

INSIGHT

Army has no right to police citizens



By The Post — September 12, 2024

🗨️ No Comments

🕒 8 Mins Read

🔗 Share



ESOTHO is grappling with an orgy of violent murders mostly associated with warring famo music gangs.

In response, the government has unleashed the army to lead the fight against these “organised crimes”.

As the army complies with the government’s order, the country has witnessed harrowing incidents of human rights violations perpetrated by the army against civilians in the name of curbing famo-related killings.

These violations include forced disappearances, unlawful arrests and detention at the army barracks, torture and ill-treatment by the army. This is evidenced by media reports on these incidents and the spike in the number of lawsuits against the Lesotho Defence Force (LDF).

More worrying are recent utterances by the senior staff of the LDF who appear to be calling for the suspension of the Constitution to allow the army to “stop” the killings.

It's worth emphasising that Lesotho is a member of the United Nations (UN) and has ratified all core UN human rights treaties which compel it to respect, protect and fulfil human rights within its territory.



Lesotho is also a member of the African Union (AU) under which it has ratified the African Charter on Human and Peoples' Rights and some of its protocols, effectively binding itself to respect, protect and fulfil human rights.

These global and regional human rights' systems create legally binding obligations on Lesotho.

The war on organised crimes, as manifested by the famo gangs in Lesotho, has generated serious concerns about the protection of society and the guaranteeing of human rights.

Granted, such crimes can potentially destabilise governments and close down civic space as well as undermine peace and security.

They can further have devastating repercussions on the socio-economic development of the state.

In countering such crimes, governments are duty-bound to take positive measures to protect nationals by devising strategies that curb the crimes while also protecting human rights. These strategies targeting organised crimes include legislative, policy, judicial and administrative measures.

It is during the implementation of those measures that the legitimacy and lawfulness of such strategies are tested.

Governments must at all times adhere to the rule of law. Yet it is this reasonable requirement to respect human rights that some see as a stumbling block in waging the war against organised crimes or famo killings.

The recent statements by some senior army officers are evidence of this regrettable attitude towards human rights. The LDF appears to view human rights as an obstacle in the battle against famo murders.

They see human rights as protecting perpetrators (famo gangs) at the expense of the victims by frustrating the government's strategies to counter organised crimes.

Equally explosive is the view that anyone who is suspected of famo-related killings automatically forfeits their claim to human rights protection.

International human rights law provides a fertile ground for governments to guarantee the enjoyment of human rights while at the same time ensuring national security.

States have an obligation under the international human rights law to ensure the protection of human rights of their nationals.

Such an obligation is not difficult to comply with in times of peace when human rights are not in danger.

It is in times of threat and fear where human rights become the first casualty through subversive actions of the government as it pushes back against perceived threats.

Measures adopted by the governments in countering organised crimes have seriously undermined this very bedrock of the effective war against crime.

These counterproductive practices include extra-judicial killings, torture and ill-treatment.

Other measures involve the strategic weakening of judicial independence by using exceptional courts such as military courts to try civilians suspected of organised crimes and denying them legal representation.

Systematic targeting of human rights defenders, journalists and civil society through reprisals, threats, killings and other means of shrinking or closing down civic space are common.

In Lesotho, the police, unlike the army, enjoy the constitutional mandate under the Constitution of Lesotho of 1993, section 147 which specifically endows them with the responsibility to maintain law and order in Lesotho.



Therefore, the police are constitutionally mandated to deal with crime.

The same cannot be said about the army despite section 5 of the LDF Act of 1996. This is to say, the army does not have a constitutional mandate to maintain law and order.

The role of the LDF in the fight against crime is secondary and must be strictly regulated to safeguard fundamental civil liberties. The role must be that of support or assistance to police where there is a need.

This may entail supplying more staff, equipment and knowledge to support the upkeep of law and order.



The army's role is to safeguard national security and protect the interests of the state and its inhabitants in times of crisis through the use of force.

The orientation of the police and the army are different.

The police, through their training, are skilled and equipped to handle suspects while at the same time being cognisant of existing civil liberties.

Because our national laws, international law and best practices entrust the police to handle criminal matters, it is inappropriate and undesirable for the army to handle criminal matters without the involvement of the police.

Article 4 of the International Covenant on Civil and Political Rights allows states "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, to take measures derogating from their obligations under the present Covenant".

It must, however, be recognised that the derogation of rights under the Covenant constitutes a violation of international law unless the emergency has been officially announced by the local body with the powers to do so.

This means when confronted with heinous attacks such as terrorism, not the famo-related killings which fall squarely under policing matters, the competent branch of government must make a public notification to people to know of the existing threat and temporal scope of the application of emergency measures as well as their impact in the enjoyment of human rights.

This is done to prevent unlawful derogations under self-created emergencies and attempts by the government to justify human rights violations.

The Convention provides for conditions and strict requirements applicable to derogation measures. Article 4(2) provides for those rights which cannot be suspended or abrogated under a state of emergency. These are the right to life, prohibition of torture, prohibition of slavery and servitude, prohibition of detention for debt, prohibition of retroactive criminal law, right to recognition as a person before the law and right to freedom of thought, conscience and religion.

A state cannot use the imposition of a state of emergency as an excuse for failing to protect and uphold those inalienable rights.

The universality and inalienability principles of human rights dictate that each right exists for all persons in all circumstances, even to suspected criminals.

These principles rebut misguided claims that anyone suspected of a crime forfeits his/her claim to human rights.

Further, Article 4(3) of the Convention states that any State party “shall immediately inform other State Parties, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and the reasons by which it was actuated”.

This is to prevent unnecessary interference with the enjoyment of human rights under the disguise of a “state of emergency”.

The government is therefore compelled to provide notification of the state of emergency and justification thereof.

So what does Lesotho have to do in the current situation?

It is a fact that crime has generated serious concerns about the protection of society and the guaranteeing of human rights. It has proved to have detrimental and devastating repercussions on the peoples’ enjoyment of human rights as well as the socio-economic development of the state.

But in countering these crimes, the government must take positive measures to protect people against perpetrators by devising strategies aimed at both curbing crime and

protecting human rights.

Letting the army lead the process is self-defeating. Leading crime prevention must strictly be reserved for the police, not the army.

The army must assist where it is required. Where there are capacity gaps in the police, as is the case with our police, the government must take measures to provide such capacity-building and the necessary resources essential in curbing violent crimes.

The government must therefore develop effective measures to fight crimes while also protecting the rule of law and human rights.



It would be counterproductive to unleash terror on citizens in the name of fighting crime. Warring against crime while at the same time complying with international human rights law obligations is desirable.

Our laws and the international human rights law balance the protection of society or national security and the guaranteeing of human rights.

Lepeli Moeketsi is a Human Rights Defender and human rights lawyer.



The Post

Related Posts

Generation Z and the Jolly Rogers: Conclusion

January 5, 2026

The question of a federal state

January 5, 2026



Generation Z and the Jolly Rogers: Part One

December 15, 2025

ADD A COMMENT

Editors Picks

Knives out for Rapapa

Health officials get a breather from PAC

I've forgiven Matekane, says Lipholo

Crackdown on liquor consumption

Latest Posts

Advertisement



Latest Posts

Knives out for Rapapa

Health officials get a breather from PAC

I've forgiven Matekane, says Lipholo

Crackdown on liquor consumption

Trending Posts



1 **Lesotho politics and society: a review**

January 5, 2026

2 **Army hunts jobs fraudster**

January 5, 2026



3 **Pep Stores: Staying true to our mission**

January 5, 2026

ADVERTISEMENT

the

Your source for the serious news. This demo is crafted specifically to exhibit the use of the theme as a news site. Visit our main page for more demos.

We're social. Connect with us:



Subscribe to Updates

Get the latest creative news from FooBar about art, design and business.

Your email address..

SUBSCRIBE



Agree to the our terms and policy agreement.

NewsOne24

Your source for the serious news. This demo is crafted specifically to exhibit the use of the theme as a news site. Visit our main page for more demos.

We're social. Connect with us:



HOME NEWS BUSINESS INSIGHT MUCKRAKER COMMENT OPINIONS SPORTS
CONTACT US E-PAPER

© 2026 ThemeSphere. Designed by ThemeSphere.