

# DISABILITY LESOTHO



## From the Editor

Dear Partner,

Welcome once again to the edition of Disability Lesotho, the monthly email newsletter from Lesotho National Federation of the Disabled. The edition will cover news for the Month of March, 2017.

There has been interesting developments during this month in Lesotho in terms of the governance issues of the country. The bottom line is that the country is going for National Assembly Elections on the 03<sup>rd</sup> April 2017. LNFOOD as part of the Civil Society has responsibility to support the Electoral Independent Commission in the electoral education. While we understand the pressures which come with conducting snap elections it is important to conduct all processes, (pre-election, during elections and post elections processes) necessary for the transparent, credible, free and fair elections which will lay a solid foundation for development of Lesotho going forward. Since we are two years after the last election, I hope

the I.E.C. will take stock the recommendations given in the last elections report 2015 in terms of enhancing independence of electors with disabilities. Implementation of the Capacity Development for the Promotion of the Rights of Persons with Disability project is in full swing and the outcomes are showing.

If you would like to contribute to the next issue or have received this newsletter from a third party and wish to be included on the mailing list please contact Pascalina Letsau on (+266) 5905 5406 or [pletsau@gmail.com](mailto:pletsau@gmail.com)

If missed any edition please visit [www.lnfod.org.ls](http://www.lnfod.org.ls)  
We welcome any feedback that may improve the quality and content of this free service.

Best regards,



The Editor

## DIRECTOR'S CORNER

### Facilitating access to justice for Persons with Intellectual or Psychosocial disabilities through strategic litigation in Lesotho

By: Nkhasi Sefuthi

The Lesotho National Federation of Organisations of the Disabled (LNFOD) is implementing "Reforming access to justice" program funded by (OSISA). Ever since the implementation started in September 2017, the grant has empowered LNFOD to advocate for the removal of the procedural laws which explicitly inhibit people with intellectual or psychosocial disabilities from testifying in the courts of law on the basis of their disability.

Section 219 of the Criminal and Procedure and Evidence Act 1981, provides as follows:

"No person appearing or proved to be afflicted with idiocy, lunacy or inability or labouring under any imbecility of mind arising from intoxication or otherwise whereby he is deprived of the proper use of reason, shall be competent to give evidence while so afflicted or disabled."

The High Court of Lesotho in *R v Dlamini* in 2006, interpreted this provision to the effect that, persons with intellectual or psychosocial disabilities are not competent to give evidence in the court of law because their evidence is unreliable. This interpretation negatively denied people with intellectual and psychosocial disabilities their right to equality before the law and legal capacity. As a result, sexual perpetrators of girls and women with disabilities take advantage of this unfortunate procedural law by committing sexual offences against the aforesaid group with the full knowledge that they will be acquitted on the basis that the victim with

mental/intellectual/psychosocial disability's evidence will be excluded on the basis of unreliability.

LNFOD gathered from its beneficiaries in the communities in which they live that, there are perpetrators who publicly boast about how they win sexual cases levelled against them in the event that a victim is a girl or a woman with disability.

LNFOD will not tolerate the violations of human rights of people with disabilities in which perpetrators enjoy impunity because the domestic law of Lesotho condones offences committed against people with intellectual disabilities.

Worst of all, in the event that the accused person has intellectual disability, the fair trial will not take place, but, the accused person will be kept indefinitely in the institution at the King's pleasure.

From the foregoing LNFOD is undertaking strategic litigation to challenge the constitutionality of section 219 of the Criminal Procedure and Evidence Act through the grant provided by the Open Society Initiative for Southern Africa (OSISA) in order to protect the right to equality before the law and access to justice by persons with intellectual disabilities on an equal basis with others.

A 37 year old man with intellectual disability who suffered the consequences of the blanket denial of people with mental disabilities to adduce evidence in court proceedings, consented to take this strategic case to the Constitutional Court in April 2017 in which the court will be asked to declare

section 219  
unconstitutional  
and accord  
people with  
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capacity which  
will enable them



states to  
recognise people  
with intellectual  
disabilities before  
the law on an  
equal footing with  
others and  
provide  
supported  
decision making  
to witnesses with  
disabilities where  
such a need

to enjoy their human rights on an equal basis with others.

LNFOOD conveys its sincere thanks to OSISA for finding it worthy to support promotion and protection of the rights of people with disabilities in terms of access to justice.

Lesotho is a state party to the UN Convention on the rights of persons with disabilities since the 2nd December 2008. Article 5 requires all member states to abolish laws discriminating people on the basis of disability. Article 12 obliges member

arises in the proceedings. Most importantly, article 13 mandates Lesotho to ensure access to justice to people with disabilities by removing procedural barriers hindering full and effective participation of witnesses with disabilities in terms of access to justice.

LNFOOD is hoping that from the strategic litigation process, the Constitutional Court of Lesotho will declare section 219 of the Criminal Procedure and Evidence Act unconstitutional and therefore direct for its amendment. LNFOOD is also tackling this problem through the Ministry of Law, Human Rights and Constitutional Affairs, LNFOOD had since sent a proposal for amendment to the ministry's Principal Secretary.

## GENERAL NEWS

### DOMESTICATING UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) IN LESOTHO

**By: Sefuthi Nkhasi**

Lesotho as a member state to the UN Convention on the rights of persons with disabilities (CRPD) is under the obligation to domesticate this Convention to provide the right to education for learners with disabilities in terms of access to education. Lesotho must realise this right to education without discrimination and on the basis of equal opportunity by ensuring inclusive education system at all levels.

In 2016 Lesotho as a member state gathered the evidence with regard to the situation of children with disabilities in the mainstreamed schools by organising inclusive education mapping workshop in which all stakeholders gathered to discuss the challenges facing meaningful inclusion of learners with disabilities and solutions thereof in the general education system of Lesotho. A conclusion was reached from that workshop to the effect that, there was an urgent need for Lesotho to have in place inclusive education policy.

Ever since the Ministry of Education and Training demonstrated the intention to make the general education system inclusive of learners with disabilities, the Lesotho National Federation of Organisations of the Disabled (LNFOD) has been working tirelessly to

mobilise people with disabilities to call for the development of the inclusive education policy and sought financial support from the partners to ensure participation of people with disabilities in this crucial process.

Recently, LNFOD has started to implement "Capacity development for the promotion of the rights of persons with disabilities" program funded by Diakonie Austria, through financial support from Austrian Development Agency and Bread for the Word. The program has the specific interest in the development and implementation of the Inclusive Education Policy in order to ensure meaningful access to education for learners with disabilities studying at all levels.

Through the aid from the UNICEF, the Ministry of Education and Training started the drafting of the Inclusive Education Policy in December 2016.

In March 2017, LNFOD and its DPO members along with other stakeholders participated in the drafting workshop of the Inclusive Education Policy organised by the Ministry of Education and Training.

LNFOOD will continue to participate in these drafting workshops to provide technical inputs and conduct training for teachers on the implementation of the Inclusive Education Policy as soon as it is completed through “Capacity development for the promotion of the rights of people with disabilities” program in close collaboration with the Ministry of Education and Training.

LNFOOD would like to extend its appreciation to the management and staff of the Ministry of Education and Training for involving LNFOOD and its DPOS in this crucial process of making the Lesotho general education system accessible and inclusive of all learners with disabilities.

LNFOOD is grateful to Diakonie Austria for taking over from our long term partner NAD to support LNFOOD to have human resource working on the inputs which are intended to shape our Inclusive Education draft policy better than ever before.

From the foregoing, it is evident that together we can build a better Lesotho which is recognising the right to education for children with disabilities.

A word of thanks goes to Open Society Initiative for Southern Africa (OSISA) for financing the stakeholder workshop on the drafting of Inclusive Education Policy in March as well as the upcoming one in April 2017.



## GENERAL NEWS

### The immediate success for the new project

By: Masekara Sekoankoetla

LNFOOD is implementing a new three-year program titled Capacity Development for the Promotion of the Rights of Persons with Disability. It is implementing this program in partnership with Diakonie Austria (the donor), Jiros Jiri from Zimbabwe and its four member organizations.

The project is focused on advocacy for inclusive education in Lesotho. It is also focused on improving the livelihoods of persons with disabilities through employment and small livelihood projects as well as the livelihoods of people with disability. Empowerment, rehabilitation of person with disabilities is also key targets of this project. People with diverse disabilities living in 14 community councils in the districts of Leribe, Berea, Mafeteng and Mohale'shoek are the beneficiaries of this project.

LNFOOD in partnership with its member organizations is currently introducing this project to the local authorities in the project area. It is also seeking collaboration and support of these authorities during the implementation of the project.

On 16 March, this project was introduced in Ts'ana-talana Community Council in the district of Mafeteng. The thirteen community councillors representing all thirteen electoral Divisions (ED) in Ts'ana-talana community council attended. The community councillors welcomed the project beyond the expectation of LNFOOD. Speaking on behalf of the councillors Mr. Teke Seeiso shared that this project came to their council at the opportune time when the

council had just drafted its annual plan. He shared that people with disability have never been included in the previous nor are they included in the current annual plan of the council. Mr. Seeiso further mentioned that they, community councillors were not aware of the fact that people with disability comparatively benefit minimally from the work of the council living in poorest condition of life as a result.

Also speaking on behalf of the community councillors, Mr Fusi Sefuthi stated that they as the community councillors were not aware that people with disability do like women and children needed to be specifically targeted in the annual plans of their community council.

The community councillors pledged to revise their recently drafted annual plan to specifically target and include people with disability. They agreed, this shall ensure that they benefit on equal basis with their non-disabled counterparts. This shall in turn improve accountability of the government to all citizens including those with disability. As promised by the community councillors, the annual plan of Ts'ana-talana Community Council shall be aligned with the targets of LNFOOD's new three-year program.

The same activity has been going on in the other twelve (12) councils and the has been warmly welcomed by the local authorities who also pledged to give it their support. In Semonkong and Silloe councils, the councilors went further to praise LNFOOD, saying it helps them do their own responsibilities.

## GENERAL NEWS

### LNFOOD a double-edged sword

By: 'Malehlohonolo Molelengane

LNFOOD is currently implementing a project on Inclusive education for children with disabilities. This project has a number of activities aimed at increasing access to education for learners with disabilities as well as getting the Inclusive Education Policy adopted. One of the activities in this project is 'Community Campaigns on Inclusive Education'.

The LNFOOD Advocacy team carried out this activity by going to the communities to train and build capacities of teachers, councillors, parents of children with disabilities and persons with disabilities on issues of inclusive education. This activity proved to be one of a kind as all people who were targeted professed a lot of understanding at the completion of the activity. One Mosiuoa Khutlane, a teacher from Mohale's hoek, even made a poem about inclusive education at the completion of the training in Mohale's hoek. He is also spreading

the good to his other colleagues and he is getting good results.

Meanwhile, LNFOOD also funded the Ministry of Education and Training's workshop at Thaba-Bosiu. This workshop was aimed at presenting a draft of the Inclusive Education Policy to all stake holders. It is at this workshop that the draft was improved by the inputs of academia and key stake holders. The final draft is expected to be finished in April 2017 and the policy is expected to be complete and presented before the Minister in June.



LNFOOD is really a double-edged sword, we target both the Ministry to develop a policy on inclusive policy while we train our beneficiaries on Inclusive education so that when the policy comes into being, our beneficiaries and service providers are already equipped with best practices on inclusive practices.

# NEWS IN PICTURES



Visually impaired Persons from Maseru Rural under campaign to sensitise Security services



New Sign Language interpreters at the graduations



Semonkong Urban Council sitting is discussing the coming project to the council



Community Councilors at Tebetebe during the presentation of the new project



The Project Coordinator Mr. Moeletsi is presenting the new project to the council



Chairperson of Ratau Community council praises the project



## UPCOMING EVENTS & ANNOUNCEMENT



### SOUTHERN AFRICA DISABILITY ROUND TABLE FORUM

For more information please contact: SAFOD Program Manager on;

Tel; +25733700751

Email: [programs@safod.net](mailto:programs@safod.net)

Or

Visit: <http://www.disabilityroundtable.org>

**Capacity Building Workshop to develop the capacity of the Investigators, Prosecutors and Magistrates**

For more information, please contact LNFOD office on 22320345 or email: [malehlohonolo@lnfod.org](mailto:malehlohonolo@lnfod.org).

**Introduction of the Framework Program in Leribe, Berea, Maseru, Mafeteng and Mohale'shoek districts**

**Conduct Self Advocacy Skills Training for Representatives of Persons with Disabilities in the 14 Community Councils**

For more information, please contact LNFOD office on 22320345 or email: [moeletsi@lnfod.org.ls](mailto:moeletsi@lnfod.org.ls)

# ADVOCACY WORK



## LNFOD

PARTNERS in Advocacy Work



**Diakonie**   
*Katastrophenhilfe*

**Brot**  
**für die Welt**

WITH FUNDING FROM  
 AUSTRIAN  
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COOPERATION