



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

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

Fiftieth session

Geneva, 3 – 21 October 2011

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

Lesotho

1. The Committee considered the combined initial, second, third and fourth periodic report of Lesotho (CEDAW/C/LSO/1-4) at its 1007th and 1008th meetings, on 11 October 2011 (see CEDAW/C/SR.1007 and 1008). The Committee's list of issues and questions is contained in CEDAW/C/LSO/Q/1-4 and the responses of the Government of Lesotho are contained in CEDAW/C/LSO/Q/1-4/Add.1.

A. Introduction

2. The Committee expresses its appreciation to the State party for its combined initial, second, third and fourth periodic report, which in general, followed the Committee's guidelines for the preparation of reports, and was prepared through a consultative process with the participation of Government bodies and civil society. The Committee, however, regrets that the report was overdue since 1996. The Committee expresses its appreciation to the State party for its oral presentation, the written replies to the list of issues and questions raised by its pre-session working group and the further clarifications to the questions posed orally by the Committee.

3. The Committee commends the State party's high level delegation, headed by the Minister of Gender, Sports, Youth and Recreation of Lesotho, which included also the Minister of Justice and Human Rights and Correctional Service, as well as several representatives from relevant ministries, with expertise in the areas covered by the Convention. The Committee appreciates the open and constructive dialogue that took place between the delegation and the members of the Committee.

B. Positive aspects

4. The Committee welcomes the progress achieved since the ratification of the Convention by the State party in 1995, including the legislative reforms that have been

undertaken and the adoption of a range of legislative measures. Specific reference is made to the:

- a. Sexual Offence Act (2003), recognizing marital rape as an offence;
- b. Legal Capacity of Married Persons Act (2006);
- c. Labour Code Wage Amendment Act (2009);
- d. Education Act (2010), which provides for free and compulsory education;
- e. Anti-Trafficking in Persons Act (2011), which criminalizes all forms of slavery and provides for harsh penalties for the perpetrators; and
- f. Children's Protection and Welfare Act (2011).

5. The Committee notes with appreciation the initiatives taken by the State party to promote gender equality and protect women's rights, such as the establishment of a Law Reform Commission, with the mandate of reviewing discriminatory laws. The Committee also commends the State Party for ratification of the Optional Protocol to the Convention on the Elimination of Discrimination against Women, on 24 September 2004.

C. Principal areas of concern and recommendations

6. The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the Convention and views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, to the Parliament, and to the judiciary, so as to ensure their full implementation.

Parliament

7. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of the State apparatus, and it invites the State party to encourage the Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the Government's next reporting process under the Convention.

Visibility of the Convention and its Optional Protocol

8. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on 24 September 2004. However, the Committee is concerned at the general lack of awareness of the Convention and its Optional Protocol in the State party, in particular, among the judiciary and other law enforcement officials. It is further concerned that women themselves, especially those in rural and remote areas, are not aware of their rights under the Convention, or of the complaint procedure under the Optional Protocol, and thus lack the necessary information to claim their rights.

9. The Committee calls on the State party to:

- (a) **Take the necessary steps to ensure the adequate dissemination of the Convention, the Optional Protocol and the Committee's general recommendations**

among all stakeholders, including Government ministries, parliamentarians, the judiciary, law enforcement officers, and religious and community leaders, so as to create awareness of women's human rights and establish firmly in the country a legal culture supportive of women's equality and non-discrimination; and

(b) Take all appropriate measures to enhance women's awareness of their rights and the means to enforce them, including through providing women with information on the Convention and the Optional Protocol.

Legal status of the Convention

10. The Committee notes the State party's commitment expressed during the dialogue to the principles of gender equality and non-discrimination embodied in the Convention. However, the Committee is concerned that although the Convention was ratified in 1995, it has not yet been incorporated into domestic law of the State party, and as such, has no direct domestic application.

11. The Committee urges the State party to place high priority on the process of full incorporation of the Convention into its domestic legal system in order to give central importance to the Convention as the basis for the elimination of all forms of discrimination against women.

Definition of equality and non-discrimination

12. While noting that Section 18 of the Constitution of the State party prohibits discrimination of any kind and unfair treatment, the Committee remains concerned at the absence of a specific prohibition of discrimination against women as defined in article 1 of the Convention. The Committee is concerned that the State party's Constitution contains exceptions to the principle of non-discrimination, in matters relating to adoption, marriage, divorce, burial, devolution of property, death or other matters that fall within the provisions of personal law, as well as where customary law is applicable, in contravention of articles 2 and 16 of the Convention.

13. The Committee urges the State party to:

(a) Speed up its Constitutional review and urgently repeal sections of the Constitution that allows discrimination based on sex/gender in matters relating to adoption, marriage, divorce, burial, devolution of property, death or other matters that fall within the provisions of personal law; and

(b) Include in its Constitution and other appropriate legislation prohibition of discrimination against women, which encompasses both direct and indirect discrimination in the public and private spheres, in line with article 1 of the Convention, and also to include provisions prohibiting all forms of discrimination against women on all grounds, including adoption, marriage, divorce, burial, devolution of property, death or other matters that fall within the provisions of personal law, as well as where customary law is applicable.

Reservations

14. The Committee is concerned at the State party's reservation to article 2 with respect to succession to the throne and chieftainship, and in this respect, takes note of the information provided in the State party's reply to the list of issues and during the dialogue with the Committee that the Government is considering reviewing its position with regard to its reservation to the Convention.

15. The Committee urges the State party to consider withdrawing its reservation to article 2, which is contrary to the object and purpose of the Convention.

National machinery for the advancement of women

16. While noting the establishment of the Ministry of Gender and Youth, Sports and Recreation in 2002, replacing the Ministry of Environment, Gender and Youth Affairs (created in 1998), the Committee is concerned about the lack of information on its authority, human and financial resources and its capacity to ensure that gender equality policies are properly developed and fully implemented throughout the work of all ministries and government offices. The Committee is also concerned that only 20% of the overall budget of the Ministry is allocated to gender issues.

17. The Committee encourages the State party to:

(a) Expediently strengthen its national machinery, namely the Ministry of Gender and Youth, Sports and Recreation, by providing it with adequate human, financial and technical resources for it to coordinate and work effectively for the promotion of gender equality and gender mainstreaming; and

(b) Strengthen its impact assessment of measures taken so to ensure that such measures achieve their goals and targets.

Temporary special measures

18. While welcoming and commending the State party's efforts for the application of temporary special measure in the area of political participation of women, such as the provision in the Local Government Act of 2004 for a quota of 30% for women in local government with the result of 58% representation of women achieved, the Committee is concerned that temporary special measures in accordance with its general recommendation No. 25 are not systematically applied as a necessary strategy to accelerate the achievement of substantive equality between women and men in other areas of the Convention, especially in the areas of employment and education.

19. The Committee encourages the State party to strengthen the use of temporary special measures, in accordance with article 4, paragraph 1, of the Convention, as interpreted in the Committee's general recommendation No. 25, in all areas covered by the Convention, where women are underrepresented or disadvantaged. To that end, it recommends that the State party:

(a) Set time-bound targets and allocate sufficient resources for the implementation of strategies, such as outreach and support programmes, creation of quotas and other pro-active measures aimed at achieving substantive equality of women and men in all areas, in particular, in the areas of employment and education; and

(b) Raise awareness among members of Parliament, government officials, employers and the general public about the necessity of temporary special measures and provide comprehensive information on the use of such measures and their impact in its next periodic report.

Stereotypes and harmful practices

20. The Committee recognizes the rich culture and traditions of the State party and their importance in daily life. However, the Committee expresses its serious concern about the persistence of harmful norms, practices and traditions, patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of women and men in all spheres of life, as well as the State party's limited efforts to address such discriminatory practices directly. These include, in particular, polygamy and bride price (Bohali). The Committee is concerned that such customs and practices perpetuate discrimination against women and girls, that they are reflected in women's disadvantageous and unequal status in

many areas, including education, public life, decision-making and in the persistence of violence against women, and that, thus far, the State party has not taken sustained measures to modify or eliminate stereotypes and negative traditional values and practices.

21. The Committee urges the State party to:

(a) Put in place, without delay, a comprehensive strategy to modify or eliminate patriarchal attitudes and stereotypes that discriminate women, in conformity with the provisions of the Convention. Such measures should include efforts, in collaboration with civil society and community and religious leaders, to educate and raise awareness of this subject, targeting women and men at all levels of the society;

(b) Use innovative measures that target media people to strengthen understanding of the equality of women and men and through the educational system to enhance a positive and non-stereotypical portrayal of women; and

(c) Monitor and review the measures taken in order to assess their impact and to take appropriate action.

Violence against women

22. The Committee expresses its concern at the high prevalence of violence against women in the State party, in particular, domestic and sexual violence, which remains, in many cases, underreported, as well as at the absence of an expressed political will to place high priority on the elimination of violence against women. While welcoming the enactment of the Sexual Offences Act in 2003, recognizing marital rape as an offence, the Committee is deeply concerned at the absence of a specific legislation to eliminate violence against women, including domestic violence and at the use of mediation in cases of violence, which can lead to re-victimization of women who have suffered from violence. While noting the establishment of the roving legal aid clinics and the launch of the Pilot Project at Lapeng Care Center, the Committee is concerned that this is the only center in the country providing services to victims of violence, and that this center provides only “day service”, and is not exclusively for women victims of domestic violence.

23. The Committee urges the State party to:

(a) Give high priority to the enactment of the draft Domestic Violence Bill and to put in place comprehensive measures to prevent and address violence against women and girls, recognizing that such violence is a form of discrimination against women and constitutes a violation of their human rights under the Convention and a criminal offence and ensuring that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished, in accordance with the Committee’s general recommendation No. 19;

(b) Provide mandatory training for judges, prosecutors and the police, especially for those who conduct mediation procedure, on the strict application of legal provisions dealing with violence against women and train police officers on procedures to deal with women victims of violence;

(c) Encourage women to report incidents of domestic and sexual violence, by de-stigmatizing victims and raising awareness about the criminal nature of such acts;

(d) Provide adequate assistance and protection to women victims of violence, by strengthening the capacity of shelters and crisis centres, especially in rural and

remote areas, and enhancing cooperation with NGOs providing shelter and rehabilitation to victims; and

(e) **Collect statistical data on domestic and sexual violence disaggregated by sex, age, nationality and relationship between the victim and perpetrator.**

Trafficking and exploitation of prostitution

24. While welcoming the enactment of the Anti-Trafficking in Persons Act (2011) to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the United Convention against Transnational Organized Crime, the enactment of the Children's Protection and Welfare Act (2011), and the MOU with South African police, the Committee remains concerned at the continuing prevalence of trafficking in women and girls in the country, as well as at low reporting rate. The Committee is also concerned at the lack of shelters and counselling services in the State party for victims of trafficking and prostitution.

25. The Committee calls upon the State party to fully implement article 6 of the Convention, including through:

(a) **Effective implementation of the new legislation on trafficking, ensuring that perpetrators are prosecuted and punished and victims adequately protected and assisted;**

(b) **Addressing root causes of trafficking and prostitution, including poverty, in order to eliminate vulnerability of girls and women to sexual exploitation and trafficking and to undertake efforts for the recovery and social integration of the victims;**

(c) **Providing training on how to identify and deal with victims of trafficking, on provisions of the anti-trafficking legislation to the judiciary, law enforcement officials, border guards and social workers in all parts of the country, especially in rural and remote areas;**

(d) **Ensuring a systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and exploitation of women in prostitution, and to include such data in its next periodic report;**

(e) **Increasing efforts at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aiming at prosecution of traffickers; and**

(f) **Taking necessary steps to ensure that trafficked women and girls have access to quality medical care, counselling, financial support, adequate housing and training opportunities, as well as access to free legal services.**

Nationality

26. The Committee is concerned that the Citizenship Order 1971 does not provide Mosotho women with the same rights as men to acquire or transmit their nationality. In particular, the Committee is concerned that Mosotho women cannot pass their nationality to their foreign husbands, unlike Mosotho men who have such right by marriage. The Committee regrets the absence of political will of the State party to change the situation. The Committee is further concerned at difficulties of the population of the State party, especially in rural and remote areas, to obtain passports.

27. The Committee urges the State party to

(a) Amend its legislation on citizenship in order to bring it into full compliance with article 9 of the Convention; and

(b) Ensure access to passports to the whole population, including in rural and remote areas.

Education

28. The Committee commends the State party for the gains achieved in the education of girls and women as reflected in the high literacy rate (72%), as well as for the enactment in 2010 of Education Act, which provides for free and compulsory education. The Committee is, however, concerned at the sharp decline in enrolment for the primary and secondary levels, as well as at the segregation of fields of study at the post-secondary level with women and girls concentrated in traditional feminized areas, as well as at their underrepresentation in technical-vocational education and the consequences of these trends for women's underrepresentation in the paid labour force. The Committee also expresses its concern at the high number of girls who suffer sexual abuse and harassment in schools by both teachers and classmates, as well as the high number of girls who suffer sexual violence while on their way to/from school.

29. The Committee urges the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a human right and as the basis for the empowerment of women. To this end, it urges the State party to:

(a) Ensure equal access of girls and women to all levels and fields of education, take steps to increase capacity for girls at the secondary level, as well as overcome traditional attitudes that in some areas may constitute obstacles to girls' and women's education;

(b) Implement measures to eliminate traditional stereotypes and structural barriers that might deter girls' enrolment in science and mathematics education at the secondary and tertiary levels of the education system;

(c) Increase efforts to provide career counselling for girls that expose them to options related to non-traditional career paths in science related professions;

(d) Provide safe educational environment free from discrimination and violence, as well as safe transportation to and from schools; and

(e) Strengthen awareness-raising and training for school officials and students, and the sensitization of children through the media; and establish reporting and accountability mechanisms to ensure that perpetrators of sexual abuse and harassment are prosecuted and punished.

Employment

30. The Committee notes the review of the Basic Conditions of Employment for Public Officials in 2011, which provided extension of paid maternity leave from 60 to 90 days. It is, however, concerned at the continuing vertical and horizontal occupational segregation, the persistent wage gap between women and men (according to 2008 Employment and Earnings Survey by ILO, women earn only 45% of men's average monthly earnings in the private sector and 83% in the public sector). The Committee is also concerned about the concentration of women in the informal sector with no social security or other benefits.

31. The Committee urges the State party to:

(a) Ensure that all women employees, both in public and private sector are guaranteed with a paid maternity leave;

(b) **Adopt legislation guaranteeing equal pay for work of equal value, to narrow and close the wage gap between women and men in accordance with ILO Convention No. 100 (1951) concerning Equal Remuneration;**

(c) **Provide a regulatory framework for the informal sector, with a view to providing women in this sector with access to social security and other benefits; and**

(d) **Adopt temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, aimed at achieving de facto equal opportunities for men and women in the labour market.**

Health

32. While noting the State party's activities in the area of health, such as Campaigns on Accelerated Reduction of Maternal Mortality (CARMMA) and Safe Motherhood Programmes, the Committee is concerned at the high level of maternal mortality rates (970/100,000 live births). The Committee is further concerned that abortion is prohibited, which leads women to seek unsafe and illegal abortions. The Committee is also concerned at women's limited access to quality reproductive and sexual health services, especially in rural and remote areas.

33. The Committee urges the State party to:

(a) **Take all necessary measures to improve women's access to health care and health-related services, within the framework of the Committee's general recommendation No. 24;**

(b) **Strengthen its efforts to reduce the incidence of maternal and infant mortality and to raise awareness of and increase women's access to health-care facilities and medical assistance by trained personnel, especially in rural and remote areas;**

(c) **Strengthen and expand its efforts to increase knowledge of and access to affordable contraceptive methods throughout the country and ensure that women in rural and remote areas do not face barriers in accessing family planning information and services; and**

(d) **Promote widely education on sexual and reproductive health targeting adolescent girls and boys, with special attention to early pregnancy and the control of STIs, including HIV/AIDS.**

HIV/AIDS

34. While noting the State party's various initiatives taken to prevent and combat HIV/AIDS, including the adoption in 2011 of National HIV/AIDS Strategic Plan and National Action Plan on Women, Girls and HIV/AIDS 2011-2016, the Committee notes with deep concern that the State party faces a serious epidemic and that women and girls are disproportionately affected by HIV. In this respect, the Committee is concerned that women and girls may be particularly susceptible to infection owing to gender-specific norms and that the persistence of unequal power relations between women and men and the inferior status of women and girls may hamper their ability to negotiate safe sexual practices and may increase their vulnerability to infection.

35. The Committee urges the State party to:

(a) **Take continued and sustained measures to address the impact of HIV/AIDS on women and girls, as well as its social and family consequences;**

(b) Enhance its focus on women's empowerment, include clearly and visibly a gender perspective in its policies and programmes on HIV/AIDS and increase the role of men in all relevant measures;

(c) Undertake awareness-raising campaigns throughout the State party and especially in rural and remote areas, and among Government officials in respect of prevention, protection and maintenance of confidentiality in order to systemize and integrate approaches for multiple government sectors.

Rural women

36. The Committee notes with regret the lack of information on the situation of rural women in the State party report and the affirmation of the State party that there is no need for specific provision on the rights of rural women. The Committee expresses its concern at the disadvantaged position of women in rural and remote areas who form the majority of women in the State party, and who are characterized by poverty, difficulties in access to health and social services and a lack of participation in decision-making processes at the community level. The Committee is also concerned at the prevalence of customs and traditional practices, which particularly prevent rural women from inheriting or acquire ownership of land and other property.

37. The Committee calls upon the State party to:

(a) Pay special attention to the needs of rural women to ensure that they have access to health, education, clean water and sanitation services, fertile land and income-generation projects; and

(b) Address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of the right to property by women.

Marriage and family relations

38. While noting with appreciation the adoption in 2011 of the Children's Protection and Welfare Act, which amended the minimum age of entering into marriage to 18 years for both civil and customary marriages, the Committee remains concerned at reports of the persistence of the phenomenon of forced and early marriages. The Committee also notes with appreciation the adoption of the Legal Capacity of Married Persons Act of 2006, it is nevertheless concerned that it only applies to those married under the Roman Dutch Law (Common Law), to the exclusion of Basotho customary law. The Committee is further concerned about the persistence of discriminatory customary laws and practices, especially in rural areas and remote communities, with regard to, inter alia, marriage and its dissolution, inheritance and property rights.

39. The Committee calls upon the State party to:

(a) Prepare a unified family code in conformity with the Convention, in which unequal inheritance rights, property and land rights and polygamy are addressed;

(b) Ensure equality between women and men in marriage and family relations, amend without delay all remaining discriminatory provisions and administrative regulations, including provisions and regulations relating to family, marriage and divorce and take 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

(c) Prohibit polygamy in accordance with the Committee's General Recommendation No. 21.

National human rights institutions

40. The Committee regrets that the State party has not yet taken steps to establish an independent national human rights institution with a wide mandate to protect and promote women's human rights, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

41. The Committee recommends that the State party establish, within clear time frame, an independent national human rights institution in accordance with the Paris Principles, whose competencies should include issues related to the equality of women and men.

Beijing Declaration and Platform for Action

42. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Millennium Development Goals

43. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and an explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

Dissemination

44. The Committee requests the wide dissemination in Lesotho of the present concluding observations in order to make the people, government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the de jure and de facto equality of women, as well as the further steps that are required in this regard. The Committee recommends that the dissemination should include the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of these observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

45. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All

their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the treaties to which it is not yet a party, i.e. the International Convention for the Protection of All Persons from Enforced Disappearance.

Technical assistance

46. The Committee recommends that the State party avail itself of technical assistance in the development and implementation of a comprehensive programme aimed at the implementation of the above recommendations as well as the Convention as a whole. The Committee expresses its willingness to continue the dialogue with the State party, including through a country visit by Committee members to provide further guidance on the implementation of the above recommendations and the State party's obligations under the Convention. The Committee also calls upon the State party to strengthen further its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Development Programme, the UN Women, the United Nations Development Fund for Women, the United Nations Children's Fund, the United Nations Population Fund, the World Health Organization, the Office of the United Nations High Commissioner for Human Rights and the Statistics Division and Division for the Advancement of Women in the Department of Economic and Social Affairs of the Secretariat.

Follow-up to concluding observations

47. The Committee requests the state party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 13 and 39 above.

Preparation of next report

48. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, as well as to consult a variety of women's and human rights organizations during that phase.

49. The Committee requests the State party to respond to concerns expressed in present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its next periodic report in October 2015.

50. The Committee invites the State party to follow the "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents", approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (see HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines, adopted by the Committee at its fortieth session, in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together they constitute the harmonized guidelines on reporting under the Convention on the Elimination of all forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.

Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.