



LNFOOD

NTSOE-LENG
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Editor's Note



Dear Valued Reader,

Welcome to another issue of Disability Lesotho, in this issue we talk to Chief Justice Sakoane Sakoane about the importance of the Disability and Equity Rules of 2023 and how they should be applied, not only by the Courts of Law, but also by the police and correctional officers.

We also talked to the Chairperson of the Parliamentary Social Cluster Hon. Mokhothu Makhalanyane on what Lesotho's ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities mean.

Our Director's Corner is also jam-packed with all the important information in relation to the developments towards the inauguration of the much-awaited Council on the rights of persons with disabilities in Lesotho.

Our Gender & Disability Officer Ms. 'Masenono Letsie tells us about the escalating reports of GBV perpetuated against women and girls with disabilities.

Hear more on curbing barriers facing persons with disabilities through legislation in the justice system, collaborative efforts for children and persons with disabilities, and how the disability inclusive school clubs are yielding fruits.

Enjoy,

T. Khofu

Get in touch with us; we'd love to hear from you:



Lesotho National Federation for Organisations of the Disabled



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Naleli Opposite Maria 'Mabasotho Catholic Church

Chief Justice Sakoane Sakoane speaks on the importance of Disability and Equity (Procedure) Rules of 2023.



CHIEF JUSTICE SAKOANE SAKOANE

By Teboho Khofu

The government of Lesotho has issued new rules aimed at improving access to justice for people with all types of disabilities. This provision is included in the Disability and Equity Rules of 2023, which were published in Government Gazette No. 39 on May 26, 2023. The rules require that persons with disabilities participate effectively in judicial proceedings by making procedural and age-appropriate accommodations. The rules will instruct judicial officers, legal practitioners, court personnel, and others on how to assist people with disabilities in both pre-trial and post-trial legal proceedings. This ensures that people with disabilities can participate fully and efficiently in judicial processes on a level playing field with others.

The rules were drafted and approved by Lesotho's 11th parliament on May 17, 2023.

In an interview with LNFOD, Chief Justice (CJ) Sakoane Sakoane indicated that the Disability and Equity Rules of 2023 aims to make it easier for people with disabilities to participate in the distribution of justice. "People with disabilities have long been regarded as a group that people without disabilities do not consider. However, as the world kept changing, the United Nations and governments of the world convened to assess the situation," CJ Sakoane said.

CJ Sakoane further said the importance of these laws is to make it easier for people with disabilities to go to the courts of law, whether it's entering the courts or determining where to sit. And how they should be assisted when giving evidence in the courts of law. "Making it easier for people with disabilities to access the courts is a critical first step; consider how the buildings are built; there should be easy access to our courts for all. Another major issue is that we must allow people with disabilities to participate in court, give evidence, or ask questions, and judges, prosecutors, interpreters, and lawyers must be careful not to humiliate people with disabilities when they do so," CJ Sakoane said.

CJ Sakoane further indicated that another critical issue is that people with disabilities can also commit crimes, and when this occurs, they should be treated with dignity. As a result, police and correctional officers should be trained on how these laws apply to people with disabilities when it comes to justice.

Similarly, when people with disabilities are sentenced to prison, their housing and life should not be made difficult, but rather made as easy as possible as it is for everyone else, “These procedural rules are relatively new in the country, and as time passes, we will identify their flaws and make necessary amendments,” CJ added.

However, CJ Sakoane indicated that there are still challenges, and that the government should provide funds for the training of Sign Language interpreters, as there are people with disabilities who are unable to properly express themselves. “Not only do we require such assistance in the courts, but our police officers and correctional officers also need to be trained in sign language training. When the police lack interpreters and the information is incorrectly interpreted while the case is still at the police station, it is clear that the person in question, if he/she has a disability, will be denied justice,” CJ Sakoane said.

The Persons with Disability Equity Act 2023 states in Section 32 (1) that the Chief Justice shall make rules for the provision of accessible format methods and any other legal services and procedures that take into account the needs of every person with disability who attends court proceedings.

What does Lesotho's ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities mean?



**Parliamentary Social Cluster Chairperson,
Honorable Mokhothu Makhalanyane.**

By Teboho Khofu

Ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa by Lesotho is critical because it will make it easier to address the ingrained issues of disability discrimination, allowing people with disabilities to access health, education, and employment without stigma. The protocol's ratification is significant because it clarifies the rights of people with disabilities, establishes responsibilities for upholding those rights, requires a right-based approach to disability, promotes inclusive and accessible development, and ensures national and international monitoring of rights.

The chairperson of the Lesotho Parliamentary Social Cluster, Hon. Mokhothu Makhalanyane, agreed with the above statement and stated that by signing and ratifying the protocol, Lesotho guarantees the respect and adherence of the rights of people with disabilities in

accordance with international standards, "This step has significant implications for improving access of persons with disabilities to education, health care, and equal employment opportunities," he said.

Makhalanyane also stated that the parliamentary social cluster recently met with organisations affiliated with the Lesotho National Federation of Organisations of the Disabled (LNFOD), specifically the Lesotho National League of Visually Impaired Persons (LNLVIP), during which LNLVIP pleaded with them to ratify the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa. "On the 30th of May 2023, we stood vigorously before the parliament to pass the motion on the ratification of this protocol; this was quite a success because the motion was supported by the prime minister, Honourable Ntsokoane Matekane, and members of the opposition," Makhalanyane said.

Makhalanyane stated that they are working tirelessly for the ratification of this protocol after learning from LNLVIP that people with disabilities have been encountering obstacles in realising their dream of establishing the advisory council of the disabled; and he stated that if the motion to ratify the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa is approved, it will be very easy to establish the advisory council of the disabled, "We asked the Ministry of Social Development to provide us with a report on the milestones reached in accordance with the advisory council,

either in the form of a cassette or a clear indication of how long it will take to establish the advisory council structure, which is expected to be supported by a clear schedule", he said.

Among the other disability-related tasks that the Parliamentary Social Cluster is currently overseeing is the passage of a motion amending the constitution to include Sign Language as one of Lesotho's official languages. "It is development to include Sign Language as an official language; imagine if people with disabilities engaged in discussions about key national issues using Sign Language without including us." How would we react or feel? Consider the abuse that a person with a speech and hearing disability might face if she is scheduled to give birth in one of our hospitals." Makhalanyane says that as a starting point, they are currently working tirelessly to have a Sign language translator in parliament to cater for people with disabilities.

One of the most important benefits that Lesotho's would have after the ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa is the advancement of collaboration with other countries, as well as the exchange of best practises and experience in the area of inclusion and fortification of the rights of people with disabilities. Lesotho can benefit from such collaboration in terms of knowledge sharing, technological development, and attracting investment in social programmes and projects.

Director's Corner

Persons with Disability Advisory Council.



**LNFOD, Executive Director,
Adv. Nkhasi Sefuthi.**

By Nkhasi Sefuthi

This article is aiming at sharing the developments towards the inauguration of the much awaited Council on the rights of persons with disabilities in Lesotho. It will further demonstrate how the council will assist the country in fulfilling its obligations imposed under article 33(2) of the UN Convention on the Rights of Persons with Disabilities. The article concludes with the recommendations put forth by LNFOD to strengthen the capacity and effectiveness of the Council towards the promotion and protection of the rights of persons with disabilities.

Two years after the enactment of Persons with Disability Equity Act by the Lesotho parliament, Basotho had been celebrating the inauguration of the Council through the publication of the notice in the gazette appointing members of the Persons with Disability Council. The gazette appointing members of the council has been released on the 19 July 2023.

The appointment of the council members marks a great milestone for the promotion, protection and enforcement of the human rights of persons with disabilities as the council has the full power to enforce them where they are threatened or violated by either individuals or state institutions. Most importantly, the council establishes an independent grievance mechanism for an individual with a disability or a caregiver to lodge a complaint to the council concerning inaccessibility or lack of inclusion of the public service. The council has the general mandate to monitor all the rights contained in the Act and goes beyond that as the council has the role to advise government through a minister on the adoption and ratification of regional and international human rights instruments concerning persons with disabilities. The council is the independent government monitoring body for the human rights of persons with disabilities and as such it has autonomy to run its affairs without the interference of any government ministry including the Ministry of Gender, Sports, Arts, Culture and Social Development.

It is made up of 13 independent member experts acting in their individual capacity as members of the council.

The council will sit on quarterly

Basis to monitor and evaluate the situation of persons with disabilities in Lesotho and make decisions based on the situation.

The council will have its secretariat headed by the Director General whose function is to execute the functions of the council. The inauguration of the disability council is the commitment of the government of Lesotho to be accountable to its citizens and domesticated article 33(2) which requires the state parties to establish independent national human rights mechanism for the effective monitoring of the implementation of the Convention.

Women and girls with disabilities continue to suffer violence in the hands of communities.



Commissioner Of Police, Holomo Molibeli.

By 'Masenono Letsie

The most brutal form of violence is murder. Despite numerous awareness raising campaigns to end gender-based violence (GBV) against women and girls with disabilities within communities, LNFOD continues to receive escalating reports of GBV perpetrated against women and girls with disabilities.

On the night of 24-June-2023, at Mpharane-Faskeri Mohale'sHoek, a woman with a physical disability was killed in a brutal and gruesome manner by an unknown criminal at her house. It is alleged that Mrs Maneo Monaheng and her three yearthree yeargrandson were preparing to go to bed when they

were ambushed by a man who ruthlessly hit her several times with a stick on the head, police evidence reveals that she could have been strangled until she lost her life.

LNFOD promotes zero tolerance towards violence against women and girls with disabilities and, it is gravely saddened by the death of Mrs Monaheng and strongly condemns this heinous criminal act. Violence against women and girls with disabilities is a grave violation of human rights and it can only be put to end by addressing gender disability in -equalities and discrimination. These brutal acts of violence against women and girls with disabilities are a stark reminder that the on-going fight against gender based violence is nowhere near the end. The right to Life is a fundamental human right enshrined under **Section 5(1)** of the 1993 Constitution of Lesotho, which clearly stipulates that; every human being has an inherent right to life. No one shall be arbitrarily deprived of his life.

Article 16 of the Convention on the Rights of Persons with Disabilities also requires States Parties to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

The perpetrator of this barbaric

and senseless murder has not been apprehended to date. LNFOD continues to call upon the Commissioner of Police to swiftly carry out all necessary steps to investigate the matter and take all efforts to arrest the suspect.

Whilst we call for justice to be served for the family, it is equally important to call on responsible men to lead the fight against gender based violence in our communities.

Collaborative efforts for children and persons with disabilities.



Open source image: Unsplash+

By Puleng Mosili

According to National strategic development plan II2018/19 - 2022/23 People with disabilities continue to receive unequal access to social services and economic opportunities, including access to labor markets. Disabilities have not yet been mainstreamed into the national agenda, and the Disability Policy of 2011 is yet to be implemented.

Boys and girls with disabilities still face significant challenges accessing education due to lack of appropriate assistive devices, limited teachers with requisite skills, and stigma towards disabilities. Women and girls with disabilities are amongst the most vulnerable to gender-based violence and human trafficking. There is also no social security for unpaid work (e.g., household work, child-rearing). Lesotho still lacks a legal framework to provide paternity leave for shared responsibility.

The ministry of Gender, Youth, sports, arts, culture and social development, Ministry of Health and Ministry of Education and Training are joining hands under the World Bank funded project led by the department of social development to determine appropriate assistive devices for persons with disabilities including children through a multi-disciplinary team. This initiative is under the Pathways to Sustainable Livelihoods project (PSLP) that is envisioned to support the Government of Lesotho (GoL) to improve the efficiency and effectiveness of selected social assistance programs and to strengthen the livelihoods of poor and vulnerable households.

The project has among other components a specific component targeting persons with disabilities through provision of assistive devices such that they access social services, economic opportunities and in education. The total number of beneficiaries for this subcomponent will be 2500, including 1750 children (70%) and 750 adults (30%). Out of the children with disabilities (in the age of 0 to 17 years old), at least 40% of the beneficiaries will be girls (700) while, at least 30% will be boys (525).

The adult beneficiaries (from 18 to 55 years old) will consist of at least 10% males (75) and at least 20% females (150). A representative from organizations of the disabled is included as part of the multi-disciplinary team to provide an advice on appropriate assistive devices.

CURBING BARRIERS FACING PERSONS WITH DISABILITIES THROUGH LEGISLATION IN THE JUSTICE SYSTEM.



Mamokhothu Moahloli – LLB
Postgraduate Intern at
LNFOD.

By Mamokhothu Moahloli

Section 2 of the Constitution of Lesotho 1993 as amended in 2020 is said to be mother law, governing that any law contrary to it is illegal (*null and void*). That's the reason for the invalidation of *Section 219* of the Criminal Procedure and Evidence Act of 1981 as per court decision in the case of *Koali Moshoeshe and Others v Director of Public Prosecution - DPP & Others (CC/14 OF 2017)*. The said **Section** asserts incompetence with intellectual and psycho-social disabilities people before courts of law. Moreover, the unconstitutionality of *Section 219* was also as was also contrary to *Section 18* of the Constitution of Lesotho. Though not specific, disability status is indirectly covered under “any form” of discrimination that is outlawed under the Section.

Since it's signatory and ratification on ***UN Convention on the Rights of Persons with Disabilities (UNCRPD)*** in 2008, Lesotho finally managed to enact the ***Persons with***

with Disability Equity Act, 2021. The Act domesticates the UNCRPD and amongst others contains the right to access justice under *Section 13(1)*, which alludes to the right to access justice for persons with disabilities. Through appropriate accommodations such as communication (interpretation) and environment (minimization of open courts) and the use of justice intermediaries as used in the Children's Court where appropriate.

Even though, Lesotho enacted ***Persons with Disability Equity Act***, the justice system was challenged on its implementation. As a response, the Chief Justice on behalf of the Government of Lesotho enacted ***Disability and Equity (Procedure) Rules, 2023*** as a response also to ***Article 13 (2)*** of the UNCRPD. Both the Act and the UNCRPD State parties are bound to comply with the access to justice provision through ensuring continued training as a form of communication accommodation and environment. Based on these recent developments in the area of access to justice, National Federation of Organisations of the Disabled (LNFOD) undertook a three-day training workshop on access to justice for persons with disabilities. The activity sought to strengthen the capacity of Magistrates and Prosecutors to provide accommodations in court processes specifically by using the ***Disability and Equity (Procedure) Rules, 2023***. All members for Disabled People's Organizations (DPO's) such as **Lesotho National League of Visually Impaired People (LNLVIP)**, **Intellectual Disability Association**

of Lesotho (IDAL), Lesotho National Association of the Physically Disabled (LNAPD) and National Association of the Deaf Lesotho (NADL) were also represented in the workshop. The DPOs amongst others presented on the challenges faced persons with disabilities in the justice system drawing from practical experiences they encounter while engaging with courtrooms on the ground. Participants were able to meaningfully engage during the workshop and all agreed that it is possible to implement the Rules immediately. We are hopeful that the government of Lesotho will budget towards the training of all the justice sector to ensure smooth implementation of the access to justice provisions in our legal framework.

Access to Justice for Persons with Disabilities: Three-day Capacity Strengthening Workshop for Prosecutors and Magistrates in Lesotho Held at Thaba Bosiu Cultural Village July 2023.



Three-day workshop, Thaba Bosiu Maseru.

By Lerato Makananelo Ramoholi

The government of Lesotho with the support of the Chief Justice of Lesotho has adopted the Disability Equity (Procedure) Rules, 2023 to give effect to access to justice provision (Section 32) in the Disability Equity Act, 2021. LNFOD engaged a consultant in disability rights to train the prosecutors and the magistrates on access to justice for persons with disabilities on the use or application of the newly adopted Equity Procedure Rules in a three-day workshop at Thaba Bosiu Maseru. The purpose of the training is to sensitize crown counsels and magistrates from different districts of Lesotho on the Act and the Rules in order for them to apply these laws in court processes and proceedings.

It is expected that the training will introduce a paradigm shift where our courts will apply inclusive procedures which were once considered foreign and contrary to our rigid and customary court procedures that were applied universally to all irrespective of disability. The traditional approach meant that persons with disabilities were excluded from participating in the justice proceedings or in the rare instances where they were allowed, they could not effectively participate due to disability related barriers and systemized lack of accommodations in court processes.

Access to justice is a fundamental human right that every person is entitled to irrespective of status or identity, yet there are various barriers in the public service sector in Lesotho, including the justice sector, that hinder participation and or effective participation of persons with disabilities purely on the basis of impairments. This causes disability and therefore disability-based discrimination. According to the Persons with Disability Equity Act 2021, *"Disability is the result of the interaction of the person with impairments and the environment with various barriers which hinder a person with the impairment to participate in societal activities on an equal basis with other persons."*

Like the Disability Equity Act and the United Nations Convention on the Rights of Persons with Disabilities, the Rules have adopted the social model to disability, which means that they uphold the approach that disability is mainly caused by interaction of impairment and barriers not impairment on its own. These barriers can include; communication, attitudinal, financial and even structural barriers and these are normally intensified by personal factors like gender of a person with impairment. For example; women and girls face multiple disabilities as a result of the intersectionality between disability and gender. In order to solve these barriers that exist in court processes, the Rules introduce accommodations to ensure effective participation of persons with disabilities on equal basis with others. Accommodation are mainly adjustments and modifications to the environment enable or facilitate effective participation or inclusion of a person with impairment. These can include allowing assistance by interpreter, translator and intermediaries, use of accessible courtrooms, frequent breaks during testimony and mode of questioning that includes the use of simple language as well as protection of the witnesses/complainant from harassment by the judicial officers. Since the judgement in the **Koali Moshoeshoe and Others V DPPCC/14/2017** which repealed section 219 (provided that persons with mental disability are not competent to testify) of the Criminal Procedure and Evidence Act 1981 for being discriminatory, the challenge on how the witnesses with mental disability could be supported to testify remained. This led to intensified advocacy for laws and procedures that promote access to justice in the Lesotho justice system, giving birth to the Disability Equity (Procedure) Rules, 2023.

Disability Inclusive School Clubs Yield Fruits.



Bokhopa Primary School vegetable production project.

By Rabasotho Moeletsi

LNFOOD in collaboration with its international partners, Diakonie Act Austria funded twenty-two (22) schools with a small grant to engage into income generating projects of their choice. This was made possible thanks to the support from Austrian Development Agency, ADA. These are the schools which won competition which was run last year among the schools eighty-four (84) schools which established disability inclusive school clubs through LNFOOD support. Earlier this year, Bokhopa primary school in Tebe-tebe community council, Berea started vegetables production projects and have done really well in this short space of time. The school was able to purchase necessary equipment and the seeds which enabled them start production in their own field.

“The project initiative has been very beneficial to our school. As a new school we did not even have basic garden tools such as spades, digging forks, rakes,

watering cans, and we have the now thanks to LNFOD for bringing the project,” said Matlotliso, a teacher responsible the disability inclusive school club.

The good thing about their production is that they had a market secured before they produced. The school community, pupils and staff are primary market for the produce.

“This is the second harvest we had, the first harvest was bought by the school to cater for lunch of pupils, meaning we were very lucky that we are our own market as the school, she added.

The project has been essential as it seeks to make profits which are going to be used to address disability related needs of learners with disabilities in school. They may include construction of ramps, purchase of sanitary towels for female members of the club, school uniform for a needy learner with a disability. The school have about twenty learners who are members of the club, comprised of both learners with disabilities and their fellow learners with no disabilities. This inclusive team is important to create social cohesion which is vital for conducive learning of all learners in school. They hold their own meetings at their own leisure times and make their own decisions with guidance of the teacher responsible to the club.

“Once all monies are reflected into the school club account, the club committee will call a club meeting to decide what should be purchased with the profits from the project,” she said.

With this small initiative, LNFOD is enticing the government to realise the importance of

providing budget to schools to cater for sexual reproductive health needs, and adaptation of school premises which are barriers to accommodate learners with disabilities in classrooms. Only if our government through ministry of education and training turn regular schools into inclusive education environments where every learner is accommodated.

Bokhopho primary school welcome the initiative spoken highly on the impact it brought to them as one of the new schools in the country. They are saying that impact of the project is felt even beyond education in school. The project also bears fruits to the learners even though it means they have to travel long distances fetching some water from the village since they do not have running water in school.

“We are not taking the project lightly; it has a big impact to us. One day we were shocked as the school to realise that for some of these kids in higher grades it was a first experience to use a spade. We have feedback that there are learners who are started having grown some crops at the own backyards at home,” concluded Matlotliso.

LNFOD can only contribute to the certain extend, the onus lies with duty bearers here who are the ministry of education and training to learn from this example, replicate, scale it up and roll it out to other schools in the country to ensure that learners with disabilities are included meaningfully in regular classroom setting.

Disability Rights Unit Established within the Ministry of Police.



Deputy Commissioner Of Police, Dr. Mahlape Morai.

By Lerato Makananelo Ramoholi

In an interview held with the deputy Commissioner of police (DCP), Dr. Mahlape Morai on the 25th July 2023, the deputy commissioner highlighted that the Disability Unit has been established at the headquarters in August 2022. The key mandate of the office includes mainly to coordinate and fast-track disability cases in the police stations in Lesotho. As stated by Dr. Morai, the office works hand-in-hand with the office of the Child and Gender Protection Unit (CGPU) and is housed in the police department called the Complaints Compliance Discipline Inclusion and Inspection department to ensure that disability is mainstreamed across services offered in the department and beyond. Specifically, under the latter department there is a disability desk that is the responsibility of the inclusion officer. The unit currently has ten officers. The DCP went further to note that although she has been newly appointed the coordinator of disability issues working hand in hand with the disability desk, within the headquarters, she is aware of the huge task that lies ahead, taking into the fact that this is a fresh mandate ever tasked with the DCP.

Dr Morai mentioned that there is a lot that needs to be done to yet formalize and institutionalize the unit within the Ministry of

Police beginning with the police headquarters in Maseru as a pilot office, to further extend to other districts of Lesotho. "The unit and its mandate have not been formally launched and its mandate formally communicated although on the ground we have already resumed work. I am however looking forward to this experience as I am highly passionate about inclusion, especially disability rights inclusion, to facilitate and ensure police service accommodates every Mosotho irrespective of status."

The Lesotho National Federation of Organizations of the Disabled (LNFOD) has been working very closely with the Police over the years to promote inclusive access to police services for persons with disabilities. Persons with disabilities often engage with the police on many levels that include; awareness raising, investigations, reporting of cases and taking of statements for purposes of opening criminal cases. However, like many other ministries in Lesotho charged with the mandate of public service, the Ministry of police is not accommodative of persons with disabilities. In almost all these initial criminal stages, there are barriers that cannot be overcome by persons with impairments and these vary from communication, inaccessible facilities and lack of assistive devices specifically for these population. Failure to address these barriers simply means that persons with disabilities are excluded from accessing justice, a fundamental human right, from the very preliminary stages of justice processes. The situation is far worse for women and girls with disabilities who are at present confronted with multiple forms of discrimination which are intensified by interaction between gender and disability. Women and girls with disabilities often need services offered in the CGPU that other women and girls without disabilities are now able to obtain, but they are often excluded due to these disability factors and failure to consider intersectionality. LNFOD is committed to ensure that the newly established Disability unit is strengthened in every manner possible, including through capacity building for personnel on disability rights, to ensure that it effectively coordinates disability for accessible justice services. LNFOD will continue to advocate to ensure that it implements disability inclusion that is fully supported by the management as a whole, including through budget allocation and adoption of disability inclusive tools that fairly maintain data disaggregated by disability.



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