



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Concluding observations on the combined initial to fourth  
periodic reports of Lesotho**

**Addendum**

**Information provided by Lesotho in follow-up to the  
concluding observations\***

[Date received: 10 November 2015]

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\* The present document is being issued without formal editing.



## **Introduction**

1. Lesotho is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women. Hence, she is obliged to submit periodic implementation reports on actions undertaken to eliminate gender discrimination. Having considered the Lesotho's combined initial, second, third and fourth periodic report at its 1007th and 1008th meetings, on 11 October 2011, the Committee stated its concluding observations thereto. Paragraph 47 of the concluding observations makes provision for the follow-up on their implementation that requires Lesotho to present her report written information on steps undertaken to:

- (a) Repeal Section 18 (4) (b) and (c) of the Constitution;
- (b) Include in the Constitution and other appropriate legislation provisions which prohibit direct and indirect discrimination against women in the public and private spheres and in matters relating to adoption, marriage, divorce, burial, devolution of property, death or other matters that fall within the provisions of personal law;
- (c) Prepare a unified code in which unequal inheritance, property and land rights and polygamy are addressed;
- (d) Amend without delay all remaining discriminatory provisions and administrative regulations, including provisions and regulations relating to family, marriage and divorce, as well as taking all necessary legislative measures to ensure women's equal share in all marital property regardless of monetary and non-monetary contributions to the marital property; and
- (e) Prohibit polygamy in accordance with the Committee's general recommendation No. 21.

2. This report provides progress made from 2012 to date in Lesotho with regard to the above outlined recommendations of the Committee.

### **Constitution of Lesotho**

3. The Government of Lesotho is preparing to undertake a Constitutional review and it hoped that Section 18 (4) (c) that allows for discrimination based on gender in matters relating to marriage, burial, devolution of property, death and other matters that fall within the provisions of personal law will be repealed.

4. It is also hoped that the Government of Lesotho will include in the Constitution of Lesotho and appropriate legislation (Inheritance legislation and Laws of Lerotoli) clauses that prohibit discrimination against women on all grounds including marriage, burial, devolution of property, death and other matters that fall within the provisions of personal law, as well as where customary law is applicable.

## **Unequal inheritance rights**

### **Administrative measures**

5. Lesotho has established the National Identity and Civil Registry Department within the Ministry of Home Affairs which will amongst others deal with the

registration of marriages, births, deaths and national identity documents in order to provide certainty and secure women's rights to:

- Matrimonial property upon death of their spouses
- Matrimonial property during divorce or annulment of marriage
- Burial
- Devolution of property

6. It has been noted that customary marriages and marriages registered in other institutions have not yet been captured in the Integrated Vital System on registration of vital events 2013 of the office.

7. In order to get public opinion on unequal inheritance rights and chieftainship, the Department of Gender mounted a national campaign and conducted mobile campaigns, meetings, public gatherings and consultations in all ten districts of Lesotho. Besides, inheritance was designated as the theme for the year 2014 and 2015 African women's month. The outcome was that the majority of Basotho women and men agreed that the law should provide equal inheritance rights with reservations to arable land that has to remain with the family. Few were of the opinion that women, especially girl children could only have inheritance rights where there is no male child in a family. The Right Honourable the Prime Minister moved for girls inheriting on equal basis with boys when addressing the Democratic Congress Women's Wing. He instructed them to take the message down to Constituencies and branches of Democratic Congress in the communities.

8. In relation to succession to Chieftainship, the majority of women and men were adamant that Chieftainship defines them as Basotho such that unmarried women whether or not born of royal blood cannot succeed to office of Chieftainship to avoid uncertainty in the line of succession. Few agreed to unmarried women succeeding to Chieftainship only in the event that the law was amended to force them not to marry for fear that should they marry in a non-royal family the line of succession would be distorted. Few understood Chieftainship as a form of inheritance that the laws of inheritance should be amended to provide for equal inheritance rights.

9. The office of the Master of High Court continuously holds campaigns on the use of a "will" in order to fairly distribute families' wealth fairly and justly. This is done through public gatherings, forums and distribution of IEC materials to the public. The office of the Master of High Court further provides the public with some guidelines on how to draft a will.

## **Land rights**

### **Administrative measures**

10. Lesotho has established the Land Administration Authority (LAA) for efficient issuance of leases and the LAA has also assisted in effectively implementing provisions of the LCPMA and the Land Act 2010 which give women the right to hold title to land without the need to inherit it and to register their rights to the said land. The LAA has undertaken a series of public gatherings nationwide to sensitize Basotho men and women about their rights to hold title to land and registration of

the same women who did not have the right before the enactment of the LCMPA which influenced the enactment of the Land Act 2010 and also to inform them of procedures involved therewith. The table below shows issuance of leases by sex from 2012.

<i>Year</i>	<i>Females</i>	<i>Males</i>	<i>Joint</i>	<i>Total</i>
2012	1 010	629	1 929	3 568
2013	14 419	5 813	21 415	41 647
2014	3 207	1 485	5 278	9 970
2015 (as at September)	888	508	1 543	2 939

*Source:* Land Administration Authority, Lesotho.

11. The high number of women who register land can be attributed to the Land Administration Reform project that gave birth to the Systematic Land Regularisation project that was piloted in 2011 and 2012. Furthermore, the registration of land by females was also made popular by the Legal Capacity of Married Persons Act 2006 and the Land Act 2010 which were publicized during the piloting phase.

12. It should be noted that most of the female registered land is owned by single women, widows or women who have inherited it. It is also worth mentioning that most land registrations are done by urban residents.

13. Coupled with this initiative the Government of Lesotho has also put in place Land Courts to accelerate access to justice and promote protection of economic rights. Furthermore, Millennium Challenge Account (MCA) held a series of campaigns on economic rights, particularly land.

14. The Department of Gender in collaboration with Gender Links has been holding and is continuing to hold meetings with Community Councils with a view of making sure that women do not face any challenges about land allocation in the councils. In addition, Centres of Excellence (Community Councils working with the Ministry of Gender and Gender Links) have drawn gender mainstreaming action plans where community councils use their discretion to offer paternity leave and keep records based on sex disaggregated data in relation to land allocation. The Government has further put in place Gender and Economic Empowerment programmes targeting inter alia, commercial banks and financial institutions with sensitisation on the rights of married women to access credit as appears in the LCMPA using land as a collateral where necessary.

## **Chieftainship**

### **Legislative measures**

15. The Ministry of Local Government has also embarked on nation-wide consultations geared towards review of the Chieftainship Act (1968) as a whole and Section 10 forms part of the sections that will be reviewed and this becomes a window of opportunity to push for amendment of Section 10 which differentiates between married women and unmarried women in succession, thereby affording only married women the right to succeed to chieftainship.

16. Besides, the Law Reform Commission is planning to do consultations to review Law of Chieftainship because currently there are no clear laws that females can succeed to chieftainship.

## **Adoption**

### **Administrative measures**

17. National Identity and Civil Registration registers adopted children as per Children's Protection and Welfare Act (2011).

## **Polygamy**

### **Legislative measures**

18. There are no legislative measures currently taken to prohibit polygamy in Lesotho. There are however remnant cases of polygamy (where one man marries more than one wife who live harmoniously, consulting one another on family matters). Even though there are individuals who prefer to marry more than one wife, it will be observed that most of such marriages are preceded by separation or divorce of the previous wife. The Law Reform Commission is going to include polygamy as a subject of contention on the review of marriage laws.

### **Administrative measures**

19. In order to protect women's rights especially property rights, public gatherings are continuing to be held to raise awareness about the proper procedures that must be followed in conducting polygamous marriages, some of which procedures involve consultation with the senior wife. Women and Law in Southern Africa conducted a baseline study on polygamy the outcome of which will inform the country on the steps to be taken in relation to the practice.

20. The information collected from the consultations reveals that polygamy is an acceptable customary practice; however, it is on the decline because majority of Basotho are Christians — the religion which condemns polygamy. A few (women and men) who practise polygamy are supported by customary law that safeguards against potentially negative financial and emotional consequences for wives and children by requiring that existing spouses be consulted and that separate property is designated for each household.

## **Citizenship**

### **Administrative measures**

21. The Ministry of Gender has made some strides to advocate for equal and just citizenship acquisition through public gatherings, meetings, workshops and forums. The communities that were contacted were of the opinion that foreign husbands married to Basotho women should be afforded equal treatment of citizenship like the foreign women married to Basotho men. They went further to reflect that their off springs should be treated equally especially when they have equally decided to acquire the citizenship of Lesotho.

## **Regulations of discrimination against women**

### **Legislative measures**

22. Labour Code Wages (Amendment) Act 2012 provides for paid maternity leave for workers in the Clothing, Textile and Leather Manufacturing Sectors and provides that an employee who has completed more than one (1) year of continuous service with the same employer in the Textile, Clothing and Leather Manufacturing Industry shall be entitled to receive two (2) weeks paid maternity leave and an employee who has completed more than one (1) year of continuous service with the same employer other than in the Textile, Clothing, and Leather Manufacturing shall be entitled to receive six (6) weeks paid maternity leave. Over and above the maternity leave period, the new mother can be given a nursing hour for the next three (3) to nine (9) months until the baby is six (6) months old or one (1) year old. This act is a response to Labour Code Order of 1992 which was general, and the Labour Code Wages 2012 specifies work leave conditions in the manufacturing sector which tended to offer unpaid maternity leave.

### **Conclusion**

23. There are no legislative measures taken to implement what has been recommended by the Committee. Only the administrative measures have been in place to address the concerns of the Committee.

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