

## **Failed Implementation**

Lesotho's Inclusive Education Policy and  
the continued exclusion of children with  
disabilities

Executive summary  
April 2023

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Lesotho's Inclusive Education Policy and the continued exclusion of children with disabilities

A briefing paper  
April 2023

## **EXECUTIVE SUMMARY**

The Kingdom of Lesotho (Lesotho) has assumed international legal obligations to ensure access to quality, inclusive education for children with disabilities, by acceding to treaties including: the Convention on the Rights of Persons with Disabilities (CRPD); the International Convention on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Rights of the Child (CRC); the African Charter on Human and People's Rights; and the African Charter on the Rights and Welfare of the Child.

Lesotho is bound to submit periodic reports on its compliance with the provisions of these treaties, upon which the bodies responsible for monitoring their implementation provide concluding observations and recommendations. The concluding observations may include concrete, focused and implementable guidance on realizing the right to inclusive education. In serial breach of its reporting obligations, Lesotho has only submitted a periodic report to the Committee on the Rights of the Child, which has expressed concern on the limited access to education for children with disabilities.

According to an unofficial list of special and inclusive schools provided to the ICJ in late 2022, there are six (6) special schools (including one resource centre), and fifteen (15) inclusive schools operating in Lesotho. It is therefore likely that many children with disabilities remain out of school, or in schools that cannot appropriately accommodate their educational needs. Given the limited number of these schools, and their lack of capacity to accommodate learners with all types of disabilities, the majority of children with disabilities are not able to attend them.

Although parents and guardians often struggle to get their children into schools, and ensure that they stay in school, the research conducted by the ICJ also reveals that the quality of education received by children with disabilities at both inclusive and special schools, whether public or private, falls below the requirements under international law and standards, as well as Lesotho's domestic laws.

In terms of domestic law, the Constitution of Lesotho provides for the equality of, and prohibits discrimination against, persons with disabilities. The Constitution also includes "provision of education" as a "Principle of State Policy". To give effect to constitutional provisions and Lesotho's international law obligations, the Lesotho legislature has enacted a variety of laws including: the Disability Equity Act; the Education Act; and the Children's Protection and Welfare Act. The ICJ's research suggests that a full review of legislation is necessary to ensure compliance with international law and domestic constitutional law.

The government of Lesotho has also adopted an Inclusive Education Policy, designed to ensure that it fully encompasses children with disabilities. While sparse official information is available on the implementation of this policy, little progress has been made, partly due to the absence of an implementation framework. Interviews with staff of the Special Education Unit, reveal that the unit is severely understaffed and more generally under-resourced. As a result, the reality

faced by principals, teachers and learners at the school level is far removed from Lesotho's legal and policy commitments.

The ICJ has been able to draw the following conclusions:

***Failure to ensure an inclusive education system for all.*** Given that fewer than 20 of the approximately 4000 schools (pre-primary, primary and post-primary schools) in Lesotho can accommodate learners with disabilities, children with disabilities are effectively excluded from the vast majority of schools in the country. As such, it is highly likely that a large number of children with disabilities do not go to school.

***Stigma and social exclusion.*** Stigma and social exclusion continue to be rife both within schools and in the society. Government officials, school staff, parents and others are ill-informed about disability rights, inclusive education and sometimes consider children with disabilities ineducable. As a result, children with disabilities are kept at home, subjected to bullying, or otherwise maligned by staff and other learners when they attend regular schools.

***Financial Constraints: Funding and Fees.*** While a significant percentage of the government's budget is allocated to education in general, little of this budget is allocated for – or spent on – inclusive education. Staff at schools indicate that the main regular funding public schools receive from the government is through the payment of teachers' salaries. Even inconsistent support sometimes historically provided to schools in the form of a subvention has not materialized in recent years. Government allocations for special and inclusive schools do not account for the costs associated with providing the education support required for children with disabilities. Schools commonly attempt to fundraise from external donors and/or supplement their budgets by dedicating time to potentially income generating activities to bridge this funding gap. Private and public schools sometimes ask for contributions from parents which may amount indirectly to school fees. As a result, some learners are reported to drop out of schools – or decide not to enrol in them in the first place – because they lack the resources to attend.

***Inadequate implementation of policy.*** The government has struggled to coordinate concerned stakeholders, including relevant government ministries, in an integrated and cooperative manner to implement policy on the rights of children with disabilities. Delays in the development and regular review of strategies undermines the government's ability to effectively implement policy in a targeted manner. The Special Education Unit remains significantly understaffed and under-resourced to perform vital functions. The continued delay in the adoption of an implementation framework for the inclusive education policy further frustrates the Special Education Unit's ability to implement the policy.

***Inadequate capacity to monitor implementation.*** MoET officials expressed reservations about their ability to effectively monitor the quality of education provided to children with disabilities in Lesotho. Only some districts employ locally located staff tasked with supporting schools in delivering inclusive education. Staffing in the Special Education Unit is inadequate, and its central office, which is in Maseru, is a substantial distance from many of the schools. MoET officials

report lacking basic resources for transport and other supports required to visit schools regularly. The MoET itself also lacks the expertise to perform some of its functions, such as screening, identification, and assessment.

**Legislative inconsistencies and gaps.** The education system, and the laws governing it have not been subject to a comprehensive review to ensure compliance with the Constitution and international legal obligations. Shortcomings in this respect are manifest. The Education Act, for instance, permits a learner's non-enrolment in school or discontinuation of their attendance at school on the basis of their disability. There is need to amend existing legislation to require regulation of special and inclusive school hostels/boarding facilities, and private actor involvement in the provision of education.

**Inadequate Infrastructure and Limited Access to Learning Materials.** While government and government partners (such as UNICEF) provide assistive devices to schools on an ad hoc basis, special and inclusive schools still report inadequate access for children with disabilities to basic assistive devices, such as glasses or other magnification devices, hearing aids and wheelchairs. Limited learning materials are provided to the schools, and the current curriculum has not been fully adapted to ensure its accessibility for children with disabilities. As a result, children with disabilities tend to repeat grades more than those without disabilities. Infrastructure is often inadequate to ensure accessibility and infrastructure at special and inclusive schools is often dilapidated and unsafe.

**Inadequate training of teachers.** Teacher skills training and professional development on inclusive education are still highly inadequate in Lesotho, which causes gaps in the effective adaptation and modification of the teaching and learning environment for learners with disabilities. Without proper pre-service training on inclusive education, teachers are unable to provide children with disabilities with the support and accommodations they may require. Many teachers are also placed at special and inclusive schools without even a basic understanding of disability and inclusive education. In-service training is rare and ad hoc, and schools are not equipped to identify and screen learners for disabilities.

Lesotho has largely failed to comply with its domestic law and international legal obligations. The ICJ recommends that the authorities take necessary steps to:

- a. Implement more effective awareness-raising programs on disability rights and inclusive education;
- b. Provide adequate resources to ensure access to inclusive education for children with disabilities;
- c. Invest in and carry out regular pre- and continuous in-service training for teachers on inclusive education;
- d. Scale up the Special Education Unit's capacity to monitor the quality of inclusive education in Lesotho, including by making regular visits to special and inclusive schools;
- e. Conduct a review of all legislation applicable to education for children with disabilities to ensure compliance with human rights law and standards;

- f. Accelerate the development and adoption process for the implementation framework to facilitate the implementation of the Inclusive Education Policy;
- g. Ensure the justiciability of all human rights, including the right to inclusive education for learners with disabilities;
- h. Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities;
- i. Ratify the Optional Protocols to the CRPD and ICESCR;
- j. Ensure that Lesotho submits all outstanding reports to the United Nations Treaty Bodies; and
- k. Continue working cooperatively with civil society and intergovernmental partners to give effect to the right to inclusive education.

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