



UNITED NATIONS CONVENTION ON THE RIGHTS OF OLDER PERSONS
Lesotho Contribution

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INTRODUCTION

The UN Convention on the Rights of Children provided a solid platform for discussion on the plight of children on Lesotho. Similarly, Lesotho believes that a UN Convention on the Rights of Older Persons (*the Convention*) would be the most appropriate instrument to facilitate that countries commit themselves to ensuring that the rights and welfare of older persons are protected.

LESOTHO POLICY FRAMEWORK

The Lesotho contribution on the scope and purpose of a UN Convention on the of the rights and welfare of older persons draws from the Lesotho Policy for Older Persons adopted in 2014, the Social Development Policy adopted in 2014, and the International Plan of Action on Ageing endorsed in 1982 as the first international instrument addressing the issues of ageing and the growing population ageing.

The goal of the Lesotho Policy for Older Persons is to advocate for the observance of the rights of older persons by establishing structures that will improve the status of older persons and their well-being (MoSD, 2014). According to the Lesotho Policy for Older Persons, an older person is defined as anyone who is 60 years and above (MoSD, 2014). The policy is also aligned with the WHO definition which divides old age into three categories: the young old; the middle old; and oldest old. These categories enable age sensitive programming.

On the other hand, the Social Development Policy is designed to address vulnerability in regard to prevention, protection, promotion and transformation. The strategy to this policy is underpinned by a life course approach, which looks at life from conception to old age.

These two policies are the cornerstones of service delivery to older persons and other vulnerable groups in Lesotho, and, therefore, provide the framework for the implementation of the Convention.

AGEING ISSUES IN LESOTHO

Population ageing in Lesotho

Data from the Lesotho Demographic Survey 2011 shows that Lesotho had an estimated total population of 1,894,194 (BOS, 2013). Of this total, 157,969 were older persons (aged 60 years and above), which represent approximately 8 percent of the population (BOS, 2013). According to a 2006 Population Projection report (BOS, 2010), the number of older people in Lesotho is likely to decrease in the next two decades, probably due to the impact of the HIV/AIDS mortality that is currently affecting the younger population. Despite this possible decline in numbers, the elderly population remains a priority as one of the vulnerable groups because of the challenges they face within society. By 2026, it is estimated that 124,740 persons will be aged 60 years and above; this represents approximately 6 percent of the population (BOS, 2010).

Feminisation of ageing is a global phenomenon, but it affects Lesotho to a great extent. In 2011, of all those aged 60 years and above, women represented 61 percent (96,690) while men represented 39 percent (61,279) (BOS, 2013). It is estimated that by 2016, women will represent 65 percent of

the elderly population (81,187) while men will represent 35 percent (43,553) (BOS, 2010). This gender imbalance among the elderly leaves older women at higher risk of abuse. It is also worth noting that most older persons in Lesotho (85 percent) live in rural areas, 12 percent live alone, and of every three elderly persons who live alone, two are females (BOS, 2010).

Issues faced by the elderly in Lesotho

The Lesotho Policy for Older Persons approved in 2014 acknowledged the economic, health and social issues faced by the elderly in Lesotho (MoSD, 2014). In an effort to address the economic vulnerability of older Basotho, the Lesotho Government introduced a non-contributory Old Age Pension (OAP) in 2004 for those aged 70 years and above. Although the OAP has had positive impacts, evidence shows that the pension on its own may not be able to cover the needs of older people, especially as many older persons in Lesotho care for orphaned grandchildren (Bello et al, 2007; Nyanguru, 2007; Tanga, 2008).

With regard to health issues faced by older persons in Lesotho, diabetes and hypertension are common, as well as heart disease, poor eyesight and hearing, malnutrition, asthma and TB. The HIV/AIDS epidemic also affects the elderly, especially older women due to their caring role. Apart from caring for their sick children, people who were infected with HIV at younger ages progress into older age with the disease. This 'ageing' of the HIV/AIDS epidemic is due to several factors including: the success of antiretroviral therapy in prolonging the lives of people living with HIV; a decrease in HIV incidence among younger adults shifting the disease burden to older ages; and the often overlooked fact that older people exhibit many of the risk behaviours found among younger people (WHO, 2012). Mental health issues such as stress and depression, and dementia are also issues affecting older Basotho.

Basotho attitudes towards older persons have changed over time. Traditionally, Basotho believed in respect for older persons, as they were perceived to be closer to God. As a predominantly Christian society, this factor was strengthened by the linked respect for older persons to blessings from God (MoSD & Help Age International, 2014). In addition, older people were seen as custodians of customs and tradition, rendering them into family and societal assets for continuity and inheritance. This resulted in younger generations respecting and taking responsibility for the care of older generations through the provision of shelter, food, clothing and protection (MoSD & Help Age International, 2014). However, family structures and living patterns are changing. Rural-urban migration has resulted in many older people living alone in rural areas, and economic pressures and changing social values have led to older people being considered a liability and many families are unable or unwilling to care for older relatives. These factors have placed many older Basotho at risk of neglect and abuse (MoSD, 2014).

PURPOSE AND SCOPE OF THE CONVENTION

The Government of Lesotho believes that, given the complexity pertaining to the economic, health and social issues faced by older persons, a UN Convention would be the best instrument to address these issues and protect the rights of older persons.

The purpose of the Convention must be to address issues of human rights faced by older persons adopting a life course approach. This would promote equality across all ages and prevent all forms of

prejudice and age discrimination that deny older persons equal opportunities, and prevent them from enjoying their rights and opportunities like all citizens of the country.

For the Convention to be effective, it needs to clearly articulate the challenges of older persons and provide mechanisms to prevent and respond to any violations of human rights because of age. Furthermore, the Convention must state categorically how Member States should implement its contents, including legislative measures and the development of policies adopting the content of the Convention.

CONTENT OF THE CONVENTION

Lesotho broadly supports the initiative to develop the new Convention on the rights of older persons. The Convention should contain the following:

1. Principles that underpin the convention
2. General obligations that apply across the convention
3. Specific human rights to be included in the convention
4. Implementation, monitoring and accountability mechanisms

1. Principles

The Convention should be underpinned by the following principles:

- Non-discrimination
- Respect
- Dignity
- Autonomy
- Equality
- Self-fulfilment and personal development
- Full and effective participation and inclusion in society
- Respect for difference and diversity
- Accessibility

2. General obligations

The Convention must articulate States Parties' general human rights obligations in relation to each of the articles within it. These should include, but not be limited to:

- Adopting all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention.
- Taking all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against people in older age based on age, either as a sole factor or in combination with another factor or factors which can intersect or accumulate over time, including sex, disability, religion or conviction, political or other opinion, physical, mental or cognitive health, degree of care and assistance required, marital or family status, economic status, access to technology, migrant status, refugee status, being homeless, being deprived of liberty, indigenous, ethnic, racial,

minority, national or linguistic status, property, geographical location, citizenship, nationality, HIV status, birth or any other condition or status.

- Taking special measures to ensure equality in practice.
- Guaranteeing the protection and promotion of the human rights of older people where relevant in all policies and programs.
- Refraining from engaging in any act or practice that is inconsistent with the rights in the Convention.
- Ensuring that third parties, for example, private sector contractors and enterprises, act in conformity with the rights contained in the Convention.
- Taking all appropriate measures to eliminate discrimination against people in older age based on age, either as a sole factor or in combination with another factor or factors by any person, organization or private enterprise.
- Undertaking or promoting research on ageing and on issues particularly affecting people in older age, and ensuring data is collected, disaggregated, analyzed, utilized and disseminated by all ages and sex.
- Providing accessible, appropriate information to older people on their rights and entitlement to benefits and resources.
- Taking all appropriate measures to allow for older people’s full and effective participation in society and decision-making processes.
- Developing policies and taking all appropriate measures, including awareness campaigns, to combat ageism and promote intergenerational cooperation and positive images of ageing, encouraging the dignified and respectful treatment of people in older age.

3. Human rights

Human Right	Components of the right and how implementation of the right can be achieved, including, but not limited to:
Non-discrimination	<ul style="list-style-type: none"> • Prohibition and guarantee of effective legal protection against discrimination on the grounds of age. • Prohibition and guarantee of effective legal protection against all forms of discrimination: direct, indirect, by association, by perception or by multiple discrimination including intersectional discrimination or the accumulating discrimination that occurs on a number of occasions over a period of time, on the grounds of age alone or in combination with another or other ground(s) or factor (s) including, sex, disability, religion or conviction, political or other opinion, physical, mental or cognitive health, degree of care and assistance required, marital and family status, economic status, access to technology, migrant status, refugee status, being homeless, being deprived of liberty, indigenous, ethnic, racial, minority, national or linguistic status, property, geographical location, citizenship, nationality, HIV status, birth or any other condition or status; • Prohibition and guarantee of effective legal protection against all forms of discrimination against older persons in all aspects of life including but not

	<p>limited to physical and mental health care, social care, financial services, employment, goods and services, inheritance and property, and taxation</p> <p>Special measures, reasonable and positive action to ensure equality and non-discrimination of older people in prisons.</p>
The right to autonomy and independence	<ul style="list-style-type: none"> • Autonomy, self-determination and choice in all aspects of life, including in making decisions about their support and care, leisure time, property, income, finances, place of residence, health and medical treatment or care, personal relationships and funeral arrangements.
The right to equal recognition before the law	<ul style="list-style-type: none"> • Recognition everywhere and at all times as persons equal before the law. • Legal capacity and the right to exercise that legal capacity on an equal basis with others in all aspects of life. • Support required to exercise legal capacity and to be an equal member of the family and of society.
The right to self-fulfillment	<ul style="list-style-type: none"> • To continue to live lives of self-fulfillment. • To continue to freely develop one's personality. • To take on new challenges and opportunities.
The right to leisure	<ul style="list-style-type: none"> • Participation in the arts, social and cultural life of the community in which they live. • Non-discrimination in relation to access to leisure activities on the basis of age. • Access to a variety of affordable recreational and leisure activities including for those receiving long term support and for women traditionally confined to their homes. • To freely choose recreational and leisure activities and experiences.
The right to life	<ul style="list-style-type: none"> • Prevention of non-consensual, arbitrary or discriminatory denial or rationing of health and other services, support or sustenance to older people which may be life threatening.
The right to a dignified death	<ul style="list-style-type: none"> • To choose where to die. • To refuse medical treatment or to withdraw consent. • Equal access to holistic palliative care, including pain relief and without delay. • Equal access to end of life care, including making advance instructions on type of care.
The right to full and effective participation	<ul style="list-style-type: none"> • Full and effective participation in all spheres of life. • In public, political, cultural, economic and development activities. • In decision making at household, community and national levels. • In social and leisure activities including within the family, in the community and in long-term care and support settings. • Upper age limits for standing for election, voting or participating in political or public life are prohibited.

The right to age in place of choice	<ul style="list-style-type: none"> • Freely choose living arrangements, where and with whom to live, on an equal basis with others. • Not be obliged to live in any particular living arrangement. • To remain in the community.
The right to housing	<ul style="list-style-type: none"> • Access to affordable, quality, appropriate, accessible housing designed to accommodate older people's requirements. • Protection from illegal forced eviction. • Security of tenure.
The right to the environment	<ul style="list-style-type: none"> • To live in a safe and healthy environment. • Access to drinking water, sanitation and other services on an equal basis with others.
The right to personal mobility	<ul style="list-style-type: none"> • Access to transport on an equal basis with others that is affordable, physically accessible, available and safe, particularly in rural areas, and can be used without fear of abuse. • Access to quality, affordable mobility aids and devices that can be used safely without fear of abuse or harm. • Elimination of obstacles to mobility including in infrastructure and communications.
The right to accessibility	<ul style="list-style-type: none"> • Access on an equal basis with others to the physical environment, to information, to communications and services and to public facilities in both urban and rural areas.
The right to long term support for independent living	<ul style="list-style-type: none"> • Person-centred, affordable, appropriate, integrated, quality, holistic social, care and support services. • Choice of, and access to, a range of options for where and with whom to live, who provides support and when, which support the ability to live independently. • Support in decision-making where necessary and the opportunity to provide advance instructions on type of care and support. • Access to appropriately trained care and support providers. • Support and assistance for family and other informal care providers, including for respite care. • Regulation, monitoring and enforcement of standards of support services provide by the state and by private enterprises, including not for profit organizations. • Access to effective redress and complaint mechanisms. • Confidentiality of information.
The right to privacy and a family life	<ul style="list-style-type: none"> • Privacy, home and family life and correspondence wherever they temporarily or permanently reside. • Non-discrimination in all matters related to privacy, home, communication, marriage and family, recognizing the evolving concept of family to include such relationships as older people may choose, including extended caregiving roles and grandparenthood. • Provision of social services and security to older people responsible for the

	care of grandchildren and other children.
The right to sexual identity and expression	<ul style="list-style-type: none"> • Freedom to form intimate and sexual relationships, to choose sexual partners and to continue to have sex and to privacy in intimate relationships. • Access to information on sexual health, including on HIV and other sexually transmitted infections.
The right to freedom from all forms of violence and abuse	<ul style="list-style-type: none"> • Freedom from all forms of financial exploitation, fraud and scams, concealment, physical, sexual and psychological violence, neglect, coercion, abandonment, medical abuse, harmful traditional practices, expulsion from the home and threats of any kind regardless of where the violence and abuse occurs and by whom. • Specific attention to violence against women in older age. • Training of all care providers, health care personnel, social workers, traditional or community healers, government officials, judiciary and law enforcement in how to recognize and respond to situations of violence and abuse in which older people may be particularly at risk. • Effective legislation and policies that ensure all forms of violence and abuse in older age are identified, reported, investigated and where appropriate prosecuted. • Awareness raising and other measures to prevent all forms of violence and abuse in older age. • Accessible and appropriate victim support services. • Access to effective remedies and redress.
The right to freedom from torture, cruel, inhuman or degrading treatment	<ul style="list-style-type: none"> • Recognition that violence and abuse of older people, including in settings where they are detained or receive support, services or care, can reach the threshold of torture, inhuman or degrading treatment and requires protection on an equal basis from being subjected to such treatment. • Policies and standards to protect against the arbitrary use of physical, chemical, mechanical, psychological or environmental restraints, close observation, surveillance and seclusion.
The right to work and employment	<ul style="list-style-type: none"> • Non-discrimination on the basis of age in all matters of employment in the formal and informal sectors, including harassment on the basis of age • Prohibition of mandatory retirement on the basis of age. • Decent working conditions including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, protection from harassment and redress of grievances. • Meaningful work • Access to re-training for changing work • Reasonable accommodation made for gradual transition to retirement • Exercise of labour and trade union rights. • Promotion of employment opportunities in the labour market and self-employment. • Protection from slavery, servitude, forced or compulsory labour.

<p>The right to an adequate standard of living</p>	<ul style="list-style-type: none"> • Access to basic necessities and amenities, including water and sanitation, nutritious and affordable food, clothing, housing and fuel. • Access to programs and technologies providing assets and support for food production. • Access to poverty reduction programs. • Continuous improvement of living conditions.
<p>The right to social security and social protection</p>	<ul style="list-style-type: none"> • Access to social security including an adequate, guaranteed, minimum income in older age. • Unconditional, autonomous use of income from social security schemes Access to and portability of pensions in cases where older people have spent time migrating / working overseas earlier in their lives. • Access to appropriate social assistance and in-kind social security Access to financial support to pay for age-related health care, medication and aids Effective and accessible procedures for complaint and appeal. • Access to information on all aspects of social security schemes, including eligibility. • Support in application processes including for those without identity documentation.
<p>The right to health</p>	<ul style="list-style-type: none"> • Non-discrimination in access to comprehensive health services on the basis of older age. • Accessible, available, affordable, appropriate and quality physical, mental and cognitive health services. • Access to holistic palliative care, including access to essential drugs and controlled medicines. • Access to sexual and reproductive health services, including for prevention and treatment of HIV and other sexually transmitted infections, and post-menopausal health services for women. • Autonomy in terms of informed consent for, and choice of, treatment Opportunity to make advance instructions about health care, including palliative and end of life care. • Access to health information in appropriate formats. • Access to healthcare workers with relevant training in geriatric, dementia and palliative care. • Confidentiality of, and personal access to, medical records. • Benefits of scientific progress. • Integration of health care services with services and support for independent living.
<p>The right to information</p>	<ul style="list-style-type: none"> • To seek, receive, impart and request information by the communication medium of their choice. • Access to information in accessible and appropriate formats. • Access to information on a range of goods and services and on older people's rights and entitlements. • Access to appropriate advice.

The right to lifelong education and learning	<ul style="list-style-type: none"> • Equal access to opportunities for all levels of education, including tertiary education, vocational training and retraining, adult education, and skills training in literacy, numeracy and technological competencies. • Educational materials in an appropriate format.
The right to property	<ul style="list-style-type: none"> • To deal with property including to own, use, occupy, transfer, sell, inherit and distribute land and other property. • Participation in the redistribution of land and property programs on an equal basis with others . • Ensure they are not arbitrarily or unlawfully deprived of their property Access to effective remedies to provide redress for arbitrary or unlawful deprivation of property. • Elimination of traditional widowhood practices which deprive women of property and inheritance rights. • Equitable access to financial services, including bank loans, micro-loans, mortgages and other forms of financial credit. • Transparent and reviewable mechanisms by which land and other property are levied or dealt with in a material way in exchange for, or to pay for, the provision of support and care services.
The right to justice	<ul style="list-style-type: none"> • Access to legal services, including legal assistance and legal aid on an equal basis with others. • To a hearing within a reasonable time, with special measures in situations of immediacy. • To accommodations in judicial proceedings to facilitate their effective role as participants at all stages of legal proceedings on an equal basis with others. • To redress and effective remedies.
The right to freedom of expression and opinion	<ul style="list-style-type: none"> • To impart and to pass on opinions, knowledge and experience. • To exercise, manifest or change one's religious beliefs.
The right to freedom of association and assembly	<ul style="list-style-type: none"> • Ability to form older people's groups and associations for all purposes including, inter alia, political, income generating, cultural or religious, or protection of their interests. • To participate in other social, political, income generating, cultural or religious groups on an equal basis with others.
The right to personal liberty	<ul style="list-style-type: none"> • Any restriction or deprivation of liberty is in accordance with the law and proportionate. • Age is not used as justification for deprivation of liberty. • Effective access to justice for any older people deprived of their liberty including through special measures to prevent unnecessary delay in the legal process. • For those deprived of their liberty, the right to appropriate accommodation in prisons and other places of detention, to regular monitoring of health and provisions of appropriate physical, mental and cognitive health care, to

	appropriate access to sanitary, sports, education, training and leisure facilities, to release from prison if no longer a threat to society and to support on re-entry into society on release from prison.
The right to freedom of movement and nationality	<ul style="list-style-type: none"> • To acquire and change a nationality on an equal basis with others and not to be deprived of their nationality arbitrarily. • Freedom to leave or enter any country on an equal basis with others No deprivation on the basis of their age of older people's ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration and asylum proceedings, that may be needed to exercise of the right to liberty of movement.
Rights in emergency contexts, including situations of armed conflict and humanitarian disasters	<ul style="list-style-type: none"> • Identification of, and consultation with, older people to assess their needs for assistance and protection, and their capabilities for recovery, as part of the design and delivery of appropriate humanitarian responses, including resettlement and durable solutions, prevention and response to rights violations, promotion of a protective environment, peace and reconciliation efforts as well as economic recovery and support to families. • Access to appropriate, accessible, safe, dignified and adequate essential services including assistance with registration and documentation requirements, food, water and sanitation, fuel, shelter, opportunities for family reunification, transport, health care, psycho-social and nutrition support, livelihood intervention on an equal basis with others. • Where appropriate, and based on assessment of older people's needs, delivery of services designed and adapted to address the specific requirements of older people relating to their age, for example in health care, psycho-social and nutrition assistance. • Access to information about the emergency, the changing security situation, and the availability of humanitarian assistance and rights protection services on an equal basis with others. • Responsive disaster preparedness planning, policy and legislation to reduce older people's risk in disasters.
International co-operation	<ul style="list-style-type: none"> • International co-operation for the realization of the purpose and objectives of the convention, international development programs, is inclusive of, accessible to, and of benefit to all older people.

Older people in specific and risky situations

There are specific situations that expose older persons to increased vulnerability and risk. These need special attention to ensure protection. These situation include: gender, age, and or/marital status related discrimination may accumulate overtime; older people living in residential care facilities, older people in prison, detention centers and in other settings; older people in situations of humanitarian risk; older people with disabilities; and older people with dementia.

4. Implementation, monitoring and accountability mechanisms

For the convention to be effective, it must establish mechanisms for implementation, monitoring and accountability for all member states to comply with.

Implementation

At national level coordinating mechanisms should be established with clear mandate to implement the provisions of the convention in ratifying countries.

Capacity building of member states and other stakeholders should be a priority to facilitate the successful implementation of the convention.

Monitoring and Accountability

The Convention should establish the national monitoring bodies in each ratifying country. Civil society, in particular older people and organizations representing them, should participate fully in the monitoring of the Convention.

At international level, a new convention should create an independent treaty to monitor states parties on the national implementation, design reporting guidelines, receive periodic reports, receive complaints, conduct investigations and make recommendations on compliance with provisions within the instrument.

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