

Joint Submission from the Seinoli Legal Centre and the People's Matrix with specific reference to gender stereotypes in Lesotho¹

In response to the Committee on the Elimination of Discrimination against Women's (CEDAW) "[Call for Comments – Draft general recommendation on gender stereotypes](#)"

1. Introduction

This submission provides paragraph-by-paragraph comments on the *Draft General Recommendation no. 41* on gender stereotypes, identifying areas where further clarification or strengthening is required. Drawing on examples from Lesotho, it illustrates gaps and challenges in addressing gender stereotyping in practice. The submission links each comment to the relevant provisions of the draft and proposes precise textual amendments.

2. Comments on specific paragraphs

Definition of gender stereotypes and state obligations in paragraphs 9 to 11 and 36

Paragraphs 9 to 11 appropriately recognise gender stereotypes as structural and systemic. Paragraph 36 outlines state obligations. However, the draft does not explicitly address how formal equality approaches within judicial systems may perpetuate gender stereotypes where structural disadvantage is not considered.

This gap is demonstrated in practice in Lesotho where the Court of law upheld a policy on the basis of formal neutrality without assessing its disproportionate impact on women.² This example illustrates that without an explicit requirement to apply substantive equality, the obligations in paragraph 36 may be interpreted narrowly.

Proposed insertion in paragraph 36, end of paragraph:

"States parties should ensure that judicial and quasi-judicial bodies apply a substantive equality approach, including assessing the gendered impact of laws, policies and decisions and avoid reliance on formal equality where it obscures structural discrimination."

¹ The International Commission of Jurists (ICJ), People's Matrix Association (PM), and Seinoli Legal Centre are partners in the Reform for Inclusion, Support and Empowerment Project (RISE Project) and have made this submission within the framework of the RISE Project. The ICJ provided technical assistance in the drafting of this submission.

² *Manako Lethakha & Others v Lesotho Highlands Water Commission & Others*, (CC/0006/2023) [2025] LSHC 231 (10 February 2025), available here; '[Manako Lethakha V Lesotho Highlands Water Commission & 5 Others \(CC/0006/2023\) \[2025\] LSHC 231 \(10 February 2025\) – LesLII](#)'

Custom, culture, and traditions in paragraphs 15 and 38

Paragraph 15 acknowledges the role of culture and tradition and paragraph 38 addresses state obligations. However, the draft does not explicitly address situations where legal frameworks permit discrimination through customary law exceptions and does not clearly require states to eliminate legal exceptions that legitimise discriminatory stereotypes.

In Lesotho, for example, section 18 (4) (c) of the Constitution of Lesotho 1993³ permits discrimination where it is attributable to customary law. This legal allowance enables the persistence of gender stereotypes in areas such as succession to chieftainship and constitutional monarchy. In this context, succession to the constitutional monarchy is governed by the rule of primogeniture, which further entrenches male-preference norms in inheritance and leadership structures. The case of *Senate Masupha v. The Kingdom of Lesotho*,⁴ where the application of customary law resulted in the exclusion of women from chieftainship, is an illustration of reliance on formal reasoning that reinforces gendered assumptions and gender stereotypes.

Proposed insertion in paragraph 38, after first sentence:
“States parties should ensure that constitutional, legislative and customary law frameworks do not permit exceptions that allow discrimination based on gender stereotypes.”

Access to justice and gender-based violence in paragraphs 41 to 42

Paragraph 42 links gender stereotypes to gender-based violence (GBV) but does not explicitly address institutional inaction driven by such stereotypes.

In Lesotho, harmful gender stereotypes, such as ‘*mosali o ngalla motseo*’, which translates to ‘*a woman should endure in her home*’, contribute to underreporting of domestic violence and are reflected in dismissive responses by law enforcement, despite the existence of relevant legislation. Women, who are disproportionately affected by GBV, bear the brunt of these stereotypes.⁵ This demonstrates that a failure to act, which may be rooted in stereotypes (based on custom, religion etc) constitutes a distinct form of discrimination that is not clearly articulated in the draft.

³ The Constitution of Lesotho 1993, available here [Lesotho Constitution - Government of Lesotho](#)

⁴ https://www.law.cornell.edu/gender-justice/resource/masupha_v._senior_resident_magistrate_for_the_subordinate_court_of_berea

⁵ 21.2% of Basotho women have been subjected to physical and/or sexual violence in the past 12 months. World Bank Lesotho Gender Data Landscape. 2023. Available here: [IDU-d46fa372-3efb-4505-af2c-8312b306aa90.pdf](#)

Proposed insertion in paragraph 42, end of paragraph:
“Failure by law enforcement, judicial or other state actors to respond effectively to complaints of gender-based violence due to gender stereotyping, including victim-blaming or minimisation, constitutes a violation of women’s human rights under the Convention and a breach of states parties’ obligations.”

Family sphere and legal awareness in paragraph 54

Paragraph 54 features recommendations addressing stereotypes in family relations but does not sufficiently address legal awareness and access to rights.

In Lesotho, despite reforms such as the *Legal Capacity of Married Persons Act of 2006*⁶ and the *Administration of Estates and Inheritance Act of 2024*,⁷ many women—particularly in rural areas—remain unaware of their rights and continue to rely on customary practices shaped by gender stereotypes. This indicates that legal reform alone is insufficient without accessible legal literacy.

Proposed insertion in paragraph 54, as new subparagraph:
“Ensure accessible, context-specific legal literacy programmes, legal aid services and community-based mechanisms with a view to eliminating gender stereotypes and enable women to understand and claim their rights.”

Care and support roles in paragraphs 26 to 27 and 55

Paragraphs 26 to 27 identify gendered roles and paragraph 55 makes recommendations to states parties with respect to care and support. However, the draft does not sufficiently frame unpaid care work as a structural driver of gender inequality.

In Lesotho, women’s disproportionate responsibility for unpaid care work limits labour force participation and reinforces economic dependency, reflecting entrenched gender stereotypes.⁸ This demonstrates the need for stronger articulation of state obligations to address unpaid care work structurally.

Proposed insertion in paragraph 55, after subparagraph (b):
“Adopt measures to recognise, reduce and redistribute unpaid care and support work, including through social protection systems, labour policies and accessible public services.”

⁶ Legal Capacity of Married Persons Act of 2006, available here; [Document3](#)

⁷ Administration of Estates and Inheritance Act of 2024, available here; [PolicyVault.Africa | Administration of Estates and Inheritance Act 2024](#)

⁸ The labour force participation rate in Lesotho shows a notable gender disparity, with men participating at 66.9% compared to 48.1% for women, reflecting a gap of 18.8 percentage points. World Bank Lesotho Gender Data Landscape. 2025. Available here: [IDU-d46fa372-3efb-4505-af2c-8312b306aa90.pdf](#)

Sexual orientation and gender identity in paragraph 20

Paragraph 20 recognises discrimination against LGBTI persons but does not explicitly address enforcement of gender stereotypes by non-state actors, including traditional authorities.

In Lesotho, trans people may be required by traditional authorities to conform to dress codes aligned with sex assigned at birth in order to access services.

Proposed insertion in paragraph 20, end of paragraph:
“States parties should address discriminatory practices by state and non-state actors, including traditional and community authorities, that enforce gender stereotypes affecting persons of diverse sexual orientation and gender identity, while adopting an intersectional approach that recognizes the compounded forms of discrimination experienced by individuals based on factors such as sex, gender, disability, race, ethnicity, socio-economic status, and other intersecting identities.”

Religion and gender stereotypes in paragraph 35

Paragraph 35 acknowledges the role of religion but does not fully reflect the dual role of religious institutions.

In Lesotho, religious institutions both reinforce gender stereotypes (for example, those concerning male authority) and hold significant potential to influence social change. For instance, the Roman Catholic church, one of the most widely followed religious institutions in Lesotho, does not permit women to become priests or bishops.⁹ This suggests the need for a more engagement-oriented approach in the draft.

Proposed insertion in paragraph 35, end of paragraph:
“States parties should engage constructively with religious institutions and leaders, recognising their role in both perpetuating and eliminating gender stereotypes, in order to promote gender equality and support women’s participation in leadership and decision-making roles.”

⁹ [Why Are There No Women Priests in the Catholic Church? - Catholicus.eu English](https://www.catholicus.eu/en/why-are-there-no-women-priests-in-the-catholic-church/)

Omission: monitoring and implementation in paragraph 52

While paragraph 52 addresses monitoring, the draft omits explicit reference to accessible accountability and complaint mechanisms for harms caused by gender stereotyping. This gap limits the operationalisation of the obligations set out in the draft.

Proposed insertion after paragraph 52 (f):
“Establish accessible and effective mechanisms to monitor implementation, receive complaints, and provide remedies for harms caused by gender stereotyping.”

3. Conclusion

This submission has identified specific areas where the *Draft General Recommendation no. 41* could be strengthened to:

- a. Clarify the application of substantive equality
- b. Address legal and institutional gaps that enable gender stereotyping
- c. Strengthen accountability and implementation mechanisms

The examples from Lesotho demonstrate how gender stereotypes operate in practice across legal, cultural and institutional contexts and underscore the importance of ensuring that the final text of the general recommendation provides clear, precise and operational guidance to states parties.