

Unveiling the Challenges in the Implementation of Article 13 of the United Nations Convention on the Rights of Persons With Disabilities on the Right to Access to Justice: A Case Study of Lesotho

Henok Ashagrey Kremte

Correspondence: Henok Ashagrey Kremte, Lecturer of Law @ Dilla University, School of Law, Dilla, Ethiopia. E-mail: hendulsa@gmail.com

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Abstract

Article 13 of the United Nations Convention on the Rights of Persons with Disabilities guarantees access to justice in the context of disability as a human right and puts concrete and binding duties on state parties. It lays down a duty to safeguard effective access to justice for persons with disabilities on an equal basis with others. Nevertheless, persons with disabilities are extremely susceptible to marginalization and discrimination in Africa and are often denied access to justice. The situation in the Kingdom of Lesotho is not an exception to this reality. The research thus aims at unveiling challenges in the implementation of Article 13 of the United Nations Convention on the Rights of Persons with Disabilities on the right to access justice in the Kingdom of Lesotho and proposes possible recommendations. To this effect, the country's policies and legislative framework were reviewed to determine the extent to which the right to access justice of persons with disabilities is met and aligned with the United Nations Convention on the Rights of Persons with Disabilities. Factors that hinder persons with disabilities from accessing justice mechanisms in the country were also scrutinized, and the research concluded that persons with disabilities face difficulties in accessing justice because of social, legal and structural obstacles, and recommended legislative, administrative, judicial and other measures. In reaching this conclusion, the research adopted four methodologies of data collection: interview, on-site visit, focus group discussions and desk review research. The research used a human-rights based approach to disability issues so as to frame the enquiry, design the tools for analysis, and made practical findings and recommendations.

Keywords: access to justice, person with disabilities and reasonable accommodation

1. Introduction

The United Nations Convention on the Rights of Persons with Disabilities (the Convention) was adopted on 13 December 2006 and entered into force on 3 May 2008 (United Nations -Disability Department of Economic and Social Affairs, 2018). The Convention takes the disability right movement to a new height by explicitly recognizing the shift from viewing persons with disabilities as objects of charity, medical treatment and social protection towards viewing them as subjects with rights (Schulze, 2018). It is an instrument with an explicit social development dimension and reaffirms that all persons with disabilities must enjoy all human rights and fundamental freedoms including the right to access justice (Schulze, 2018). The Convention does not directly define disability (Shughuru, 2012). It depicts it as an 'evolving concept that results from the interaction between persons with disabilities and attitudinal and environmental barriers' (Lesotho National Federation of Organization of Disabled (LNFOD), 2016). Thus, it includes persons who have long-term physical, mental, intellectual and sensory impairment.¹

This research aims to present the Kingdom of Lesotho's (Lesotho) challenges in the implementation of Article 13 of the Convention on the right to access justice. In doing so, it is divided into the following sections. The first section contains the background of the study, research question, significance of the study, methodology, limitation(s) and scope of the study. The second section provides the literature review. The third section examines the legal framework in the country, and it discusses the accessibility of justice institutions for person with disabilities in Maseru, Lesotho. Finally, the research makes a conclusion and recommendation(s) to various stakeholders to address gaps identified.

1.1 Background of the Study

Lesotho is "a small mountainous' and landlocked country located in Southern Africa (Shale, 2015). Currently it has an

¹ The Convention article 1.

estimated population of 2.26 million (World Population Review, 2018). Despite the country's limited disability database to provide statistics of persons with disabilities, (Lesotho Ministry of Health (MOH), 2011) the result of the national census conducted by the Bureau of Statistics indicate that approximately 3.7 % of the population of Lesotho have some form of disability or another (LNFOD, 2016). Findings of different researches indicate that this significant number of the population are side-lined and suffer discrimination (LNFOD, 2016).

1.2 Statement of the Problem

Though it has been about 10 years since the country ratified the Convention, access to justice for persons with disabilities has shown a consistent pattern of decline as discrimination, marginalization, stigmatization and lack of respect for human rights and dignity of individuals and groups heighten their vulnerability (LNFOD, 2016). The research is therefore aimed at unveiling the specific challenges that hinder access to justice for persons with disabilities in Lesotho and make recommendations on the way forward.

1.3 Research Question

The primary question of this research is: what are the challenges in accessing justice for persons with disabilities in Lesotho; and what should be done to respond to such challenges? The research has the following sub-questions:

- ✚ To what extent do policies and laws in Lesotho guarantee access to justice for persons with disabilities?
- ✚ What are the factors hindering persons with disabilities from accessing the justice system in Lesotho?
- ✚ What measures should be taken to respond to such challenges?

1.4 Significance of the Study

Access to justice is a fundamental right in itself; and it is a precondition for the full enjoyment of all other rights under the Convention. It provides a unique tool to counter the discrimination, marginalization, stigmatization and lack of respect for human rights and dignity that persons with disabilities face in many African countries to which Lesotho is not an exception. The cross-cutting nature of the right coupled with the highly restricted access to justice for persons with disabilities in Lesotho justifies the need for identifying the different types of barriers experienced by persons with disabilities and ways to address them. Thus, the findings of the research will be used to raise awareness on the different challenges faced by persons with disabilities in accessing justice in Lesotho. It will also serve as a springboard for lawyers, practitioners, civil society organisations and others to put more efforts in pushing for the rights of persons with disabilities to access justice, thus encouraging practical rights enforcement. Furthermore, this study will prompt further discussion and research into how the legal community, civil society and governments can be involved in maintaining or improving access to justice for persons with disabilities in Lesotho.

1.5 Methodology of the Study

Four methods of data collection were adopted for this research: interview, on-site visit, focus group discussion and desk review.

1.5.1 Interview

Interview was one of the methods of data collection. It was conducted using the Key Informant Interview Methodology (KIIM) because of its effectiveness in obtaining vital information about the legal, social and structural environment. For purposes of reference and without jeopardizing the identity of the respondents, the research selected a purposive sample of 19 key informants for the interviews. Also, to avoid the risk of interviewing individuals with one perspective or background, key informants were selected from different sectors, including government ministries and civil society organisations working on issues of disability, law and human rights issues. The first step in the selection process was identifying and creating a list of potential key informants. The list was then narrowed down by identifying one or two persons whom the researcher believes can provide the needed information from each sector. Accordingly, selected government interviewees from the Ministries of Social Development, Justice and Human Rights, Law Reform Commission (LRC), Police, the Judiciary and other law enforcement agencies were interviewed. From CSOs, representatives from organisations of persons with disabilities were also interviewed. These organizations are: Lesotho National Federation of Organisations of Disabled (LNFOD) Lesotho National League of visually Impaired Persons (LNVIP); National Association of the Deaf in Lesotho (NADL); Lesotho National Associations of Physically Disabled; and Intellectual Disability Association of Lesotho (IDAL). The selected key informants from the various sectors provided insight on the nature of the problems and gave recommendations for solutions. The interviews were transcribed and where the respondents consented, an audio recording was done.

1.5.2 On-Site Visit

The researcher also conducted an onsite visit to the High Court (HC), Magistrate Court (MC), Prosecutorial Office (PO),

and Central Charge Office (CCO) to assess the services offered and challenges faced by these institutions in relation to persons with disabilities right to access justice. To this end, on-the-spot interviews were conducted with clients and personnel of the justice institutions in assessing the specific barriers that are related to a particular justice institution.

1.5.3 Focus Group Discussion

Focus group discussions with law students at the National University of Lesotho (NUL) were carried out with the aim of getting initial information about the legal framework that protects persons with disabilities in Lesotho and student's perspectives about challenges faces by persons with disabilities in accessing justice.

1.5.4 Desk Review Research

Finally, , a thorough desk review of national laws, relevant international instruments, policies and other documents was conducted to support the study.

A human rights-based approach was adopted in framing the enquiry, analysing the findings and developing the recommendations. This is because, 'in the context of disability, this approach helps to promote the right to full access to justice by persons with disabilities' (LNFOD, 2016).

1.6 Hypotheses

Hypotheses were advanced. First, there could be gaps in the laws and policies of Lesotho. Second, persons with disabilities could be challenged with barriers in institutional as well as physical arrangements of the justice system in Lesotho

1.7 Limitation of the Study and Its Scope

The research was undertaken from 14 – 21 April 2018. The review of national laws and policies was limited to legal frameworks, which are directly relevant to access to justice by persons with disabilities in Lesotho. Therefore, the research did not review all laws and policies of Lesotho that have a link with persons with disabilities in one way or another. The onsite assessment of the justice institutions was also restricted to the HC, MC, PO, and CCO in Maseru, Lesotho. Thus, the findings of the research may not capture the specific barriers that are related to geographical location of the justice institutions.

1.8 Ethical Consideration

Ethical approval was obtained from the Research Ethics Committee of the Faculty of Law, University of Pretoria. This research also received the consent of all the respondents as they were made to understand that the interview was based on a voluntary basis.

2. Literature Review

2.1 The Concept of Access to Justice in General

According to Lord, Guernsey, Balfe, & Karr, access to justice is a far-reaching concept, which refers to people's actual access to the formal and informal systems, procedures, information, and locations of the administration of justice (Lord, Guernsey, Balfe, & Karr, 2011). Thus, for them, access to justice starts with the existence of rights enshrined in laws, and awareness and understanding of those rights, and embraces access to dispute resolution mechanisms as part of justice institutions (Lord et al, 2011). Flynn also averred that access to counsel and representation are part of the broader concept of effective access to justice (Flynn, 2016). Further, the United Nations Development Programme Manual used access to justice to refer to the ability of justice institutions 'to provide just, fair, impartial and enforceable solutions' (United Nations Development Programme, 2004). Therefore, the concept of access to justice encompasses not only procedural access, but also substantive and promotional access (Flynn, 2016). These elements of the right can be traced in a series of hard and soft laws.² For instance, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (the Protocol) provides the right to access to justice of person with disabilities by taking into account the specific challenges in accessing the justice system in Africa.³

2.2 Access to Justice Under the United Nations Convention on the Rights of Persons with Disabilities

Article 13 of the Convention explicitly guarantees access to justice in the context of disability as a human right and puts concrete and binding duties on state parties. It lays down a duty to safeguard effective access to justice for persons with

² Universal Declaration on Human Rights 1948 art 8; International Covenant on Civil and Political Rights art 2(3)(a); African Charter on Human and Peoples' Rights art 7; Convention on the Elimination of Discrimination Against Women art 13(1).

³ The Protocol article 11.

disabilities. In doing so, it imposes the provision of reasonable accommodation to facilitate the effective participation of persons with disabilities in the justice system.⁴ According to Schulze, this includes the duty to ease communication; such as the use of sign language interpreters, communication assistants as well as devices, and using experts to enhance the communication (Schulze, 2018). Whittle also elaborates on the obligation of states to raise national awareness of the right, adopt accessibility standards for all components of the justice sector and improve the sector's operational coherence and support facilities in full consultation with persons with disabilities (Whittle, 2012). He further discusses states obligation to encourage and fund physical accessibility audits, guarantee information availability about the justice sector, provide satisfactory training on disability equality, undertake an appraisal of legal, procedural and information barriers, encourage and fund adequate advocacy support for persons with disabilities and offer incentives to private lawyers to represent persons with disabilities (Whittle, 2012).

2.3 Challenges of Persons With Disabilities in Accessing Justice

According to the Southern Africa Research Centre, the right of access to justice of persons with disabilities is affected by social, legal and structural factors (Southern Africa Research Centre, 2017). Dasharatha also finds inaccessibility of technological device as a major problem (Dasharatha, 2016).

There is no comprehensive and adequate research on access to justice for person with disabilities in Lesotho.⁵ The existing literature is limited to reviewing the legal framework (LNFOD, 2016). This research therefore aims at filling that gap.

3. Research Findings

This section has two major parts. The first part discusses the adequacy of the existing legal frameworks which are relevant to access to justice by persons with disabilities in Lesotho, while the second part presents some of the disabling barriers observed in accessing the justice institutions in Maseru, Lesotho.

3.1 The Right to Access to Justice of Persons With Disabilities in Lesotho: Overview of the Legal Framework

In this sub section, the research elaborates on the status of the Convention in Lesotho, the 1993 Constitution of Lesotho, the Building Control Act 1995, the National Disability and Rehabilitation Policy and the Disability Equity Bill (DEB).

3.1.1 United Nations Convention on the Rights of Persons With Disabilities

Lesotho ratified the Convention on 2 December 2008 (Shale, 2015). The Convention needs however to be domesticated since the country follows the dualist approach to international legal norms. The domestication is yet to happen (Shale, 2016). Nevertheless, in *Fuma v Commander LDF & Others*, the HC of Lesotho, while exercising its constitutional jurisdiction pronounced that 'the unreservedly ratified... [Convention] stands not only as an aspirational instrument in the matter but that by default, it technically assumes the effect of municipal law in the country'.⁶ This land-mark decision paved the way for human rights activists to rely on such judgments in different cases to argue that the Convention is applicable and enforceable by courts.⁷

3.1.2 The National Constitution

Persons with disabilities are not mentioned explicitly as a beneficiary of the right to justice under the 1993 Constitution of Lesotho (LNFOD, 2016). Albeit sections 4 and 18 of the Constitution providing for non-discrimination in the enjoyment of the rights provided for in the Constitution, disability is not listed as a prohibited ground. Section 19 of the Constitution equally provides for fair trial but does not explicitly include persons with disabilities.

In this regard, one can argue that persons with disabilities can benefit from these sections on the basis of the catchall phrases of 'every person and other status' (Shale, 2015). However, an officer from the LRC averred that 'the terms every person and other status are a source of confusion and are subject to different interpretation by people, hence, the Constitution should clearly mention persons with disabilities.'⁸ An interviewee from LNFOD also stressed that the Constitution has multifaceted gaps regarding persons with disabilities and necessitates revision so that it can be a basis for subsidiary legislation on disability issues.⁹

⁴ The Convention article 13(1).

⁵ Interview 3, LNFOD, 18 April 2018.

⁶ *Fuma v Commander LDF & Others* (Const/8/2011) [2013] LSHC para 22.

⁷ Interview 18, NUL, 17 May 2018.

⁸ Interview 19, LRC, 19 April 2018.

⁹ Interview 3, LNFOD, 18 April 2018.

In the Constitution, the only provision, section 33, that talks explicitly about persons with disabilities is not under access to justice (Shale, 2015; LNFOD, 2016). It provides for rehabilitation, training and social resettlement of persons with disabilities. The respondents are of the opinion that the Constitution only reference the issues of disability in a section that is of minor importance to their day to day challenges that they come across (LNFOD, 2016). Arguably, one can say that the framers of the Constitution may have clerically excluded persons with disability under the section on access to justice.

3.1.3 Building Control Act 1995 and the National Disability and Rehabilitation Policy

The Buildings Control Act 1995 calls for physical access for persons with disabilities in all public buildings, such as justice institutions.¹⁰ In line with this, the National Disability and Rehabilitation Policy is adopted to promote easy access to the physical environment (MOH, 2011). It calls for the adoption of strategies to develop building standards and guidelines, and mandates the government to assign, mark and keep suitable parking areas for persons with disabilities motorists, both in public and private car parks (MOH, 2011). It also mandates the Government to advocate for construction of gentle slope ramps and advance an effective monitoring and evaluation mechanism (MOH, 2011). Furthermore, it requires the Government to implement the use of sign language and alternative communication systems available to persons with disabilities (MOH, 2011).

3.1.4 Disability Equity Bill 2017

Until recently, there was no disability-specific law in Lesotho (Shale, 2015). It is against this backdrop that in 2000, the Disability Equity Bill (DEB) was drafted. However, as a result of lack of political will on the part of government, the Bill has not yet been enacted into law.¹¹

Though the bill signifies the intent to domesticate some of the provisions of the Convention, the provision on access to justice is too strict and narrow to comprehensively cover the kind of access that is needed to achieve the full realisation of the rights (LNFOD, 2016). Its normative contents are not also well articulated because it merely mandates the Chief Justice to clarify the provision (LNFOD, 2016).

3.2 Accessibility of Justice for Person With Disabilities: A Case Study of Maseru

In Maseru, the disabling barriers include, lack of reasonable accommodation, stereotyping, and prejudices, lack of competency, lack of professionalism to handle persons with disabilities and limitation of financial capacity persons with disabilities.

3.2.1 Lack of Accessibility and Reasonable Accommodations

3.2.1.1 Physical Accessibility¹²

The HC and MC of Lesotho are not yet fully physically accessible for persons with disabilities. They outwardly have viable approach surface which is relatively suitable for wheel-chair users and people with walking difficulties, and hence, they are slip resistant areas. While the approach route to the HC is reasonably levelled and suitable for persons with disabilities, the MC approach route is not suitably levelled and no other alternatives for persons with disabilities. In both Courts, there are no suitable dropped kerbs and parking for persons with disabilities. Their approach routes are not free from hazards such as traffic flow, bollards, litter bins, and no adequate light. They are not clearly identified by visual, aural and tactile information.

Further, in the HC the approach route has a permanent ramp that does not have an appropriate handrail for wheel-chair users). Also, the ramp towards the door of the HC is extremely steep and slippery.¹³ In a similar vein, there is no appropriate ramps and handrails for wheel-chair users in the MC. Coming to their entrances and receptions, there are no signs consistently designed to convey information to wheel-chair users and persons with sensory disabilities. Lights are not levelled and constricted for persons with sensory disabilities. Also, their floor surfaces are not easily negotiable by wheel-chair users. The floor surfaces also do not guide visual impaired and partially-sighted people.

In both Courts, locations of the Bench's other than the first floor of the building are challenging and may be contributing to denying physical access to those relying on wheelchairs. Worse still, there is no lift in MC whereas in HC, though there is a lift, it is neither working nor maintained.¹⁴ Finally, the CCO and PO are disability unfriendly, from the lack of ramps, steps, accessible parking and a lack of signs.

¹⁰ The Buildings Control Act 1995 sec 19(2).

¹¹ Interview 17, Lawyer, 17 April 2018.

¹² Onsite visit, HC & MC, 17 April 2018.

¹³ Interview 6, person with physical disability, 17 April 2018.

¹⁴ Interview 8, MC, 18 April 2018.

3.2.1.2 Communication Barriers and Lack of Information

There is an inaccessibility of braille services, physical guide assistance, tactile sign language and any other similar legal services and procedures in all justice institutions under consideration, which is contrary to Article 13 and 21 (b) of the Convention.¹⁵ For example, courts in Lesotho use only hard copy to send documents, including summons, to persons with visual impairment. This inhibits the ability of the latter to keep something confidential since they are required to let someone read for them.¹⁶ Further, lack of information on legal rights, legal aid and remedies is also another problem.¹⁷

3.2.2 Stereotype and Prejudices

All the respondents from disability organisations stressed that there is a propensity not to want to deal with the seeming complexities of a disability, and hence police investigators are unenthusiastic to respond to the cases of persons with disabilities with the diligence that such cases deserve.¹⁸ The police feel it is a complex issue and they would not manage to get the right information and evidence to secure a conviction.¹⁹ The complexity was also linked to the perception that corroborative evidence would have to be obtained to prove such cases and accordingly ‘police have the attitude that the cases are too involving in an environment where there are limited resources.’²⁰ In some instances, the investigations commence on a good note but are never seen to their logical conclusion. Sometimes files go conspicuously missing, leading to stalling of the case.²¹

Furthermore, the testimony of the victim is considered less credible on the basis of the victim’s intellectual disability.²² They are frequently viewed to be of ‘unsound mind’ such that prejudgment supersedes rational consideration of situations by law enforcers and interpreters; hence denying those with intellectual disabilities access to justice.²³ Among other things, this was attributable to section 19 of the Revised Criminal Procedure and Evidence Act of 1981, which proscribed people with intellectual disability from becoming witnesses in the proceedings on the basis that they cannot understand the proceedings of the Courts.²⁴ However, the HC of Lesotho while exercising its constitutional jurisdiction in the case of *Moshoeshoe et al v Director of Public Prosecutions and Others* recently pronounced the Act unconstitutional,²⁵ which is a significant milestone to deter such stereotypical preconceptions.²⁶

3.2.3 Lack of Capacity to Handle Persons With Disabilities

The limited capacity of law enforcement agencies regarding human rights approaches that would allow them to appreciate the challenges facing persons with disabilities is another problem.²⁷ The respondents from the CCO and PO indicated that they had limited access to training or orientation in order to ensure reasonable accommodation and accessibility when approaching a victim who has a disability.²⁸ They frequently depend on the one who escorts persons with disabilities to ensure communication, which can have repercussions on the quality and credibility of evidence.²⁹ It goes without saying

¹⁵ Interview 5, Lesotho National League of Visually Impaired Persons (LNIVP), 20 April 2018; Interview 12, National Association of the Deaf in Lesotho (NADAL), 20 April 2018.

¹⁶ Interview 5, Lesotho National League of Visually Impaired Persons (LNIVP), 20 April 2018; Interview 12, National Association of the Deaf in Lesotho (NADAL), 20 April 2018.

¹⁷ Interview 4, LNFOD, 18 April 2018.

¹⁸ Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018; Interview 11, NADAL, 19 April 2018.

¹⁹ Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018; Interview 11, NADAL, 19 April 2018.

²⁰ Interview 5, Lesotho National League of Visually Impaired Persons (LNIVP), 20 April 2018.

²¹ Interview 5, Lesotho National League of Visually Impaired Persons (LNIVP), 20 April 2018.

²² Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018.

²³ Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018.

²⁴ Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018.

²⁵ *Moshoeshoe et al v Director of Public Prosecutions and Other* [2017] LSHC (Full information not yet available).

²⁶ Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018.

²⁷ Interview 4, LNFOD, 18 April 2018.

²⁸ Interview 15, Prosecutorial Office (PO), 19 April 2018; Interview 7, Central Charge Office (CCO), 19 April 2018.

²⁹ Interview 15, Prosecutorial Office (PO), 19 April 2018; Interview 7, Central Charge Office (CCO), 19 April 2018.

that the respondents from the CCO and PO averred that though there is a limitation to dealing with persons with disabilities issues, it is far from the truth to say that the police or the prosecutors take such cases 'lightly' due to the fact that a victim has a disability.³⁰ Instead, it is largely due to the lack of capacity by the police to respond effectively.³¹ According to the interviewees, these problems continue even up to the court processes in which the MC and HC are unable to adapt to the needs of a victim who has a disability.³²

Financial reasons to have a legal representative and to bear the cost of legal proceedings are another challenge for persons with disabilities to access justice in Lesotho. Besides, different regulatory and procedural barriers, such as deprivation of capacity, were also mentioned by the respondents.³³ In relation to capacity, article 12 of the Convention provides persons with disabilities' right to legal capacity; legal standing and legal agency on an equal basis with others without discrimination because of disability (Kassie, 2012). It is an innovative provision that introduces a paradigm shift so that 'legal capacity should not depend on mental capacity' (Richardson, 2012) and all persons irrespective of disability inherently possess it.³⁴ Therefore, any of those restrictions on this entitlement based on mental capacity contradict the basic notion of equality, equal recognition before the law and non-discrimination as enshrined under the Convention.³⁵

4. Conclusion and Recommendation

4.1 Conclusion

In Lesotho, the human right situations of person with disabilities remain dire and bleak because of limited access to the justice system. The study proceeded with the assumption that person with disabilities experience discrimination, including obstacles to accessing justice and, there are gaps in the laws and policies aimed at protecting persons with disabilities. In section 3 of this study, the hypothesis has been established that indeed, persons with disabilities face difficulties in accessing justice in Lesotho because of social, legal and structural obstacles.

4.2 Recommendations

The result of the study indicates that Lesotho does not give adequate legal effect to access to justice for persons with disabilities and in most instances not complying with its treaty-based duty. It is therefore recommended that the government of Lesotho should take the following legislative, administrative and other measures to curb this anomaly and to comply with its obligation under article 4 and 13 of the Convention.

4.2.1 Legislative Measures

The DEB should be passed so that it addresses to legal challenges that are confronted by persons with disabilities when accessing justice. It ought to be however clear enough about the normative contents of the right to access to justice and the duties of each stakeholder concerning its implementation. Besides, Lesotho should domesticate the Convention although the HC already recognized its superseding role and ratify its Optional Protocol as well as the African Disability Protocol. It should also consider the possibility of amending the Constitution to explicitly include disability as proscribed basis of discrimination.

4.2.2 Administrative Measures

The government of Lesotho should launch sensitization programs to enable personnel of the justice institutions to properly handle persons with disabilities issues and to rectify the problem of stereotype and prejudice. Mechanisms should also be devised to ensure that persons with disabilities are represented when making budgets, planning, implementing and monitoring policies to safeguard their right to access to justice. Furthermore, visual and auditory alarm systems, and braille or raised letters for permanent signage should be provided.

To ensure physical accessibility of the HC and MC, the government of Lesotho should arrange a car parking for persons with disabilities, maintain appropriate ramps and handrails for wheel-chair users, provides facilities and personnel for persons with disabilities and maintain the lift in the HC. Furthermore, since both the CCO and PO are not disability friendly, they need over-all reconstruction.

³⁰ Interview 15, Prosecutorial Office (PO), 19 April 2018; Interview 7, Central Charge Office (CCO), 19 April 2018.

³¹ Interview 15, Prosecutorial Office (PO), 19 April 2018; Interview 7, Central Charge Office (CCO), 19 April 2018.

³² Interview 4 (n 60 above); Interview 9, Ministry of Law (ML), 18 April 2018; Interview 16, Transformation Resource Centre, 16 April 2018.

³³ Interview 1&2, Intellectual Disability Association of Lesotho (IDAL), 19 April 2018; Interview 11, NADAL, 19 April 2018.

³⁴ Committee on the United Nations Convention Rights of Persons with Disabilities General Comment 1 para 13.

³⁵ Committee on the United Nations Convention Rights of Persons with Disabilities General Comment 1 para 8.

4.2.3 Other Measures

In addition to the legislative and administrative measures, the following two points are forwarded. First, Courts should be active participants in promoting accessibility. In this regard, they should give effect to existing human rights and constitutional guarantees for all people including persons with disabilities until the legislature adopts disability specific law. Second, legal literacy and legal services should be offered to persons with disabilities. They should also be trained and capacitated to be assertive of their rights.

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Appendix

Interviewees lists

For purposes of reference and without jeopardizing the identity of the respondents, the researcher attached their lists with their respective institutions.

1. Interview 1, Intellectual Disability Association of Lesotho, 19 April 2018.
2. Interview 2, Intellectual Disability Association of Lesotho, 19 April 2018.
3. Interview 3, Lesotho National Federation of Organization of Disabled, 18 April 2018.
4. Interview 4, Lesotho National Federation of Organization of Disabled, 18 April 2018.
5. Interview 5, Lesotho National League of Visually Impaired Persons, 20 April 2018.
6. Interview 6, Lesotho National Associations of Physically Disabled, 17 April 2018.
7. Interview 7, Central Charge Office, 19 April 2018.
8. Interview 8, Magistrate Court, 18 April 2018.
9. Interview 9, Ministry of Law, 18 April 2018.
10. Interview 10, Ministry of Social Development, 20 April 2018.
11. Interview 11, National Association of the Deaf in Lesotho, 19 April 2018.
12. Interview 12, National Association of the Deaf in Lesotho, 19 April 2018.
13. Interview 14, Persons with physical Disability, 18 April 2018.
14. Interview 15, Prosecutorial Office, 18 April 2018.
15. Interview 16, Transformation Resource Center, 16 April 2018.
16. Interview 17, Lawyer at High Court, 18 April 2018.
17. Interview 18, National University of Lesotho, 17 May 2018.
18. Interview 19, Law Reform Commission, 19 April 2018.

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