Memorialisation**

This AUTJP element entails keeping the memory of past human rights violations alive to acknowledge historical wrongs and ensure they are never repeated, for example through commemorations, monuments, museums, renaming of buildings and roads, and redesign of historical and educational material, especially involving the youth. Memorialisation recognises the human dignity of victims/survivors, advances national dialogue and inculcates a culture of non-impunity.

Lesotho lacks a robust and institutionalised tradition of memorialisation.

Recommendations:

- Parliament should ensure that the proposed NPRC or a similar body has a Memorialisation Unit through the requisite legislation.
- Inspired by the AU Memorial Project, the government of Lesotho, through the Ministry of Law and Justice, should institutionalise memorialisation of human rights violations through museums, designated heritage parks and national monuments.
- Academic institutions and think tanks should provide technical advice to the Ministry of Law and Justice by undertaking policy-relevant research excavating knowledge on memorialisation from across the African continent and beyond.

### **Diversity management**

Diversity has the potential to enrich democracy, given that two of the many principles of democracy are pluralism and tolerance. People ought to be free to be who they are and to choose and celebrate their various identities, being respected and also respecting others with different identities from their own.<sup>18</sup> Unity is perfectly possible in diversity.<sup>19</sup>

Although Lesotho is considered a culturally homogenous society, it is heterogeneous. While the dominant ethnic group in Lesotho is the Basotho, there are also minority Nguni groups, such as Zulus, Xhosas, Phuthis and Ndebeles. Customary law and practice have tended to reify Sotho traditions, culture and language over those of minority groups.

In addition, the dominant Sotho tribe is itself stratified into clans with different animal totems that symbolise their cultural identity. These clans include, among others, Bakoena (crocodile), Bafokeng (hare),

17 World Bank, "Lesotho Poverty Assessment: Progress and Challenges in Reducing Poverty," 2019.

18 United Nations Development Programme, *Human Development Report* (Oxford: Oxford University Press, 1995), 28.

19 F. Deng, *Identity, Diversity and Constitutionalism in Africa* (Washington, DC: United States Institute of Peace Press, 2008), 43.

Batlokoa (wild cat), Barolong (buffalo), Bakhatla (fire and the monkey), Bahlakoana (little wild buck), Basia (antelope), Bats'oeneng (monkey), Makholokoe (blue crane), Bataung (lion) and Makhoakhoa (duiker). Despite their distinctive cultural identities, these clans all owe allegiance to the Bakoena clan, source of Basotho kings and major chiefs in the country since the founder of the Basotho nation, King Moshoeshoe I.

Over and above its diverse ethnic groups and clans, Lesotho is marked by such socio-cultural divides as class, politics, religion, region, gender, generation and language. This reality calls for deliberate efforts to manage diversity constructively in advancing transitional justice.

Recommendations:

- Government must strive towards constructive management of diversity. As a starting point, Parliament must adopt a constitutional amendment on recognition of minority languages and cultures such as sePhuthi, isiXhosa and isiZulu.
- The Lesotho Council of Non-Governmental Organisations, in collaboration with the Christian Council of Lesotho, should organise an annual national dialogue on diversity management in Lesotho.

### ***Justice and accountability***

This element of the AUTJP focuses on modern and traditional legal and institutional arrangements for dispensing justice and ensuring accountability aimed at redressing human rights violations. Traditional and customary legal systems and institutions play a major role, especially at the community level. At the national level, the judiciary, including courts of law, special courts, extraordinary chambers and hybrid courts, are key within the context of existing laws. Due legal process must be followed to ensure the accountability

of perpetrators of human rights violations. Conversely, justice must be served to redress the harms inflicted on victims/survivors. Criminal justice must eradicate the culture of impunity and guarantee non-recurrence.

Historically, governance institutions in Lesotho have been politicised, including security agencies, the judiciary, rule of law institutions and the public service. Lesotho's security agencies, the Lesotho Defence Force, the Lesotho Mounted Police Service, the National Security Service and the Lesotho Correctional Service, have been enmeshed (to varying degrees) in partisan politics. The mandates of the Defence Force and the Mounted Police Service overlap, which has led to conflicts between the two. Civilian control over security agencies is weak, resulting in poor civil–military relations.

The issue of the professionalisation of bodies such as the judiciary as well as the governance and rule of law institutions (e.g., the Directorate on Corruption and Economic Offences, the Ombudsman, the Independent Electoral Commission, the Auditor-General) has been a major focus area in national dialogues.<sup>20</sup>

Recommendations:

- Parliament should enact legislation ensuring that the security sector is reformed with the aim of professionalising and depoliticising the security agencies and guaranteeing their accountability to a civilian authority.
- Through the Ministry of Law and Justice, government must provide requisite institutional capacity to the judiciary and other democracy promotion institutions, such as the Ombudsman, the Auditor-General, the Directorate on Corruption and Economic Offences and the Independent Electoral Commission, in order to safeguard their independence and safeguard them against undue influence and control by political elites.

20 These governance and rule of law bodies were established to restrain arbitrary powers of the state and protect the rights of citizens. The Directorate on Corruption and Economic Offences combats corruption in both the public and private sectors. The Ombudsman protects citizens against maladministration by public and parastatal institutions. The Independent Electoral Commission serves to guarantee the integrity of the electoral processes. The Auditor-General safeguards ethical financial management and complements efforts of the Directorate in combating corruption in the public sector.

### ***Political and institutional reform***

Lesotho is embarking on a comprehensive national reform process aimed, in the main, at addressing its violent conflicts, instability and insecurity. The reform covers seven key governance domains: constitution, Parliament, security sector, justice sector, public service, economy and media. The 2019 Multi-Stakeholder National Dialogue Plenary II Report details the form and substance as well as the execution of these envisaged reforms.

To guarantee coordination of the reform process, in 2019 the government promulgated legislation establishing the NRA. This act, inter alia, sets a plethora of functions for the NRA, including the recommendation and formulation of plans and dialogue structures on national reforms for purposes of national peacebuilding and reconciliation.<sup>21</sup>

Between 6 February and 30 April 2022, the NRA undertook an enormous amount of work and made substantive reform proposals to Parliament, which cut across the seven governance domains. However, a combination of poor political commitment from various coalition governments, as well as constraints on time and resources, did not allow the NRA to focus on peacebuilding and national reconciliation as envisaged in the report and the law. The extension of the mandate of the NRA (February 2020 to April 2022) to the current National Reforms Transitional Office (May 2022 to date) shows that governance reforms require a dedicated institution.

The NRA's 2021 national dialogue galvanised public opinion and gave victims/survivors an opportunity to express their own views regarding an appropriate infrastructure for peace framework and a transitional justice architecture for Lesotho. At the time of this dialogue, the government had tabled the National Peace and Unity Bill before Parliament. This bill triggered a public outcry because it was perceived to lack broad-based participation, especially of victims/survivors. Consequently, the bill was not promulgated into law.

#### Recommendations:

- The Lesotho Council of Non-Governmental Organisations should mobilise civil society to lobby and advocate for the expeditious amendment of the Lesotho constitution in line with the popular aspirations enshrined in the 2019 Multi-Stakeholder National Dialogue Plenary II Report.
- Parliament should legislate for the establishment of a permanent National Reforms Commission with the mandate of coordinating all reforms and ensuring full and meaningful participation of citizens.

### ***Human and peoples' rights***

This element of the AUTJP aims at inculcating a culture of human rights in AU member states in compliance with the African Charter on Human and Peoples' Rights. The nexus between human and peoples' rights and violent conflict is clear. Violent conflict is a result of the lack of a culture of human rights. At the same time, conflict perpetuates human rights violations with impunity.

Lesotho's historical trend of violent conflicts has led to and perpetuated human rights violations. Politically motivated assassinations are rife. Intra- and inter-party conflicts have led to violations. Key drivers include the arbitrary powers bestowed upon the security agencies (especially the army), weak justice and rule of law institutions (especially the democracy protection bodies and the courts of law), toxic masculinity and patriarchy, and gangsterism linked to illegal mining.

#### Recommendations:

- In expediting the completion of the national reforms, priority must be given to the establishment of a national Human Rights Commission.
- This commission should be tasked with inculcating a culture of human and peoples' rights in Lesotho, working hand-in-glove with the proposed NPRC or a similar body.

21 Government of Lesotho, "National Reforms Authority Act," Vol. 64, No. 62, 8 November 2019.

## Cross-cutting issues

In advancing transitional justice in Lesotho, all stakeholders must mainstream the cross-cutting issues noted in the AUTJP to ensure that the rights of marginalised and vulnerable social groups are protected and promoted.

Women constitute more than 50 percent of Lesotho's population. They continuously bear the brunt of gender-based violence.

Youth constitute more than 60 percent of the population. They are both perpetrators and victims of violence and human rights violations.

Finally, persons with disabilities and older persons, especially women, are often on the receiving end of violent conflicts and human rights violations.

Recommendations:

- Government should put in place policy, legal and institutional mechanisms to redress the adverse effects of patriarchy and toxic masculinity and eradicate sexual and gender-based violence. During transitional justice processes, the proposed NPRC or a similar body should ensure that gender-sensitive techniques are used.
- In line with the 2024 AU Theme of the Year on education, the Lesotho government must integrate transitional justice values into the formal and non-formal educational systems.
- Government should collaborate with the Maseru-based African Committee of Experts on the Rights and Welfare of the Child and non-state actors, such as civil society organisations and faith-based organisations, to ensure that the rights of children

are mainstreamed in all transitional justice mechanisms and processes.

- In seeking redress for persons with disabilities who are also victims/survivors of human rights violations, the proposed NPRC and the envisaged Human Rights Commission should work closely with the Lesotho National Federation of the Disabled.

## Conclusion and way forward

This policy paper makes a case for various stakeholders to make deliberate efforts to uproot the culture of violence in Lesotho. It shows that violent conflicts and instability in the country undermine socio-economic development, sustainable peace and democratic governance. They also lead to human and peoples' rights violations, with the hardest-hit social groups being women and girls, children and youth, as well as persons with disabilities and older persons.

Lesotho needs to inculcate a culture of peace, justice and reconciliation informed by the 11 indicative elements and three sets of cross-cutting issues that form the bedrock of the AUTJP. Five key steps are required to realise this.

First, state and non-state actors must collaborate in developing a national transitional justice policy, ensuring the participation and representation of victims/survivors. Second, this policy must be followed by the promulgation of national transitional justice legislation. Third, government must establish the requisite transitional justice mechanisms. Fourth, resources must be mobilised for these mechanisms so that they are operationalised. Finally, to function effectively and efficiently, the mechanisms must be insulated from political interference and undue influence.

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