

Human Rights Act 1983

ACT NO. 24 OF 1983

[Date of Assent: 24.8.83]
[Commencement: See Section 1]

ACT

To guarantee and safeguard the rights of individuals and to ensure that conduct of persons administering the laws of the country conform with the provisions of this Act and for connected purposes.

Enacted by the Assembly —

1. This Act may be cited as the Human Rights Act 1983 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Short title
and
commence-
ment

2. Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in this Act without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, property, birth and other status. These shall comprise of —

Rights of
individuals

- (a) the right to life and respect for the integrity of a person;
- (b) the right to liberty and to security of a person;
- (c) the right to freedom of peaceful assembly and association;
- (d) the right to freedom of movement and residence;
- (e) the right to express and disseminate opinions;
- (f) the right to seek and to enjoy asylum from persecution in other countries;
- (g) the right to own property alone as well as in association;
- (h) the right to freedom of thought, conscience, profession and religion;
- (i) the right to work, to free choice of employment, to just and favourable conditions of work and equal pay for equal work without discrimination;
- (j) equality before the law without discrimination; to equal protection of the law and equal protection against any discrimination in violation of this Act;
- (k) the right to an effective remedy by the competent national courts for acts violating the fundamental rights granted by this Act;

- (l) the right to a fair and public hearing by independent, impartial and competent national courts in the determination of the rights, obligations and criminal offences;
- (m) the right to be presumed innocent until proved guilty according to law in a public trial at which all guarantees necessary for a defence have been provided;
- (n) the right to participate freely either directly or through freely chosen representatives in the government of the country;
- (o) the right to equal access to the public service and to public property and services in strict equality to all persons before the law; and
- (p) the right to education and to freely take part in the cultural life of the community.

Limitations
of law

3. Rights shall be subject to conditions previously laid down by law and shall only be encroached upon on such grounds and in accordance with such procedures as are established by law.

Right to
life

4. (1) Everyone has an inherent right to life which he shall not be deprived of except in execution of the sentence of a court in respect of a criminal offence under the law of Lesotho of which a person has been convicted.

(2) For the purposes of this section the right to life shall not include deprivation of life resultant from the use of force —

- (a) for the defence of a person from violence, or the defence of property;
- (b) for the suppression of a riot, insurrection, or mutiny;
- (c) for the prevention of the commission of a criminal offence by a person; or
- (d) resulting in a person dying of a lawful act of war.

Right to
liberty

5. Everyone has the right to liberty and the security of his person, that is to say, he shall not be subjected to arbitrary arrest or detention nor be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law and in particular this right shall be subject to —

- (a) an execution of a sentence or order of court in respect of a criminal offence of which a person has been convicted or for contempt of court;
- (b) a lawful arrest made in accordance with the provisions of the law;
- (c) the protection of national security, the safety, health, rights and freedom of other persons.

Freedom of
movement

6. Everyone lawfully within the country shall have the liberty of movement and freedom to choose his residence including the right to freely leave the country subject to restrictions provided by law as are necessary to protect national security, public order, public health or morals or rights and freedoms of others as are consistent with other rights recognized by this Act.

7. The right to peaceful assembly and association shall be recognized including the right to form and to belong to associations for the protection of a person's interests subject to — Right of assembly

- (a) lawful restrictions made in the interests of defence, public safety, public order, public morality or public health;
- (b) protection of rights and freedom of other persons by law; and
- (c) lawful imposition of restrictions upon public officers, members of the armed forces, and of the police or other persons.

8. Everyone shall have the right to hold opinions without interference and the right to freedom of expression including freedom to seek, receive and import information and ideas of all kinds subject to restrictions provided by law as are necessary for — Freedom of expression

- (a) the respect of the rights or reputations of others; and
- (b) the protection of national security, of public order, of public health or morals.

9. (1) The right to property either alone or in association shall be guaranteed. The right to property

(2) The right to property shall be encroached upon only in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

10. Everyone shall have the right to freedom of thought, conscience and religion including freedom to have or to adopt a religion or belief of his choice and freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching: Freedom of thought

Provided that —

- (a) no one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice;
- (b) freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

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

(2) Punishment otherwise authorised by law shall not be held to be inconsistent with or in contravention of this section.

12. (1) No person shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. Freedom from slavery and forced labour

(2) No person shall be held in servitude.

(3) No person shall be required to perform forced or compulsory labour.

(4) Subsection (3) shall not be held to preclude in cases where imprisonment may be imposed as a sentence for a crime, the performance of labour in pursuance of a sentence to such punishment by a competent court.

(5) For the purpose of this section the term "forced or compulsory labour" shall not include —

- (a) any work or service, not referred to in sub-section (4), normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;
- (b) any service of a military character and, in the case of a person who has conscientious objections to service as a member of a military or air force, any labour that person is required by law to perform in place of such service;
- (c) any service exacted in cases of emergency or calamity threatening the life or well being of the community; and
- (d) any work or service which forms part of normal civil obligations.

Persons to
be guilty
only of
crimes
committed

13. (1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law at the time when it was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed.

(2) Punishment is personal and can be imposed only on the offender.

Right to
enjoy
health

14. Every person shall have the right to enjoy the best attainable state of physical and mental health.

Expulsion
of non-
nationals

15. An alien lawfully in the country may be expelled therefrom only in pursuance of a decision reached in accordance with law.

Duties of
the state

16. (1) The state shall take the necessary measures to protect the health of the people and to ensure that they receive medical attention when they are sick.

(2) The family is the natural and fundamental group unit of society and is entitled to protection by the State.

(3) The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.

(4) The State shall ensure the elimination of every discrimination against the woman and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

(5) The aged and the disabled shall have the right to special measures of protection in keeping with their physical or moral needs.

(6) The State shall have the duty to guarantee the independence of the courts and shall allow the establishment and improvements of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by this Act.

(7) The State shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in this Act.

17. (1) The individual shall have the duty to —

Duties of
individuals

(a) preserve the harmonious development of the family and to work for the cohesion and respect of the family, to respect his parents at all times, to maintain them in case of need;

(b) serve his national community by placing his physical and intellectual abilities at its service and not to compromise the security of the State;

(c) preserve and strengthen social and national solidarity, particularly when the latter is threatened;

(d) preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with law;

(e) work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;

(f) preserve and strengthen positive Sesotho cultural value in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general to contribute to the promoting of the moral well being of society;

(g) contribute to the best of his abilities, at all times and at all levels to the promotion and achievement of national unity; and

(h) respect the national flag and national anthem.

(2) Every individual shall have duties towards his family and society, the State and other legally recognized communities.

(3) The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

(4) Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.