

The Ministry of Social Development,  
P/Bag A222,  
Pension Fund House Level 3,  
Maseru 100,  
Lesotho.

27, November 2019

Retselisitsoe Juliet Tsuinyane (Ms),  
P/Bag A222  
Pension Fund House Level 3,  
Maseru 100,  
Lesotho.

Kindly note that we are the Ministry of Social Development which is mandated to provide care and support to older population of Lesotho through the Department of Elderly Care Services. The Ministry of Social Development was established in 2012, consequently the Department of Elderly Care Services was established in 2013. This was followed by the development of the Lesotho Policy for older persons in 2014 with the overarching goal to advocate for observance of rights and respect to older persons by establishing structures that will improve the status of older persons and their well-being, while being sensitive to gender and age difference of older persons.

As indicated above we are the government ministry and therefore the OEWG accreditation may not be applicable to us. However we have been participating in the previous discussions and made submissions on OEWG given themes for the convention. We are the first country to ratify the AU Protocol on People's rights and the Rights of Older Persons in 2018. We have started the process of translating the policy into law and also domesticating the AU protocol as well.

## **RIGHT TO WORK AND ACCESS TO LABOUR MARKET**

### **What are the legal provisions and policy frameworks in your country that recognise the right to work and access to the labour market by older persons?**

- Lesotho has the Labour Code Order 1992, which allows for employment on the basis of merit and skill, without restriction with regards to age. There is also the Public Service Act 2005, which permits an Older person to be employed on Contract, Temporary and Casual terms, it only has limitations

with regard to permanent and pensionable terms, which prohibits employment after the age of 60.

- There is also the Older Person's Protection Policy 2014
- The second National Strategic Development Plan (NSDP II)?

### **What are the challenges faced by older persons for the realization of their right to work and access to the labour market in your country?**

- Although there are contract, temporary and casual employment opportunities for older persons, in the public service the dissemination of information regarding such opportunities is not readily available to all older persons, they are primarily direct appointment opportunities that are not open to the general public
- Due to the high unemployment rate in the Country, in the civil service it is unlikely for an older person to get an employment opportunity over a younger person, even if both parties qualify for the advertised position

### **What data, statistics and research are available regarding older persons engaged in informal work, particularly older women, including conditions of their work and economic value?**

- There is no specific data, statistics or research regarding older persons engaged in informal work. However the census report of 2016 suggests that 19.7% of males are engaged in informal work (farming) while 6.1% account for elderly women. The largest proportion of both men and women fall within the category of housewives, 40.9% men and 70.5 women. For casual work the report states that 4.6% accounts for men while for women is 2.6%. The report does not indicate conditions of work or any economic value. The proposal has been however put forward to carry out a comprehensive situational analysis study for older persons. The indicators will be drawn from other regional and international instruments such as Madrid Plan of Action of 2002.

### **Availability, Acceptability and Quality**

### **What steps have been taken to ensure the access of older persons to the labour market including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations?**

- There are no steps taken to ensure the access of older persons to the labour market because of the Lesotho's economy and it does not accommodate employment of the elderly people especially in the civil service. Due to the

high rate of unemployment in Lesotho, our youth spend over ten years after graduation to get employed.

What steps have been taken to ensure the availability of specialised services to assist and support older persons to identify and find employment?

- There are no steps because of the reasons advanced above.

What good practices are available in terms of ensuring the older persons' enjoyment of their right to work and their access to the labour market?

- Older persons are offered job on a short term contract while on retirement taking into account their skills and experience.

What protections are available to ensure older persons enjoy just and favourable conditions of work, including fair wages and equal remuneration for work of equal value, safe working conditions, both in the formal and informal sector?

- The Lesotho Constitution of 1993 prohibits discrimination on the basis of age. Also, the Public Service Act and the Labour Code Order of 1992 provide for employment on merit principle.

In your country, is age one of the prohibited grounds for discrimination in relation to work and access to the labour market, including in older age?

- Yes, age is a prohibited ground for discrimination. Refer to the above answer.

What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to work and access to the labour market?

- Older persons can seek redress from courts of law like other people as there is no specific law for older persons on issues of labour

## **RECOGNITION IN REGIONAL INSTRUMENTS**

How is the access to justice by older persons guaranteed under the national legal and policy framework? What judicial and non-judicial mechanisms are in place for all older persons to complain and seek redress for denial of their rights?

- The Lesotho Constitution of 1993 provides for equality before the law and equal protection of the law. There is also Lesotho Policy for Older Persons of 2014 also provides for access to justice by older persons. Older persons can seek redress from courts of law in terms of the Constitution like ordinary citizens. As far as non-judicial mechanisms are concerned, they can get redress from the local authorities (chiefs) as a practice for all individuals.

What steps have been taken to ensure the availability of judicial and non-judicial mechanisms for older persons in urban, rural and remote areas in your country? Are there alternative dispute settlement mechanisms available?

- There is Legal Aid Service which is accessible to all citizens including older persons. There are other alternative settlement mechanisms available in the country which are Ombudsman, Victims of Crime and court-annexed mediation which are also accessible to older persons.

What steps have been taken to ensure that all justice systems (judicial and non-judicial) are secure, affordable and physically accessible for older persons and adapted to their needs?

- The Lesotho Government has enacted laws that provide for the justice system that is secure, affordable and accessible physically. There is in place Buildings Control Act of 1995, Chieftainship Act and Legal Aid Act of 1983. There are bills in place to adapt to the needs of older persons which are Persons with Disability Equity Bill 2019 and Older Persons Protection Bill 2019.

What are the existing provisions to guarantee legal assistance for older persons?

- Legal Aid Act provides for legal aid service for all the Lesotho citizens who cannot afford legal services.

What are specific challenges encountered by older persons in accessing justice and remedy in your country?

- There is a back log of cases which may render older persons to die without having received redress, as there is a saying in law that 'justice delayed is justice denied.' Also, the Legal Aid is inefficient as it is prone to corrupt.
- There is inadequate knowledge about existing laws by older persons as a result they become overly dependent on their adult children/relatives who sometimes are equally ignorant about processes to accessing justice. There is also an issue of mental incapacity such as dementia and lack of protective laws for such a condition. The sensitisation programs on ageing issues are inadequate for justice system to be able to respond appropriately to issues related to ageing and justice.

**What are the provisions adopted to ensure effective access to justice for older persons on an equal basis with others, including age-appropriate procedures in all administrative and legal proceedings?**

- The Lesotho Policy for Older Persons 2014 commits to protecting and upholding the fundamental rights of older persons as outlined in the constitution of Lesotho and in accordance with the United Nations Resolutions on the rights of older persons (No. 46 of 1991). The policy also commits to ensuring that all local leaders, traditional leaders, community council members, public officials, school teachers, health workers and church clergy are sensitised to the needs of older persons and the development of mechanisms to accessing justice

**Substantive inputs in the form of normative content for a possible international instrument on the two focus areas from the previous 10<sup>th</sup> session, Social protection and social security (including social protection floors), and Education, training, lifelong learning and capacity-building;**

**Non-discrimination**

- Older persons have the right to acquire Education under the Constitution of Lesotho. The limitation to the right only applies to primary level education

**Availability**

- Lesotho laws do not prohibit an older person from access to any form of education, however the government does not sponsor the education of older persons due to the countries financial constraints

**Acceptability and adaptability**

- Older persons have the right to access to tertiary level education, and based on the entry requirements may be accepted into such institutions. However due to financial constraints the modes of delivery and duration of studies have not been adapted to fit the needs of older persons

### **Accessibility**

- Older persons have access to education in Lesotho but due to financial constraints, the availability to such education is the same for all persons and has no special provisions for older persons

### **Participation**

- The laws of the country are currently silent on participation of the society at large in matters affecting school curriculums; therefore the same applies to older persons. They are currently not represented in such decision making processes

### **Remedies and redress**

- Older persons have access to justice and all other remedies that are available to all people. When admission to tertiary schools is denied to an older person, similar to all other people they can follow the available appeal processes

Yours Sincerely,

**Retselisistsoe Juliet Tsuinyane (MS)**  
**Director Elderly Care Services**