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**EXPERIENCES OF WOMEN IN HIGHER EDUCATION: A STUDY OF SEXUAL
HARASSMENT AT SELECTED UNIVERSITIES IN LESOTHO**

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS OF THE MASTER
OF PHILOSOPHY IN HUMAN RIGHTS AND DEMOCRATISATION IN AFRICA

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DEDICATION

To my mother, I know you are very proud of me.

ACKNOWLEDGEMENT

I am forever grateful to God. if not by His grace and favour, I would not have done it. Thank you, Abba Father. A big thank you to my family friends and friends for the support and encouragement. I wish to express my deepest gratitude to the Centre for Human Rights for giving me an opportunity to further my studies and advance my career. I further extend my sincere gratitude and special appreciation to my HRDA friends and mentors, Advocate Thando Gumede and Ayabonga Sithole. I am indebted and thank you for the endless support and making my year worthwhile.

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ACRONYMS AND ABBREVIATIONS

African Charter	African Charter on Human and Peoples' Rights
African Commission	African Commission on Human and Peoples' Rights
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEDAW Committee	Committee on the Elimination of Discrimination against Women
CHE	Council on Higher Education
GBV	Gender-Based Violence
GR	General Recommendation
HEIs	Higher Education Institutions
Maputo Protocol	The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
NUL	National University of Lesotho
SADC	The Southern Africa Development Community
SOA	Sexual Offences Act
UN	United Nations
UNDP	United Nations Development Programme

1. INTRODUCTION

1.1. Background

In Lesotho, sexual harassment is a major issue. In organizations where there is a significant power imbalance, such as in higher education institutions (HEIs), sexual harassment is particularly serious.¹ The second most reported location of where sexual harassment occurs was schools, with the prevalence being 58 per cent.² High rates of sexual harassment, frequently committed by professors and other students, have a negative impact on the academic performance and general health of young women.³ According to Brown et al, while people are becoming increasingly aware of gender-based violence (GBV) at HEIs in Lesotho, there is a lack of national representative research to provide a clear understanding of the nature and extent of this phenomenon.⁴ Further, the under-reporting of this type of violence, particularly sexual violence, makes it difficult to determine the true prevalence of the different forms of it at HEIs. Owing to under-reporting, and consequently low numbers of officially reported incidents of sexual violence, HEIs may perceive that sexual violence is not a major issue at their institution and consequently argue that it does not require a concerted institutional response.

In Lesotho, the term ‘higher education’ is used to refer to both university- and tertiary-level education. This means that it includes all post-high school education that lasts for a minimum of two years.⁵ Since the 1980s, several national and international partners have prioritised higher education.⁶ Economic studies supported the idea that public spending on colleges and universities yields lower returns than spending on basic and secondary education.⁷ Higher education generates enlightened leaders, fosters social mobility, and provides fundamental skills; it is crucial for a democratic society and serves as a doorway to a better life, among other things. The largely patriarchal society of Lesotho basically makes gender disparity unavoidable and entrenches it. The concept that males are inherently better equipped to lead, rule, and make wise judgments because they understand what is best for everyone has been internalized by all members of society. The gender concerns brought up in the gender discussion have an impact on higher education institutions as well.⁸

¹ M Ntimo-Makara ‘Gender and the management of higher education institutions in Lesotho: A case of the National University of Lesotho’ (2007) *Review of Southern African Studies* 171.

² L Musariri et al ‘The GBV Indicators Research in Lesotho’ (2014) *Gender Links* 55.

³ African Union ‘Strategy for gender equality and women’s empowerment 2018-2028’ 35.

⁴ L Brown et al *Sexual violence in Lesotho* (2006) 269.

⁵ M Ntimo-Makara (n 1).

⁶ Task Force on Higher Education and Society ‘Higher education in developing countries: Peril and promise’ (2000).

⁷ As above.

⁸ Ntimo-Makara (n 5) 174.

Nevertheless, the Amended Constitution of Lesotho of 1993, which is the basis of all laws, guarantees fundamental rights and freedoms. To address these gaps, the ratification of international instruments such as, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)⁹ and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which have been ratified by the Lesotho government, provide the basis for further protection of women in Lesotho. The Maputo Protocol was prompted by the need to compensate for the poor protection of women provided by the African Charter on Human and Peoples' Rights (African Charter).¹⁰ While the African Charter protects non-discrimination on the basis of sex, equality before the law, and the eradication of discrimination against women, it does not specify discrimination-related breaches of women's rights.¹¹ Moreover, by requiring the removal of discrimination against women in the framework of the home, 'the guardian of morality and tradition,' which, in certain instances, is the precise arena in which prejudice against women thrives, it unwittingly undermines the achievement of gender equality.¹² Further, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) recognises sexual harassment is a kind of violence against women and a form of sexual discrimination.¹³ Sexual harassment is defined by the United Nations (UN) as unwelcome sexually motivated activity like as physical contact and approaches, pornographic material viewing, and verbal or physical sexual solicitations.¹⁴

Lesotho, one of the nations in Southern Africa, was established on the foundation of patriarchy. Traditional Lesotho society held that men are superior to women and that women should be subservient to men, for example, in the Basotho tribe, a boy's status takes precedence over that of his mother.¹⁵ However, it is also crucial to note the influence of colonisation on cultural and social traditions in shaping the role of a woman.¹⁶ Aidoo, in 1995, posited that colonialism and social patriarchy continue to perpetuate gender disparity in schooling.¹⁷ The colonial system made sure that women were either denied access to education or received a subpar replica of the education provided to the underprivileged in Europe. African males, for

⁹ F Viljoen 'An Introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2009) *Washington and Lee Journal of Civil Rights and Social Justice* page.

¹⁰ As above.

¹¹ J Obonye 'The practice of polygamy under the scheme of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: A critical appraisal' (2012) *Journal of African Studies and Development* 142-9.

¹² Convention on the Elimination of All Forms of Discrimination against Women.

¹³ Obonye (n 11).

¹⁴ United Nations High Commissioner for Refugees 'UNHCR's Policy on harassment, sexual harassment, and abuse of authority' (2005) 3.

¹⁵ S Hlatshwayo 'The impact of the African Charter and the Maputo Protocol in Lesotho' in VO Ayeni (eds) *The impact of the African Charter and the Maputo Protocol in selected African states* (2016) 134.

¹⁶ Published: P Mosetse 'Gender stereotypes and education in Lesotho, published doctoral dissertation, University of Free State, 2006 40.

¹⁷ A Isaac & OE Jaiyeola 'Patriarchy and colonization: The "Brooder House" for gender equality in Nigeria' (2013) 10 *Journal of Research and on Women and Gender* 3-22.

their part, utilise their cultural practices to uphold the colonial order.¹⁸ As a result of socio-cultural and colonial influences, gender inequality is ever prevalent in Lesotho today, particularly in HEIs, despite having constitutionally guaranteed rights.

In Maseru, the Lozi people believe tradition should not be altered, disregarded, or ignored as a rule.¹⁹ The people must pay attention to, have faith in, and carefully adhere to its directives. The Lozi culture established distinct lifestyles for men and women in the community. Men are autonomous beings because they are born free; they are the guardians of tradition, and they tell women how to conduct their lives in the name of tradition. Women, however, are required by tradition to follow the predetermined stereotyped paths. For example, according to Sotho custom, it is improper for married women to participate in decisions that are often made by males about important issues like a child's education, family planning, and career choice.²⁰ Nevertheless, the gateway to raising the position of women in Sotho society is through education, particularly, higher education. Nguyen, writing in 2020, argues that higher education provides the finest labour force resources since it shapes present leaders and develops the next generation of leaders.

Considering the influence of culture in daily life, it is imperative that HEIs are assessed to ensure adequate policy concerning gender issues are developed. As Prah stated in 2002:²¹

It is vital to review postsecondary institutions with women's needs in mind and identify what extra actions are required to better the status of the women who are already in them

Empirical evidence suggests that gender inequality exists in various forms, and gender-based violence is reportedly pervasive both on and off campus, according to the National University of Lesotho (NUL). The persistence of sexual rights violations against students has been attributed to the lack of a sexual harassment policy.²² This paper discusses the narratives and experiences of sexual harassment in universities in Lesotho. It specifically explores sexual harassment and experiences of sexual harassment in NUL and Limkokwing University.

1.2. Problem statement

¹⁸ As above.

¹⁹ Mosetse (n 16) 46.

²⁰ As above.

²¹ A Adusah-Karikari 'Experiences of women in higher education: A study of women faculty and administrators in selected public universities in Ghana' Published Master's thesis, Ohio University, 2008 35.

²² National University of Lesotho 'NUL hosts gender dialogue' 10 December 2019
<https://www.nul.ls/nul-hosts-gender-dialogue/> (accessed 24 October 2022).

Understanding the persistent, systemic gender disparities in higher education in Lesotho requires close examination of the experiences of women and administrators. The lack of literature on women in higher education in Lesotho is what piqued the researcher's attention in this particular study. While lower-income nations have been forced to rely on some gender-disaggregated statistics and quantitative studies that are frequently funded by international organizations, the West has produced a sizable amount of published quantitative and qualitative data as well as critical literatures on gender.²³ However, sexual harassment and sexual offences policies in Lesotho have been provided with very little engagement in regards to the issue of sexual harassment in universities. These practices result in a violation of the rights of women in Lesotho. For example, the right to non-discrimination, education, dignity, and many more are impacted. This is despite ratification of human rights frameworks like African Charter, Maputo Protocol and CEDAW.

1.2.1. Significance of problem

The significance of this study is that it will contribute to human rights scholarship illustrating the impact of African Charter, Maputo Protocol, and CEDAW in addressing the endemic of sexual harassment at HEIs in Lesotho. A large number of African institutions of higher learning began as predominantly male facilities and have fostered a culture that undervalues, belittle and disrespects women.²⁴ This is an exploratory study looking at the experiences of women in HEIs, and the increasing incidents of sexual harassment. This study seeks to contribute to the large gap in scholarly writing concerning sexual harassment as a violation of women's rights that puts their education in jeopardy. The study is aimed specifically at the gendered power dynamics between staff and student relationships in higher education underlying sexual harassment. The study adds to the existing literature by exploring the vulnerability of women in higher education in Africa. The study can be utilised as a reference by future academics and researchers.

1.3. Research questions

The research aims to answer the following main research question: What are the experiences of women in HEIs in Lesotho and to what extent are their rights of women protected?

The sub questions are:

- i. What are the frameworks that exist to protect women from discrimination and GBV?
- ii. What is the nature of the violation of women's rights in higher education institutions? What are the factors which contribute to this?

²³ L Morley 'Opportunity or exploitation? Women and quality assurance in higher education' *Gender and Education* (2005) 17(4) 411-429.

²⁴ P Johnson 'Sexual harassment of women, climate, culture, and consequences in academic sciences, engineering, and medicine' (2018) *Washington: National Academy of Sciences* 50.

- iii. What measures can be employed to ensure a conducive environment in HEIs?

1.4. Literature review

Young women who enrol in HEIs are often ‘vulnerable, innocent, unexposed, and naive, eager to explore their newly discovered freedom.’²⁵ A strong patriarchal tradition, often aggravated by sheer misogynistic behaviour, undermine female staff and students systematically, contributing to denying them advancement and ruining their academic careers.²⁶

Undoubtedly, a sexual harassment incident involves a variety of contextual circumstances..²⁷ Each instance of this kind is unavoidably unique because each case involves a new perpetrator, victim, set of circumstances surrounding their previous and present relationships, verbal communication, and level of physical contact..²⁸ It can be necessary to combine these or other factors in a specific way to determine if an incidence qualifies as sexual harassment.²⁹ In some ways, sexual harassment in the workplace and in a college setting are distinct from one another. One such difference appears to be the special power dynamic that occurs between a student and her professor in these two contexts.³⁰ Professors hold significant power over students on college campuses because they depend on them for their marks, letters of recommendation, and, perhaps, research opportunities. This is especially true for graduate students, whose future professional paths are frequently influenced by their affiliation with a particular academic individual..³¹

According to the literature, sexual harassment has a negative influence on women's academic, social, and psychological well-being as well as their self-esteem.³² A variety of definitions of sexual harassment have been developed across cultures, ethnic groups, races, and contexts as a result of increased awareness of the negative effects of this behaviour on women's lives. The prevalence and types of sexual harassment faced by female students at various HEIs in several African nations have been highlighted through research studies. These consist of offensive language, unwelcome contact, and other forms of gender-based violence.³³ In many cases, male instructors, staff, and students have harassed female students in colleges

²⁵ C Dranzoa ‘Sexual harassment at African higher education institutions’ (2018) 94 *International Higher Education* 4.
²⁶ As above.
²⁷ T Reilly *et al* ‘The Factorial Survey: An approach to defining sexual harassment on campus’ (1982) *Journal of Social Issues* 38(4) 99.
²⁸ As above.
²⁹ As above.
³⁰ Reilly *et al* (n 257) 100.
³¹ As above.
³² JN Houle *et al* ‘The impact of sexual harassment on depressive symptoms during the early occupational career’ (2011) *Soc Mental Health* 1(2) 92.
³³ As above

and universities across the continent of Africa.³⁴ In the National University of Lesotho, it was discovered that 37.7% of female students had experienced sexual harassment from male faculty members.³⁵ Thus, one can presume that students in Lesotho are negatively impacted by these experiences.

The Ministry of Women and Children's Affairs and the National Council for Tertiary Education, of Lesotho, two bodies in charge of developing effective and efficient reforms for integrating the gender equity dimension in the formulation of policy, are the primary recipients of more detailed and pertinent information from this research than other bodies. The Ministry of Women and Children's Affairs is in charge of guaranteeing women's equality, upholding children's and women's rights, and supporting the survival, development, and protection of both women and children, as well as their increasing involvement in the development process.

According to Schul existing evidence highlights gender differences in perceptions of safety and fear of crime at tertiary institutions.³⁶ International literature indicates that in many tertiary institutions, women are more fearful of crime and violence than men. This reflects findings from the general public where fear of crime is more prevalent among women than men.

1.5. Methodology

This research will employ desktop research to make a conclusion and recommendation on how to mitigate and develop effective preventative measures against sexual harassment. A multi-disciplinary approach will be adopted by looking at peer reviewed scholarship and lived experiences pieces bordering on their right to education being violated and emotions behind it, like the experiences of the documentary 'Sex for Grades.'. The research will rely on women's rights framework like the Maputo Protocol and the CEDAW to understand the role of HEI in protecting women from sexual harassment. Furthermore, in answering which measures can be adopted, this study will use examples from other jurisdictions, namely South Africa and Uganda.

The researcher will address the complex nature of GBV at HEIs; the risk factors for and protective factors against GBV on campuses; the consequences of GBV at HEIs; the entry-points for addressing GBV; and the challenges in addressing it. It is stated that ultimately, given the complexity of GBV at HEIs, a

³⁴ As above

³⁵ As above.

³⁶ JE Schul 'Compositional encounters: Evolvement of secondary students narratives while making historical desktop documentaries' (2012) *Journal of Social Studies Research*. 36(3) 36.

comprehensive approach goes beyond mere punitive measures to addressing direct violence.³⁷ An effective, multi-faceted approach must deal with both the latent and manifest individual, societal and institutional factors which enable and exacerbate GBV at HEIs.

1.6. Limitations of the study

The limitation of this study is the focus on two universities in Lesotho and specific human rights frameworks. Another limitation is the lack of a sophisticated database of empirical studies on sexual harassment in higher education; Finding research that would enable the researcher to grasp the issue comprehensively was a key barrier for this study, especially given that Sotho's do not currently view sexual harassment as a crime and that several definitions of the phenomenon exist. Because of this, the study made use of all relevant materials, including books, pieces from the press, and journals. However, the research was restricted to Lesotho universities. As a result, the results might not be applicable to different global cultures.

1.7. Structure

Five chapters will be employed in addressing the research problem in this paper. The first chapter will be the introduction, research problem, research questions, methodology and limitations of the study, literature review and definition of terms. In addition, it includes a background discussion to bring the problem and justify its relevance. The second chapter looks at the human rights framework, specifically relating to women's rights. It explores the obligations of Lesotho under the African Charter, CEDAW and Maputo Protocol. It also looks at national laws like the Sexual Offences Act and Higher Education Act to assess the extent to which they provide the appropriate protection for women in Lesotho in HEIs. Chapter three will present the reality of women at HEIs in public institutions in Lesotho. The fourth chapter presents strategies of mitigation for the issues raised in chapter three using the instruments in chapter two. It employs a comparative analysis and looks at national development in South Africa and Uganda to further sustain that other measures can be adopted to mitigate the current situation in Lesotho, Chapter five provides a conclusion of the study and recommendations on the way forward, to the government of Lesotho and HEIs.

³⁷ S Tamale & J Oloka-Onyango 'Bitches at the academy: Gender and academic freedom at the African University. Africa Development' (1997) *Africa Development/Afrique et Developpement*. 22(1) 13-37.

2. WOMEN'S RIGHTS IN LESOTHO CONCERNING SEXUAL HARASSMENT

2.1. Introduction

This chapter intend to establish the foundation of women's rights in Lesotho. This is accomplished by first exploring the different international, regional and national frameworks which provide for women's rights. At the international level, the focus is on CEDAW, the African Charter, and the Maputo Protocol. At the regional level, the focus is on the SADC Protocol on Gender and Development. At the national level, legislation and policy are explored, namely, the Constitution of 1993, Sexual Offences Act, Draft Gender Policy 2018, Protection from Harassment Act, and Higher Education Act. While discussing domestication of the international instruments, the chapter will also highlight the shortcomings of national legislation in addressing issues of GBV that disproportionately affect women. After the normative frameworks are outlines, the chapter will then focus on theories which help explain the link between gender inequality and HEIs. The purpose of this chapter is to outline the basis of which the subsequent chapter interrogating HEIs in Lesotho will utilise.

2.2. Frameworks for women's rights in Lesotho

2.2.1. CEDAW

Lesotho ratified CEDAW on 24 September 2004, mandating the state party to uphold the rights provided for under the convention. However, it is worth noting that the state party has formally place a reservation against article 2 which is one of the objectives of the treaty, ensuring non-discrimination of women.³⁸ Representatives of the Lesotho government explained the reason for the reservation is because of the conflict with customary law, which does not permit women to succeed their fathers.³⁹ Nevertheless, the Committee on the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW Committee) have clarified that reservations which go against the purpose of a treaty are to be considered null and void.

On the matter of sexual harassment, the CEDAW Committee has developed soft law like general recommendation 19 and 35, to provide further clarification to state parties on what their obligations are. General recommendation (GR) 19 provides that sexual harassment.⁴⁰

³⁸ Southern Africa Litigation Centre (SALC) and Lesotho Federation of Women Lawyers (LFWL) 'Shadow report – Lesotho's 3rd Universal Periodic Review 35th session (Jan – Feb 2020)' (2019) para 64 available at <https://www.southernafricalitigationcentre.org/2019/07/03/salc-shadow-report-lesothos-3rd-universal-periodic-review-35th-session-jan-feb-2020/> (accessed 24 October 2022).

³⁹ Published: NE Metsing, Gender inequality in Lesotho: The right of succession to chieftainship, published Master's thesis, University of Pretoria, 2015 33.

⁴⁰ General recommendation 19 on violence against women, CEDAW Committee (1992), UN Doc A/47/38 para 18.

[S]uch unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem...

Furthermore, in GR 35, the CEDAW Committee expands on the clarification provided in GR 19, and recommends legislative measures for states parties to implement. Pertaining to the context of sexual harassment, it provides that the signatories must:⁴¹

ensure that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual or psychological integrity, are criminalized and introduced, without delay, or strengthened, legal sanctions commensurate with the gravity of the offence, as well as civil remedies...

The main distinction between GR 19 and GR 35 relates to the level of specificity provided therein regarding the obligations of states parties. What the idea of due diligence truly means in practice is outlined in much greater depth in GR 35.⁴² It stipulates that states parties must adopt steps to stop human rights violations abroad by organizations upon which they may exercise influence, whether via the use of incentives or regulatory mechanisms, and that this commitment includes activities by corporations operating extraterritorially.⁴³

Article 5 of CEDAW explicitly calls on state parties to ‘modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices...based on the ideas of...superiority of either of the sexes.’ Article 15(4) of the convention states that signatory states shall accord to men and women, equal rights and freedom of movement to choose their residence and domicile. This is again contrary to Lesotho laws because due to their lack of contractual capacity and their legal minority status, women cannot be protected against abuse and sexual harassment. It is evident from these examples that CEDAW provides extensive protection to women, and consequently, is applicable to women in Lesotho pursuing higher education.

2.2.2. African Charter

⁴¹ General recommendation 35 on gender-based violence against women, CEDAW Committee (26 July 2017), UN Doc CEDAW/C/GC/35 para 29.

⁴² RJA McQuiqq ‘The CEDAW committee and gender-based violence against women’ (2017) 6 *International Human Rights Law Review* 268.

⁴³ As above.

Lesotho became a state party to the African Charter on 10 February 1992.⁴⁴ The principle of non-discrimination is found under article 3 of the African Charter. In addition, the African Charter provide for the protection of vulnerable groups and explicitly provides for the responsibility of the state in eliminating ‘every discrimination against women.’⁴⁵

Furthermore, complying with its obligation to submit periodic reports, the government of Lesotho recently submitted a report to the African Commission on Human and Peoples’ Rights (African Commission) which highlighted developments and challenges in the full realisation of the rights provided for under the instruments.⁴⁶ For example, the government acknowledged the pertinent issue of sexual harassment by teachers and how it contributes to dropping out;⁴⁷ although this does not necessarily reflect the experience in HEIs, it is still acknowledgement of the prevalence of sexual harassment. In addition, the government highlighted legislative development concerning sexual harassment, namely the Labour Code Order 1992, Penal Code Act 2010 and Sexual Offences Act 2003.⁴⁸ For the purposes of this study, sub-section xx will expound on the Penal Code and Sexual Offences Act as it relates to HEIs. The African Union (AU) strategy for gender equality and women’s empowerment 2018-2028 emphasises the significant prevalence of sexual violence and sexual harassment in schools which impact the well-being of women, and these acts are typically committed by teachers and individuals in position of authority.⁴⁹

2.2.3. Maputo Protocol

Lesotho became a state party to the Maputo Protocol on 26 October 2004.⁵⁰ The principle of non-discrimination is found under article 2 of the Maputo Protocol.

The Maputo Protocol expounds on the rights of women and addresses specific issues, which undoubtedly pertain to the reality women in Lesotho which will be further examined in chapter three. The Protocol provides a clear definition of discrimination as:⁵¹

Discrimination against women” means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life...

⁴⁴ Hlatshwayo (n 15) 135.

⁴⁵ African Charter on Human and Peoples’ Rights.

⁴⁶ The Kingdom Of Lesotho combined second to eighth periodic report under the African Charter on Human and Peoples’ Rights and initial report under the Protocol to the African Charter on the Rights of Women In Africa, African Commission on Human and Peoples’ Rights, (April 2018).

⁴⁷ As above para 194.

⁴⁸ n 35, para 324-326.

⁴⁹ African Union (n 3).

⁵⁰ Hlatshwayo (n 15) 135.

⁵¹ Art 1(f).

Article 1 of the Maputo Protocol defines violence against women as all acts perpetrated against women that cause or could cause them physical, sexual, psychological, and economic harm, including the threat to commit such acts; or to engage in the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in times of peace and war.⁵² Thus the Maputo Protocol serves also to prevent sexual harassment and violence against women. According to the Women's Protocol Article 3, State Parties should take and implement adequate measures to guarantee the protection of every woman's right to dignity and the protection of women from all types of violence, including sexual and verbal assault.

The Protocol calls for the protection against sexual harassment in academic institutions.⁵³ Article 12 (c) calls for State members to safeguard women, particularly girl-children, from all types of abuse, including sexual harassment in schools and other educational institutions, and to impose consequences on those who engage in such conduct. This involves the incorporation of gender awareness and human rights education into the curriculum at all levels of education, including teacher training. Article 12 is the strongest and most specific expression in any international document of the right of girls to be free from sexual abuse and harassment in academic institutions.⁵⁴ Article 12 is the strongest and most specific expression in any international document of the right of girls to be free from sexual abuse and harassment in academic institutions^[5].

Thus as an essential part of the right to education young females have to be safeguarded in educational institutions from incidents of sexual harassment. HEIs are inherently structured as hierarchies that generate relationships of dependency and power between students and instructors. Due to their subordinate position in these power dynamics, young girls are especially susceptible to abuse in such circumstances.

The above-mentioned mechanisms of the African human rights system provide the legal foundation of women's rights, and considering Lesotho is a state party to the African Charter and the Maputo Protocol, has an obligation to ensure the full realisation of the rights provided for and protected, like non-discrimination, for example. Before exploring the extent to which Lesotho has domesticated CEDAW, the African Charter and the Maputo Protocol, the next section will examine the obligations of Lesotho as a member of the Southern African Development Community (SADC).

⁵² Omondi *et al* Breathing Life into the Maputo Protocol: Jurisprudence on the rights of women and girls in Africa (2018) 7.

⁵³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

⁵⁴ As above. .

2.2.4. SADC Protocol on Gender and Development

SADC acknowledges the significance of eliminating all forms of discrimination and GBV against women in contributing to a more secure and positive environment, through the development of a Protocol on Gender and Development in 2008.⁵⁵ This protocol was later revised in 2016; specific elements worth highlighting, namely article 25 and the amendment to article 20. Article 25 states that ‘state parties shall adopt integrated approaches, including institutional cross sector structures, with the aim of eliminating gender based violence.’⁵⁶ The amendment to article 20 provides that:

- 1 State Parties shall
 - a. enact and enforce legislation prohibiting all forms of gender based violence;
 - b. develop strategies to prevent and eliminate all harmful social and cultural practices, such as child marriage, forced marriage, teenage pregnancies, slavery and female genital mutilation;
 - c. ensure that perpetrators of gender based violence, including domestic violence, rape, femicide, sexual harassment, female genital mutilation and all other forms of gender based violence are tried by a court of competent jurisdiction.

State parties are required to implement and enforce laws against all kinds of GBV, including sexual harassment and human trafficking, and to devise policies to prevent and eradicate all harmful social and cultural practices. Article 28 of the Protocol also safeguards the right to education and article 29 specifies that the education must be geared toward specific goals, such as respect for human rights and gender equality.⁵⁷ The SADC Protocol mandates that Southern African governments develop and implement gender-sensitive educational policies and programmes that address gender stereotypes in education and gender-based violence.⁵⁸ Failure to prevent and remedy pervasive GBV in all its manifestations, including rape and sexual harassment, is a *de facto* discriminatory denial of the several rights of women according to the SADC Protocol.⁵⁹ Therefore, it can be argued that the SADC protocol is yet another mechanism for the protection of women in HEIs Lesotho. However, Lesotho is one of the five countries including Botswana, Malawi, Angola, Seychelles that currently do not have legislation to protect their female students against sexual harassment, as will be illustrated in the following section.⁶⁰

⁵⁵ SADC Protocol on Gender and Development (2008); See also N Kampilipili ‘Revised SADC gender protocol enters into force’ Tralac 20 August 2018 <https://www.tralac.org/news/article/13380-revised-sadc-gender-protocol-enters-into-force.html> (accessed 24 October 2022).

⁵⁶ Agreement amending the SADC Protocol on Gender and Development (2016), Southern African Development Community

⁵⁷ n 40.

⁵⁸ As above.

⁵⁹ CL Morna & S Dube ‘SADC gender protocol 2014 barometer’ (2014) *Gender Links*

⁶⁰ VN Motselbane ‘Challenges brought about by the lack of a harassment policy in the ministry of the public service’ *CORE* 31.

2.2.5. The SADC Declaration on Gender and Development

It is also worth highlighting the SADC Declaration on gender and Development which was adopted in 1997. According to the declaration, the Heads of Southern African States resolved a common vision that: ⁶¹ (i) Gender equality is a fundamental human right. (ii) Gender is an area in which considerable agreement already exists and there are substantial benefits to be gained from closer regional cooperation and collective action. (iii) The integration and mainstreaming of gender issues into the SADC Programme of Action and Community Building Initiative is the key to the sustainable development of the SADC region.

To ensure implementation of the declaration's goals the SADC leaders committed themselves to: (i) Placing gender firmly on the agenda of the SADC Programme of Action and Community Building Initiative. ⁶² (ii) Enhancing access to quality education by women and men, and removing gender stereotyping in the curriculum, career choices and professions. ⁶³ (iii) Protecting and promoting the human rights of women and children. ⁶⁴ (iv) Recognising, protecting and promoting the reproductive and sexual rights of women and the girl child. ⁶⁵ (v) Taking urgent measures to prevent and deal with the increasing levels of violence against women and children. ⁶⁶ (vi) Encouraging the mass media to disseminate information and materials in respect of the human rights of women and children. ⁶⁷ These are the implementation guidelines that SADC leaders including Lesotho should follow.

2.2.6. National laws, frameworks and measures

The Constitution of 1993

The Constitution of Lesotho 1993 poses challenges to the full realisation of women's rights. Chapter II addresses the protection of fundamental human rights and freedoms. For example, article 18 provides that all citizens are entitled freedom from discrimination. However, it must be noted that this provision comes with a claw-back clause as demonstrated under sub-article 4(c) which makes an exception on the grounds that customary law is applied. ⁶⁸

⁶¹ Mosetse (n 16) 137.

⁶² As above.

⁶³ As above.

⁶⁴ As above.

⁶⁵ As above.

⁶⁶ As above.

⁶⁷ As above.

⁶⁸ The Centre for Human Rights 'The impact of the Protocol on the Rights of Women in Africa on violence against women in six selected Southern African countries: An advocacy tool' (2009) 22 https://www.chr.up.ac.za/images/publications/centrepublications/documents/gender_violence_against_women_advocacy_tool.pdf (accessed 21 October 2022).

The discrimination meted out against women is further entrenched by rulings of the Constitutional Court. For example, in *Masupha v The Senior Resident Magistrate for the Subordinate Court of Berea and Others*, the court ruled in favour of customary law, which prevents all women from the right to succeed in chieftainship based on their gender.⁶⁹ In addition, the Court maintained that the judgement is non-discriminatory because it is based on culture and custom, which is perceived as superior to other laws.⁷⁰ Therefore, as Southern Africa Litigation Centre argues, the constitution ultimately allows the violation of women's rights.⁷¹ The fact that the constitution allows discrimination against women, has an impact on other rights, as human rights are indivisible. In addition to impacting other rights, it also perpetuates the status quo of oppression and inequality, giving it a legal foundation to fall back on. This can result in detrimental effects to the well-being of women.⁷² Therefore, it is crucial for the government to ensure full equality to women through the Constitution, as this can help address challenges regarding GBV and other forms of discrimination which women in Lesotho experience.⁷³

As discussed in 2.2.1., Lesotho has declared that it is not bound by article 2 as this conflicts with its national laws, specifically pertaining to chieftainship. Nevertheless, this provision continues to uphold the concept of discrimination, as will be seen in subsequent chapters. Claw-back clauses and customary laws must be addressed to prevent discrimination against women and not be selective about addressing gender discrimination.

Gender and Development Policy 2018-2030

The government of Lesotho adopted a Gender and Development Policy recently; the policy document provided statistics on violence against women in Lesotho. According to the policy document, 86 per cent of women in Lesotho have experienced some form of gender based violence, and 41 per cent of men have been reported to be perpetrators. The prevalence of gender based violence is high and posed a significant barrier for women to enjoy their fundamental human rights. As section 2.2. explores, Lesotho is a party to several international and regional frameworks, however, it is evident that these frameworks are yet to be fully domesticated. The domestication of international law is important in the context of Lesotho considering the very narrow approach to dualism the country has adopted. In the case *Joe Molefi v*

⁶⁹ South African Litigation Centre 'News release: Lesotho court fails women by denying them the right to succeed to chieftainship' (2013) <https://www.southernafricalitigationcentre.org/2013/05/16/news-release-lesotho-court-fails-women-by-denying-them-the-right-to-succeed-to-chieftainship/> (accessed 15 November 2022)

⁷⁰ Gender Links for Equality and Justice 'Lesotho: Women's struggle for equality continues' (2013) <https://genderlinks.org.za/programme-web-menu/lesotho-womens-struggle-for-equality-continues-2013-06-05/> (accessed 15 November 2022)

⁷¹ SALC and LFWL (n 38).

⁷² As above, para 65.

⁷³ As above.

Government of Lesotho, the Courts held that international law can only be enforceable once it is domesticated.⁷⁴

In addition, the document outlined the rationale for developing an updated policy on gender and development.⁷⁵ It shed light on the fact that although a policy was developed in 2003, it was unable to sufficiently address the issues of vulnerability women faced concerning discrimination and gender based violence.⁷⁶ It also emphasises the influence of culture on society and how masculinity is perceived as dominant. In addition, the policy is needed because of the disparities of gender that produce unequal representation, further contributing to the prevalence of gender based violence and sexual harassment. Last but not least, it expressed that:⁷⁷

While most of the policy's objectives remain relevant today, there has been an evolution in the vision's, development perspectives and practices at the international, regional and national levels which call for more innovative approaches in addressing gender inequity and inequality.

Sexual Offences Act (SOA) 2003

Section 3 of the SOA defines an 'unlawful sexual act' as 'a sexual act is prima facie unlawful if it takes place in any coercive circumstances.' Further, under section 32, it states that any individual who commits an offence under section 3 is liable to a sentence of 'not less than ten years.' Thus, this is clearly indicative of the significant punishment should one be found guilty of committing such an act. Additionally, section (5)(2) of the Sexual Offences Act 2003 of Lesotho criminalises 'any person who convinces another to submit to a sexual act by using his authority, position, power, privilege, or other undue influence.' Due to their subordinate position in these power dynamics, young girls are especially susceptible to abuse in such circumstances. However, according to a report exploring GBV indicators in Lesotho conducted by Musariri *et al.*, the SOA is adequate in protecting women from GBV in theory, however, the influence of customary law and the perpetuating stereotype of women as inferior has negative consequences, namely, poor implementation of legislation intended to protect women.⁷⁸

⁷⁴ Hlatshwayo (n 15) 139.

⁷⁵ Lesotho initially developed a Draft Gender Policy in 2003 allegedly established on the 'non-discrimination and empowerment of the marginalised', 'realisation of human rights for all', 'equal participation principles in development.'

⁷⁶ The Government of Lesotho.

⁷⁷ As above.

⁷⁸ Musariri *et al* (n 2)15.

Several significant clauses of the SOA adhere to best practices. For example, the SOA criminalises all forms of non-consensual activity.⁷⁹ However, the former sexual history of a sexual assault allegation is admissible to prove that the complainant was not a virgin before to the sexual act; this has enabled a reputation of necessitating sexual evidence to develop, which is compatible with good practices.⁸⁰ Furthermore there are inconsistencies within the law making it challenging to truly enforce the SOA, for example, the Penal Code Act of 2012 contravenes with the SOA, and there is a need for harmonisation between these laws.⁸¹

Higher Education Act 2004

According to section 31(1), 31(2) and 31(3), HEIs in Lesotho are entitled to develop their own policies following the principle of, ‘non-discrimination on the basis of race, nationality, gender, religion or political affiliation.’ Nevertheless, a survey conducted by the Council on Higher Education (CHE) in 2010 found that most HEIs do not adhere to this provision in practice.⁸² The Act essentially direct the HEI to formulate its own rules instead of providing for substantive guidance regarding the protection of student who enrol.⁸³ In line with the Higher Education Act, , in 2013, the CHE developed a higher education policy, approved by Cabinet.⁸⁴ Unfortunately, the CHE did not use this as an opportunity to indicate its position on HEIs, however it does outline the goals and objectives of the policy, some of which can only be established if sexual harassment in HEIs is eliminated.⁸⁵ For example, the policy suggests that one of the aims is to ‘guarantee that the output of the [HEIs] is aligned with the requirements of the country’s developing economy.’⁸⁶ However as the chapter one outlined the foundation, sexual harassment has negative impact on the academic careers of women.

Protection from Harassment Act 17 of 2011

In the Act, harassment also includes engaging in verbal, electronic or any other communication aimed at the complainant, by any means, regardless of whether the conversation takes place or not. In terms of section 2, one can apply for a protection order against harassment, including online harassment. The Act further provides in section 2(4) that ‘any child, or person on behalf of a child, may apply to the court for a protection

⁷⁹ The Human Dignity Trust and Equality and Justice Alliance ‘Next steps towards reform: Assessing good practice and gaps in Commonwealth sexual offences legislation in Africa’ (2020) 69.

⁸⁰ As above.

⁸¹ As above.

⁸² Council on Higher Education ‘Report on the state of higher education in Lesotho 2010/11 – 2011/12’ 5 available at <https://www.che.ac.ls/wp-content/uploads/2019/02/State-of-Higher-Education-Report-2011-12.pdf> (accessed 24 October 2022).

⁸³ Higher Education Act 2004.

⁸⁴ Higher Education Policy for the Kingdom of Lesotho 2013.

⁸⁵ As above 12.

⁸⁶ As above 13.

order without the assistance of a parent, guardian or any other person. This ensures that in cases of harassment in universities, children can manage to mitigate harassment without a parental figure.⁸⁷

Other measures instituted by the government of Lesotho

The government in Lesotho has established commissions that were positioned to evaluate laws affecting women in the country. The suggested Gender Commission intended on investigating on the following concerns: (i) equality of privileges and powers for women in public;⁸⁸ and (ii) examination of areas in women's employment for which there is no stipulated minimum wage, and to bring these, as far as is appropriate, in line with other employment.⁸⁹

Regarding the concerns that were investigated above, some of them were taken into account and have been turned into law. However, most universities within the country seem to ignore them or implement them very slowly.

2.3. Theoretical approaches to gender inequality

Society in Lesotho is underpinned with patriarchal foundations which foster stereotypes, gender roles and other sociocultural attitudes which uphold the notion of women being subordinate to men and the belief of men as superior beings.⁹⁰ This has an impact on the rights of women in both their public and private life, and the deep-seated patriarchal practice permeate to all areas of a woman's life.⁹¹ However, for the purpose of this study, the focus is on HEIs. Therefore, the following section seeks to understand theories of social justice to better interrogate the experiences of women in HEIs. This is necessary to thoroughly understand the foundations of gender inequality before assessing the influence of culture, to make a case for Lesotho and sexual harassment at HEIs.

2.3.1. The Conservative Tradition of Social justice

The liberal and conservative social justice traditions Education encourages meritocracy and conformity, which causes certain students to prosper at the detriment of others.⁹² Therefore, even if the result is a more uneven distribution of income or wealth social justice is fulfilled when people accept the responsibility for their own lives and are compensated for their contributions to society. Some of the principles of the first stated tradition are upheld by the Republican Party was formed States and the Conservative Party in Britain.

⁸⁷ Protection of Harassment Act sec 5(a).

⁸⁸ As above

⁸⁹ As above.

⁹⁰ Hlatshwayo (n 15) 134.

⁹¹ As above.

⁹² J Hailey *Ubuntu: A literature review* (2008) 1.

The economic positions of the Western world's conservative political parties reflect its contemporary variety. Its economic strategy now entails releasing markets from governmental controls. This viewpoint was first put forth by classical economists and supporters of the enlightenment movements like Adam Smith and Friedrich Hayek, who shared the view that the government should pursue a laissez-faire economic policy..⁹³ The conservative tradition regards laissez-faire as having the most advantages in terms of socioeconomic components of society. According to its proponents, economic and politico-social justice can indeed be attained by personal initiative and with little involvement from the government. According to this paradigm, social justice is the pursuit of giving everyone their proper compensation. For its proponents, personal self and the drive for gain functioning under a laissez-faire economy policy are what drive a socially equitable society.⁹⁴

Robert Nozick, who lived from 1929 to 2002, is regarded as an example of the conservative school in political and moral philosophy throughout the second half of the 20th century. His political and economic morals philosophy is founded on libertarian principles. His book *Anarchy State and Utopia*, in which he promotes the idea of a free market and advocates for the minimal state, lays out his perspective on how we may and should coexist.⁹⁵ He is well known for his 'Entitlement Theory of Justice,' in which he upholds right-wing libertarianism and advances individuals' rights to self-ownership and sovereignty over their own minds, bodies, and lives. According to this perspective, a person's possessions are his or hers alone, and no one has the right to remove them from them. For instance, he thinks it is unfair to tax people in order to redistribute money to the needy. Such a belief only serves to safeguard self-ownership.⁹⁶ Nozick regards self-ownership as the most important value, and this is evident in his concerns about equality and justice. He believes that distributing resources and opportunities equally is unethical and unfair. This perspective is comparable to the social Darwinist claim that competition, not equality, is nature's natural state, leading to the survival of the strongest. Inequality is balanced and advantageous for society.⁹⁷ For socialist-minded intellectuals, the conservative heritage and its ideas, especially libertarianism, are unpalatable since they seem to uphold the established order of an unequal distribution of socioeconomic resources. Given his minimalist state viewpoint, Nozick's strategy can be directly compared to that of John Rawls.⁹⁸

⁹³ Y Jabareen 'A new conceptual framework for sustainable development. Environment, development and sustainability' (2008) *International Journal of qualitative methods* 10(2) 187.

⁹⁴ I Etikan & O Babatope *A basic approach in sampling methodology and sample size calculation* (2019) 2.

⁹⁵ S Kamal 'Research Paradigm and the Philosophical Foundations of a Qualitative Study' (2019) *International Journal of Social Sciences* 4(3) 1391.

⁹⁶ M Hammersley 'Sampling and thematic analysis: a response to Fugard and Potts' (2015) *International Journal of Social Research Methodology* 18(6) 687.

⁹⁷ Kamal (n 94).

⁹⁸ As above.

2.3.2. The Radical Tradition of Social Justice

In their demands for democracy and equal participation in socio-economic and political concerns of the state, the first two social justice traditions and the third tradition have much in common. Most social scientists believe that the third paradigm, which is socialist, has the most potential to advance social justice because it has post-modernist aspects in its viewpoint.⁹⁹ It is connected to leftist politics and disparages liberalism and conservatism. This philosophy holds that everyone should gain an equal advantage from engaging in socioeconomic activities; as a result, efforts are being made to redistribute social wealth, provide other social amenities, and create a more egalitarian economic system.¹⁰⁰ It uses transformative language and, in a perfect world, would succeed.

The third tradition has a significant affinity with critical theory as well as the Frankfurt School of thought because it speaks of a restructuring of the capitalist socio-economic order. Although there are many social theorists that are affiliated with critical theory, Habermas and Freire are particularly pertinent to this effort because of their unequivocal views on democracy and social justice. His conviction that justice exists and that reason or rationality may be advantageous to society has a significant impact on Habermas' perspective on social justice. The absurdity of German Nazism and thus the oppression and injustice it brought about led to his disillusionment, which is where his attachment to reason comes from.¹⁰¹ He grew to be a fervent opponent of totalitarian fascism and a supporter of an open, free society that supported the values of social democracy and justice as a result. In this sense, his project may be seen as a transformation of oppression against people into a manifestation of more compassionate and democratic ideals. Therefore, he discovered a philosophical place in the Frankfurt School's critical theory. The shared objective of criticizing capitalism and advocating a more democratically just order based on equitable social democracy was what drew Habermas to the aforementioned idea.¹⁰²

In his theory of communicative action and the democratic public sphere, Habermas reflects radical social justice concerns of equal and fair inclusion.¹⁰³ The notion of communicative action seeks to increase the size and influence of the bourgeois public sphere so that everyone is actively involved in finding more equitable, reasonable, and representative answers. Habermas opposes the conservative position that the minority should benefit in favour of benefits for the majority. Conservatives frequently accuse him for eliminating competition by promoting group participation and decision-making. Habermas therefore

⁹⁹ S Hickey 'Relocating social protection within a radical project of social justice' (2014) *The European Journal of Development Research* 26(3), 324.

¹⁰⁰ K Wolff 'Cultural feminism' *The Blackwell encyclopedia of sociology* 10.

¹⁰¹ J Bennett 'Exploration of a "gap": Strategising gender equity in African universities' (2002) 1 *Feminist* 43.

¹⁰² H Barnett *Introduction to feminist jurisprudence* (2013) 30.

¹⁰³ M Hennink *et al Qualitative research methods* (2022) 1.

believes that rational discourse in a democratic public arena is the key to social justice.¹⁰⁴ According to the description of him as someone who is attempting to create a historical materialist analysis, this supports:

The elements of radical social justice encapsulated in Habermas' work and research comprise the quest to emancipate society from the debilitating grip of capitalism by creating a just knowledge while critiquing late capitalism.

Paulo Freire's concern with democratic discourse as a means of emancipating the oppressed from the crippling consequences of capitalism resonates with Habermas's desire to open up communication. Writing from the perspective of the developing world, Freire believes that education is a means for releasing the oppressed from colonialism. He criticized capitalism and the problems brought on by societal modernisation, such as extreme inequality and oppression.¹⁰⁵ He had a significant impact on the critical education tradition because he argued that since schooling provided a replication of the interests of the ruling class, critical education was necessary to equip students and workers to oppose capitalism and actively engage in the fight for emancipation in the direction of a socialist utopian vision.¹⁰⁶ According to Freire, the pursuit of transformation found in radical social justice is directly tied to education for critical consciousness. According to Freire, in a situation similar to South Africa and Lesotho, in the third world:

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The education our situation demanded would enable men and women to discuss courageously the problems of their context – and to intervene in that context, it would warn men and women of the dangers of the time and offer them the confidence and the strength to confront those dangers instead of surrendering their sense of self through submission to the decisions of others... that education could help men and women to assume an increasingly critical attitude towards the world in order to transform it.

The notion of transformation guided by an analytical and contextualized examination of society to produce decent futures is evident in Freire's claims. In agreement with Freire, this study argues that the oppressor's above sentiments and teaching are urgently needed now for the benefit of the majority due to the current unfair neoliberal discourse's assault on radical change and freedom.

¹⁰⁴ PA Cain 'Feminist jurisprudence: Grounding the theories' (1988) 4 *Berkeley Women's LJ* 191.

¹⁰⁵ V Braun & V Clarke 'What can "thematic analysis" offer health and wellbeing researchers?' (2014) *International Journal of Qualitative Studies on Health and Well-being* 9(1) 26152.

¹⁰⁶ F Bondestam & M Lundqvist 'Sexual harassment in higher education—a systematic review' (2020) *European Journal of Higher Education* 10(4) 399.

¹⁰⁷ S Fineran & L Bennett 'Gender and power issues of peer sexual harassment among teenagers' (1999) *Journal of Interpersonal Violence* 14(6) 628.

The third tradition's voice promotes change and majority benefits over minority ones. This suggests that it is in favour of distributing socioeconomic gains more fairly. However, whereas the third tradition is an advancement on social justice based on neo-liberalism, some leftist scholars claim that because it only focuses on redistributing socioeconomic resources to those who have been disadvantaged and excluded from the mainstream, it does not fully promote genuine social justice.¹⁰⁸ Some socialist feminist scholars suggest a transition from the third tradition. They refer to relational social justice as an upgrade to the distributional aspect of social justice. This method of social justice focuses on the character of the connections that hold society together. Power difficulties at the macro-socioeconomic and micro-interpersonal levels, as well as their mediation, are a part of these partnerships. The aforementioned kind is concerned with methods of social cohesion and power dynamics..¹⁰⁹ The following concepts of social justice are included in relational justice: justice as reciprocity, justice as acknowledgment, and justice as liberation from repressive relationships..¹¹⁰

2.3.3.Social justice and HEIs

There has been very little study on the connection between higher education policy and social justice, and studies on higher education policy and social justice have typically been undertaken in isolation. This connection between higher education policies and social justice must be further researched in order to ascertain the extent to which social justice informs these policies,¹¹¹ as the pre-1994 democratic discourses highlighted the necessity for social justice to inform government transformation objectives. This survey of the literature strives to reach an intersubjective understanding of what social justice is and how it should influence public policy. It does this by highlighting important worldwide debates and highlighting the fundamental principles and nature of radical social justice. This literature evaluation will also focus on analyses of the legal and policy environment related to higher education.¹¹² Last but not least, it will strive to explain how the legal and policy framework addresses these ambitions and establish the connection among these policies and radical social justice.

At this juncture it is opportune to discuss the three traditions of social justice and their position regarding broader political and socio-economic issues, in an attempt to evaluate a tradition that promises a more socially just global order and to illustrate that educational arrangements are inevitably a reflection of deeply embedded political and economic factors that are unique to a particular society.¹¹³ Western scholars suggest

¹⁰⁸ Kamal (n 94).

¹⁰⁹ Cain (n 103).

¹¹⁰ As above.

¹¹¹ M Cross & A Ndofirepi *Knowledge and change in African universities* (2017) 13.

¹¹² Braun & Clarke (n 104).

¹¹³ Fineran & Bennett (n 106).

that there are three main traditions of social justice, the conservative, liberal and the social democratic or socialist traditions.¹¹⁴ These three conceptions exist alongside each other in any one given era, with any of them gaining prominence depending on the ideological position of the political party in power or the State.¹¹⁵

2.4. Conclusion

This chapter highlighted the provisions in the African Charter, Maputo Protocol, and CEDAW which provide the underpinning for women's rights, and also buttressed the obligation of Lesotho to uphold the objectives and purpose of these instruments. Further it looked at national laws and highlighted the shortcomings of, for example, the SOA and poor implementation measures which result in the act only being appropriate in theory, but not practice. At the national level, the legal framework of Lesotho does not adequately practically protect a plethora of women's rights, namely non-discrimination and education, dignity.

3. SEXUAL HARASSMENT IN HEIs IN LESOTHO

3.1. Introduction

Sexual violence and the magnitude of the characteristics in urban areas of Lesotho are prevalent. This is highlighted in a report that stipulated 13% of women in HEIs who have experienced sexual harassment at the NUL and Limkokwing University of Lesotho.¹¹⁶ This is a growing phenomenon at NUL and Limkokwing and it is drawing increased attention as a human rights issue and associated human rights violations. The problem about these experiences in Lesotho is the limited information that is not circulated concerning unwanted touching and forced sex for grades. These experiences and the lack of regulation or information is important to note as Lesotho is a signatory to all the inclusive rights including SADC, CEDAW and Maputo Protocol. However, implementation remains an issue due to entrenched gender inequalities within society.¹¹⁷ This section will also address the gendered management process of NUL and Limkokwing as men and women at these HEIs that include discriminatory arrangements, abuse of practices and promotions. This will be shown through evaluating the two universities and their obligation to comply with international and national frameworks. The exploitation of women will be discussed as an attempt to highlight the benefits of the different management styles between men and women. Furthermore, this section also aims at highlighting Feminism which brings the significance of women's rights. The focus will

¹¹⁴ M Jawadi & K Zarea 'Understanding thematic analysis and its pitfall' (2016) *Demo* 25(1) 35.

¹¹⁵ Johnson (n 24) 5.

¹¹⁶ Brown *et al* (n 4) 15.

¹¹⁷ Ntimo-Makara (n 1)).

be on the various ideologies such as Liberal feminism, Radical feminism and through Afro-feminist politics. The chapter will end by drawing insights and emphasizing on the need for gender sensitive approaches that would benefit the universities.

3.1.1. Vulnerability in higher education

According to a World Bank report of 1998, emphasis is placed on the importance of education as a solution to issues in a country and have linked it to the improvement in the ‘the productivity and quality of life for those who live it and also improves women’s status.’¹¹⁸ Nevertheless, this belief is echoed in Lesotho, where education is perceived as meaningfully contributing to development of the nation.¹¹⁹ Ntimo-Makar defines higher education in Lesotho as:¹²⁰

[B]oth University and tertiary level education. In other words, it covers all post-high school education whose minimum continuous duration is at least two academic years. The higher education sub-sector consists of the National University of Lesotho; [and Limkokwing University].

This same understanding will be employed in the following sections. As highlighted throughout this study, a fundamental element of Lesotho society is the patrilinear society, which produces gender inequalities and maintains it. Considering this is the belief held by society, it is of no surprise that it permeates into HEIs. As a result, both women and men, through socialisation of these beliefs have internalised it and uphold it as well.¹²¹

The context of Lesotho is also important to understand, similarly like other points raised, the enforcement of laws are generally weak regarding gender based violence and sexual harassment. In fact, HEIs in Lesotho depend on their own voluntary code of conduct and policies to address issues that arises. Therefore, the development of policies is merely reliant on good will, and as a result, voluntary systems have proven to not efficiently address these issues.¹²² In addition, there has been research to support how HEIs function as ‘masculine institutions’; what is meant by this is that there is a lack of representation of women in senior and administrative positions.¹²³ More than half of the participants concur that the perception of women in

¹¹⁸ Published: T Ramalefane, Culture and religion constrain women in the academic sphere : the case of Lesotho, published Master’s thesis, University of Cape Town, 2004 50.

¹¹⁹ As above, 51.

¹²⁰ As above, 171.

¹²¹ Ntimo-Makura (n 5) 174.

¹²² Worker Rights Consortium ‘Landmark Agreements to Combat Gender-based Violence and Harassment in Lesotho’s Garment Industry’ 19 August 2019 <https://www.workersrights.org/commentary/landmark-agreements-to-combat-gender-based-violence-and-harassment-in-lesothos-garment-industry/> (accessed 24 October 2022).

¹²³ Published: T Ramalefane, Culture and religion constrain women in the academic sphere : the case of Lesotho, published Master’s thesis, University of Cape Town, 2004 62.

society is what prevents them from obtaining a senior or administrative position. A more concerning finding was that 32 per cent of men are not comfortable with the status of woman. The study further found that men exhibit a superiority complex and perceive themselves to be better than women in all aspects..¹²⁴

In Lesotho, enrolment in HEIs constitutes an investment in the socioeconomic advancement of many young people and their families.¹²⁵ Young female students entering HEIs are fragile, innocent, unexposed, and they are eager to explore their newly acquired freedom, but often end up being vulnerable to various negative impacts. Existing information demonstrates variation in perceptions of safety and fear of crime in HEIs for females compared to males. Despite the presence of national research and legislative initiatives to fight gender inequality, women continue to be treated differently and are more vulnerable than men. Female students are particularly vulnerable to sexual victimisation at institution of higher learning.¹²⁶ The pervasive sexual exploitation of women, girls, and sometimes boys occurs inside and beyond institutions hence institutions of higher education have become breeding grounds for prejudice and sexual exploitation. Most African institutions have gender and sexual harassment policies, however various factors contribute to the vulnerability of women.¹²⁷

Furthermore, Musari *et al* conducted a study of GBV indicators in Lesotho, and it found that the second prevailing place where sexual harassment takes place was in schools with a percent of 58. Furthermore, the study also found that many participants who shared their experiences agreed that schools and work environments are not considered safe environments due to the prevalence of sexual harassment. The study conducted a comparative study of six countries, and Lesotho was found to have the most significant sexual harassment rates. Another significant finding of the study was how violence against women is undeniably rooted in the social construct of gender inequality.¹²⁸

University dormitories, where impoverished male and female students reside, are often inexpensive and uncontrolled, attracting sexual predators and functioning as the initial site of sexual harassment.¹²⁹ Other contributing variables include financial necessity, the requirement for strong grades to get access to a limited job market, unemployment among college graduates, and peer pressure. Frequently, monitoring

¹²⁴ Ramalefane (n 94) 74.

¹²⁵ N Basias & Y Pollalis 'Quantitative and qualitative research in business & technology: Justifying a suitable research methodology' (2017) *Review of Integrative Business and Economics Research* 7(1) 2.

¹²⁶ Cain (n 80).

¹²⁷ Hennink *et al* (n 81).

¹²⁸ Musariri *et al* (n 2) 15.

¹²⁹ CD Robinson Routine 'Activity theory and 13 reasons why' in *Theories of crime through popular culture* (2021) 107 122.

mechanisms are in existence, but are degraded by incompetent management. A strong patriarchal legacy, sometimes exacerbated by blatant sexist conduct, relentlessly undermines female faculty and students, preventing their growth and destroying their academic careers.¹³⁰ Some perpetrators of GBV include students' instructors, course directors, and examination officials. Substance misuse adds to a disrespectful atmosphere, which in turn exacerbates sexual victimisation.

When students and staff lack a clear grasp of what constitutes sexual victimisation and laws regulating and preventing it, they may do such acts without realising they are breaking the law. In many African cultures, patriarchal and hegemonic male values are so ingrained across racial and socioeconomic categories that acts of sexual victimisation are often not even viewed as wrong.¹³¹ This demonstrates the critical need for continuous, multifaceted efforts and methods to combat these conventions and attitudes. Girls and boys are traditionally socialised differently, which has harmful consequences outside of these controlled environments. On the other side, some people may recognise that their actions constitute sexual victimisation, but due to inadequate institutional norms and procedures addressing GBV, they are willing to do these crimes without fear of retribution. In other words, if institutional rules to combat sexual victimisation lack clarity and response mechanisms are complicated and poorly understood, people are more inclined to commit sexual victimisation of female students since they fear no reprisals, or at least no severe reprisals. This shows that sexual victimisation in institutions of higher learning is gendered and women are more vulnerable to experiencing it during their studies.¹³²

Many women in Lesotho express a lack of trust in the justice system, and this is validly supported by the weak jurisprudence on matters relating to sexual harassment and gender based violence. For example, statistics between 1998 and 2000 found that only 40 per cent of perpetrators were actually found guilty, within a specific district of Maseru.¹³³ Although these are old statistics, the reality maintains the same. Most perpetrators get off the hook as the system does not protect women. Therefore this causes a domino effect wherein victims are silenced and do not feel confident to state what happened to them.

3.2. National University of Lesotho

The NUL has attempted to make strides towards protecting women at their institutions. For example, in 2019, NUL hosted a gender dialogue which provided a platform for the University to inform the public that

¹³⁰ J Lorber *The social construction of gender. Reconstructing gender: A multicultural anthology* (1994) 96-103.

¹³¹ Etikan & Babatope (n 71)

¹³² PI Fusch & LR Ness 'Are we there yet? Data saturation in qualitative research' (2015) *The Qualitative Report* 20(9) 1408.

¹³³ Brown *et al* (n 4) 270.

it is in the process of developing a gender policy to ensure it complies with international instruments.¹³⁴ In addition, it recognised the scarcity of policy or curriculum in addressed gender inequality.¹³⁵ Most importantly, it acknowledged that there is data to support the existence of gender inequality and there is a high prevalence of sexual harassment on campus.¹³⁶

Sexual harassment is a reality at the NUL in Lesotho; sexual offences scandals have been highly prevalent at the institution.¹³⁷ The university is said to be a hub for many offences of sexual harassment by lecturers. In an interview with Advocate Mabatsoeneng Hloele, conducted by the Judicial Service Commission (JSC), Hloele claimed that most of the judicial cases she engaged in were predominantly of matters concerning female students expressing incidents of sexual harassment by their male lectures.¹³⁸ In addition, sexual offences have been rampant offences at the institutions committed by lecturers because of the university's lack of a comprehensive framework regarding gender policy which should ensure that NUL lives up to a mandate which wants to achieve to contribute to sustainable goals for the university.¹³⁹ The law in Lesotho criminalises sexual harassment under the Sexual Offences Act of 2003, that combats sexual violence and places importance on consent of an individual.¹⁴⁰ The government's Laws is obligated and stipulates the protection of women however, a Student Representative Council (SRC) at NUL made allegations a male lecturer in order for her to receive her results.¹⁴¹ This does not present an opportunity and poses a risk to their education. According to the student, the threats and freedom is a growing evidence of their Right to violation in Maputo Protocol in article 12.¹⁴² It breaches articles 2 and 12 of the Maputo Protocol.¹⁴³ Article 2 states that 'Every woman shall have the right to respect as a person and to the free development of her personality' and article 12 states that:¹⁴⁴

States Parties shall take all appropriate measures to...(c) protect women, especially the girl child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators practices

¹³⁴ National University of Lesotho (n 22).

¹³⁵ As above.

¹³⁶ As above.

¹³⁷ M Mpesi 'Sex Scandals rock NUL' *Newsday* 18 February 2022
<https://www.newsdayonline.co.ls/sex-scandals-rock-nul/> (accessed 21 October 2022).

¹³⁸ As above.

¹³⁹ As above.

¹⁴⁰ The Human Dignity Trust 'Changing laws, changing lives -- Country assessment: Lesotho'
<https://www.humandignitytrust.org/reform/countries/lesotho> (accessed 21 October 2022).

¹⁴¹ R Mohono 'NUL lecturer accused of sexual harassment' *Public Eye*
<https://publiceyenews.com/nul-lecturer-accused-of-sexual-harassment/> (accessed 21 October 2022).

¹⁴² F Viljoen 'An introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2009) *Washington and Lee Journal of Civil Rights and Social Justice* 4(6), 15.

¹⁴³ As above.

¹⁴⁴ The Centre for Human Rights (n 68)

Therefore Lesotho is in violation of these articles and needs to be held accountable for failing to investigate their cases and prosecution of this lecturer following the case. This situation does not guarantee an equal opportunity and access to education for the student.¹⁴⁵ Maybe if the top management of NUL comprised of women then that would have had a positive impact on the institution and the establishment of its first sexual harassment policy.¹⁴⁶ The inclusion of various leadership styles that would have incorporated female leadership in management count respectively in shaping relations. It is relevant to highlight these concerns on the portrayal of the university which has brought an infringement to their rights.

3.3.Limkokwing University of Lesotho

A controversial lecturer at Limkokwing University in the past year allegedly tried to rape a 16 year old Mosotho girl who was his student.¹⁴⁷ The incident took place on campus and the lecturer is said to be sought out by the police in Lesotho and news followed that Kenyan lecturer's qualifications were forged along with his CV.¹⁴⁸ The matter was reported to the Maseru Central Police station under the Child and Gender Protection Unit. Lesotho's age of consent is 18 years old.¹⁴⁹ The CRC has been universally ratified and it provides a framework on the protection of children's rights from abuse.¹⁵⁰ Article 16(1) requires state parties to adopt specific legislative, administrative, social and educational measures to ensure the protection of children from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse¹⁵¹. This provision also applies to the protection of young adults from sexual harassment and abuse in university.

The management of Limkokwing has a right to play a role in upholding children's rights. Lesotho's Labour Code framework provides that:¹⁵²

¹⁴⁵ Equality Now '9 ways the Maputo Protocol has protected and promoted the rights of women and girls across Africa' 24 March 2021 https://www.equalitynow.org/news_and_insights/9_ways_maputo_protocol/ (accessed 21 October 2022).

¹⁴⁶ Ntimo-Makara (n 1) 185.

¹⁴⁷ Sunday Standard 'Controversial Limkokwing lecturer wanted for rape in Lesotho' 23 May 2010. <https://www.sundaystandard.info/controversial-limkokwing-lecturer-wanted-for-rape-in-lesotho/> (accessed 21 October 2022)

¹⁴⁸ As above.

¹⁴⁹ As above.

¹⁵⁰ United Nations 'Convention of the Rights to the Child

¹⁵¹ As above.

¹⁵² Lesotho Labour Code Order 1992 <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/31536/64865/E92LSO01.htm#p15> (accessed 21 October 2022).

Any person who offers employment or who threatens dismissal or who threatens the imposition of any other penalty against another person in the course of employment as a means of obtaining sexual favours or who harasses workers sexually shall commit an unfair labour practice

This is a reinforcement of the role and obligation Lesotho has as a state which provides that this supervision can be exercised by the state.

3.4. Assessment of NUL and Limkokwing University

3.4.1. Gender role development in universities

Patriarchy is a decisive factor within gender stereotyping and even though the term ‘patriarchy’ has been changed and contaminated due to many definitions used to describe the domination of women. However, for the purpose of this paper, patriarchy will be used to explore a system of social structures and the way in which men apply oppression and exploitation of abuse to women. Patriarchy can also refer to a system of male authority and male power that controls women through independence in education.¹⁵³ In addition, Patriarchy has become a social arrangement that is structured in a way that creates a space for men to hold power. This power has many women and children (below 18) facing patriarchal experiences in most sectors of their lives. For example, women have different experiences of patriarchy through socialisation and the education system. This state of patriarchy affects becomes prominent when women do not enjoy their right to education and right to choose the way they dress - right freedom of sexual because of the lack of gender sensitive approaches to management in HEIs.

Over the past year, NUL and Limkokwing University have self-praised themselves for having a predominantly administrative management team.¹⁵⁴ Despite the fact that there are capable women with positive managerial and leadership ways, there is still a high occurrence of men side-lining women whose enhancement would benefit management capability of their institutions. This highlights the gender imbalance within management in these institutions. This point is strongly pointed out by the United Nations Development Programme (UNDP) reports throughout the years. Regardless of the 2003 Gender and Development policy that was approved being created for an environment emphasizing on gender equality and equity. It is evident that these institutions still need to be reminded of the enforcement to facilitate mitigation methods to redress the issue.

¹⁵³ Ntimo-Makara (n 1) 185.

¹⁵⁴ As above, 172.

Management is a social process that is often associated with occupying a higher position that comes with the prospect of authority and responsibility.¹⁵⁵ In the education sector, tasks such as teaching are executed by a person in the form of lecturers that allow an environment for formative education. This environment also permits interpersonal dealings between female students and male lecturers. Thus creating consistent instances whereby female students are dominated by male lectures with sexual advances and victimization through sexual harassment, discrimination and abuse. So, in essence, within universities there are mechanisms that are deliberately put in place to exclude female students while setting male learners at a higher advantage to develop and progress with their education. The reality on the ground of the situation is that, the working structure of these universities is controlled by a highly male dominated feature.¹⁵⁶ This feature prevents women and children in social settings that make them vulnerable.

3.4.2. Feminist jurisprudence

The emphasis of highlighting feminist jurisprudence is to draw attention to a school of thought which can influence the development of sexual harassment policies as this is one of the significant gaps in HEIs which prevent the protection of women from such incidents. The following chapter further expounds on the challenges experienced in HEIs and how to address those obstacles.

A legal theory called feminist jurisprudence emphasizes the political, economic, and social equality of men and women..¹⁵⁷ The development of feminist law as a field of study began in the 1960s. It now occupies a major place in American law and legal theory and has an impact on numerous debates of gender-based discrimination, employment inequality, and sexual and domestic abuse..¹⁵⁸ Through a number of techniques, feminists have discovered the gendered elements and effects of purportedly neutral laws and behaviours.¹⁵⁹ Feminist jurisprudence's study and comprehension have influenced legislation pertaining to sexual harassment, rape, domestic violence, and employment..¹⁶⁰

Feminists contend that history was written from a male perspective and inaccurately portrays the contribution of women to the development of society and history. The male-written history is to blame for the bias in historical ideas of human nature and societal systems.¹⁶¹ As a result, the language of the law was created by males and uphold their ideas. By depicting male attributes as the norm and female traits as

¹⁵⁵ J Lumby *Distributed leadership and bureaucracy. Educational management, administration and leadership* (2017) 1–15.

¹⁵⁶ Ntimo-Makara (n 1) 178.

¹⁵⁷ Barnett (n 101).

¹⁵⁸ Cain (n 103).

¹⁵⁹ P Smith *Feminist jurisprudence. A companion to philosophy of law and legal theory* (2010) 290-8.

¹⁶⁰ As above.

¹⁶¹ As above.

deviations from the rule, the dominant legal theories reinforce and prolong patriarchal supremacy. The idea that men and women are biologically sufficiently different from one another for certain behaviours to be connected to sex is disputed by feminists.¹⁶² Therefore, according to feminist law, sexual harassment results from society's established norms and attitudes that subject women to it.

The sexuality-based oppression of women by men became officialised through sexual harassment. This justification gave scholars a way to conceptualize GBV and sexual harassment as an accident, which changed the focus of legal discourse.¹⁶³ Feminist legal doctrine is not uniform, despite the fact that feminists all share a desire for gender equality. Within feminist law, there are primarily three schools of thought.¹⁶⁴ First, feminism—conventional or liberal—believes that women should have the same decision-making authority as men since they are equally sensible to them.¹⁶⁵ Liberal feminists fight against the assumption that males are in charge and work to eradicate the legalized gender-based discrimination that prevents women from participating in the market.¹⁶⁶

Cultural feminism, another branch of feminist legal theory, emphasizes and accepts the differences between men and women. This school of thought contends that women lay more importance on interpersonal relationships, circumstances, and the settlement of conflicting interpersonal opinions than do men do, in line with research by Carol Gilligan.¹⁶⁷ The purpose of this school is to give the ethical perspective of women's altruistic and communal ideas equal weight.¹⁶⁸ The purpose of this school is to give the ethical perspective of women's altruistic and communal ideas equal weight.¹⁶⁹ Radical feminists argue that achieving sexual equality requires more than simply tolerating disparities between men and women.

Women's protection against domestic violence and other types of abuse is still a top priority for feminists. The focus of feminist legal theory has also been on combating sexual harassment, a subject that has generated debate all around the world.¹⁷⁰ Because of how it affects women at work, sexual harassment has been a major issue for women's rights. Campaigners for gender equality push for a broad definition of gender-based harassment.¹⁷¹ Many feminists believe that sexual harassment should be strictly prohibited

¹⁶² As above.

¹⁶³ As above.

¹⁶⁴ As above.

¹⁶⁵ S Wendell 'A (qualified) defense of liberal feminism' (1987) *Hypatia* 65-93.

¹⁶⁶ As above.

¹⁶⁷ L Alcoff 'Cultural feminism versus post-structuralism: The identity crisis in feminist theory. Signs' (1988) *Journal of Women in Culture and Society* 405-36.

¹⁶⁸ As above, 51.

¹⁶⁹ As above.

¹⁷⁰ JA Baer 'Our lives before the law: Constructing a feminist jurisprudence' (1999) *Princeton University Press*

¹⁷¹ As above, 51.

since it represents traditional male desire to oppress women..¹⁷² It can be challenging to determine whether sexual advances are welcomed or not in some circumstances, which has initiated discussion.¹⁷³ Additionally, there have been occasions where a boss or employer made an insensitive joke or displayed a pornographic image to a lad..¹⁷⁴ Women's rights organizations contend that, even in these situations, sexual harassment laws should be liberally interpreted..

Radical Feminism

Radical feminism differs from other theoretical perspectives in that it is a theory of, by, and for women that is strongly rooted in the experiences and perceptions of women. In contrast to liberal feminists who view the attainment of male power as a goal for women, radical feminism seeks to identify the fundamental emotional, social, and political disparities between men and women..¹⁷⁵ Radical feminists want to understand and eradicate female oppression because they consider to be the most foundational and pervasive type of dominance. Additionally, they point to women's ability to bear children as the primary experience and tangible reason for their enslavement. Liberal feminists also see sexism as the foundation of patriarchal society, with all of its social institutions taking reality into account.¹⁷⁶ Liberal feminists, like radical feminists, hold that patriarchy and male dominance are the root causes of women's oppression and see men as the issue..¹⁷⁷ Radical feminists advocate for a massive social structure revolution to address this issue. This emphasizes the institutional transformation that needs to take place. Women should establish their own unique organizations and separate their interactions with males through organizations that are focused on them in order to alter the social order. Their goal is to eliminate gender and class inequality and establish a new society based on a gender-sensitive distribution of power between men and women. Additionally, they are particularly interested in examining how patriarchy worsens in schools, particularly with reference to the problem of sexual harassment in colleges.

Liberal Feminism

Equality of opportunity is central to liberal feminism. This means that each member of society should have an equal opportunity to compete for the society's resources in order to advance within it as far as their talents would allow, free from restrictions imposed by custom and law..¹⁷⁸ The main concerns are that power, position, and income shouldn't be divided based on characteristics like sex or race. Liberal feminists

¹⁷² C Smart 'Feminist jurisprudence: Dangerous supplements, resistance and renewal in jurisprudence' (1992) 133-58.

¹⁷³ As above, 19.

¹⁷⁴ As above, 28.

¹⁷⁵ SM Gunew *A reader in feminist knowledge* (1991) London: Routledge.

¹⁷⁶ R Rowland & RD Klein 'Radical feminism: Critique and construct' in *Feminist knowledge* (2013) 271-303.

¹⁷⁷ As above 273.

¹⁷⁸ AR Baehr 'Liberal feminism' in R Abbey *Feminist interpretations of John Rawls* (2013) 150.

advocate for a variety of tactics, including the fight against sexism on an individual basis, modifications in household, education, and school policies, and media messages that challenge traditional and hierarchical gender roles.¹⁷⁹ Furthermore, liberal feminists believe that redistribution of opportunity is necessary to allow women access to the authority and conventional prospects enjoyed by males, rather than the reconstruction of the economic and social order. Liberal feminists also believed that removing obstacles to competitiveness would expand opportunities for women. Their focus is on giving women more opportunities so they can have the tools to succeed while also modifying socialization techniques that mould a feminine mindset uneasy with competition and eliminating laws that persistently discriminate against women.¹⁸⁰ Liberal feminists adhere to the tenets of the Enlightenment, including the faith in reason, the conviction that both men and women possess the same cognitive abilities, the belief that education can transform as well as improve society, and the doctrine of natural rights, which holds that society need not be completely reconstructed in order for women to be included in other worthwhile and unprejudiced roles.¹⁸¹

Decolonisation and afro-feminist

Sylvia Tamale, a feminist scholar and human rights activist from Uganda, takes on the difficult task of articulating and identifying some of the work that decolonization necessitates of African scholars, at this historical moment in her book, *Decolonization and Afro-Feminism*. Tamale argues that in order for African women to successfully oppose their subordination and oppression, they must create their own conceptual frameworks that reflect the unique political-economical, cultural, and worldview realities they have encountered.¹⁸² The original conceptualisations should reveal the nuanced and intricate power structures ingrained in popular notions.

Decolonization and Afro-feminism are mostly focused on relearning how to shed the colonial lenses through which we view the world, such as the instruments of law, education, religion, family, and sexuality, in order to unlearn imperial power relations.¹⁸³ The author advocates for a Pan-Africanism that puts social justice and the socially disadvantaged first and is centred on non-state actors. The ultimate anti-imperialist, anti-patriarchal, and anti-militaristic decolonial philosophy for Pan-Africanism must fiercely defend the rights of people who experience intersectional oppression due to their gender, social position, ethnicity, and

¹⁷⁹ As above.

¹⁸⁰ P Priyadharshini *et al* 'Authenticity of liberal feminism in Namita Gokhale's texts' 92021) *Linguistics and Culture Review*, 5(S1), 48.

¹⁸¹ As above.

¹⁸² S Tamale *African Feminism: How should we change?* (2006) 38-41.

¹⁸³ S Tamale 'The right to culture and the culture of rights: A critical perspective on women's sexual rights in Africa' (2008) *Feminist Legal Studies* 47-69.

cultural background, sexual orientation, disability, age, and other factors.¹⁸⁴ incorporating Afro-feminist politics, it revolutionizes Pan-Africanism as a decolonizing/decolonial movement that challenges the dominant human rights paradigm and its corresponding idea of gender equality by emphasizing.¹⁸⁵

Based on the spirit of *Ubuntu*, there should be no sexual harassment of women as they are a critical part of the society. *Ubuntu* is founded on reverence, morality, humanism, and the interdependence of all creature.¹⁸⁶ This ancient African proverb expresses a fundamental regard and compassion for others and it may be viewed as both a presentation of the facts and a code of behaviour or social morality. It depicts humans as social beings and specifies what social beings should be about.¹⁸⁷ As a result, *Ubuntu* provides a distinctively African flavour and impetus to a decolonized evaluation of religious others. While Western humanism has a tendency to minimise or downplay the significance of religious beliefs, *Ubuntu* or African humanism is staunchly religious.¹⁸⁸ In order to combat prejudice and stigmatisation as well sexual violence and harassment against women, *Ubuntu* might be utilised as a framework. Tamale contends that colonial legal and institutional frameworks should be deconstructed and stresses the significance of formalising Indigenous justice systems that are culturally appropriate and connect with the decolonization/decolonial endeavour.¹⁸⁹ Therefore, laws should be based on indigenous systems in order to effectively prevent sexual harassment in Africa hence women are treated equally. Indeed, this does not argue that women do not harass male students however, if relevant application of including a balance of women and men within management positions in HEIs.

3.5. Conclusion

Multiple steps have been taken to achieve a human rights framework to protect female students at an international and regional level. At the national level, Lesotho does not adequately protect its female students and their rights to education and against child abuse and torture. This is all due to the lack of implementation and application of legislation in the education aspect which is meant to address the gaps in legislation which is overdue. Gender roles and gender stereotyping has been prevalent throughout the years. This chapter attempted to indicate the gender insensitive approaches within the HEIs between NUL and Limkokwing. Education is an important factor that empowers women and men. It is also important that these HEIs promote factors that enable decrease the participation of women in education. The International

¹⁸⁴ As above, 60.

¹⁸⁵ Tamale (n 182) 59.

¹⁸⁶ Hailey (n 91).

¹⁸⁷ As above, 63.

¹⁸⁸ Tamale (n 182) 59.

¹⁸⁹ As above 60.

and regional frameworks are captured to emphasize on the obligation of Lesotho to follow what they are supposed to practice. In addition, these factors also decrease the participation of women in higher management. The investigation of patriarchy and power that appears to put women at a disadvantage should be revised with gender sensitive plans that require the institutions to develop policies in accordance with legislative framework such as Lesotho's gender and development policy. This serves as a good start to integrated and holistic planning. This section also attempted at discussing patriarchy and various theories of feminism; Radical feminism, Liberal feminism and Afro-feminist politics. Each of these are common ideals and highlight the extent of sexism and how it perpetuates in society and exploration of these principles. Even though radical and liberal feminism are different because radical feminism is perceived as having more negative attitudes or methods towards men. They contrast but have similarities in some aspects. The next chapter discusses the challenges and impacts of not ensuring a better environment for HEIs.

4. A HUMAN RIGHTS BASED APPROACH TO COMBATTING SEXUAL HARASSMENT IN HEIs

4.1. Introduction

The previous chapter highlighted the experiences women face in HEIs, namely pertaining to gender-based violence, discrimination, and inequality. This chapter will thus explore approaches of mitigation that can help promote a safe environment for women in Lesotho. The chapter begins by underscoring the existing challenges to protecting women in Lesotho, namely: underreporting, cultural attitudes, poverty, environmental factors, and finally the lack of a clear policy on sexual harassment and gender based violence. Then the chapter considers strategies of mitigation by looking at examples in South African and Uganda which establish a best practice on how to address the prevalence of sexual harassment and GBV in HEIs. It concludes by suggesting the need for HEIs in Lesotho to develop and adopt a similar framework.

4.2. Challenges in protecting women from sexual harassment

Addressing the issue of gender based violence is challenging in Lesotho considering the perpetuation of the gender stereotypes, the normalisation of masculinity in power, as well as the geographical scope of the nation, especially that universities are located in highlands. In addition, shifting deep rooted perceptions can be a challenge when a large number of perpetrators, both students and lecturers, are not held accountable.¹⁹⁰ Furthermore, a general challenge that women experience is lack of faith in the justice system

¹⁹⁰ United Nations Populations Fund 2018 'To tackle sexual violence in Lesotho, programme targets men and boys'

and uncertainty of who will take the matter seriously. The justice system has continued to fail women in Lesotho in HEIs, because the sociological influence on people has resulted in sexual harassment not being perceived as a serious misdemeanour.¹⁹¹

4.2.1. Underreporting

A report by the NUL on the low rates of sexual violence reports in 2014, details the magnitude of women and men who have experienced GBV within universities Maseru and research organisations and show that it is a serious problem specifically for universities and research organisations.¹⁹² GBV hinders research and educational performance, slows down productivity, hampers careers and career development, lowers the quality of the work environment and working conditions, ultimately affecting the excellence of research, teaching and learning.¹⁹³ Women in precarious working conditions, for example exchange students, PhD students, postdoctoral researchers, and women on temporary contracts, are especially at risk of experiencing GBV and all its consequences. At the same time, they lack a strong support network and the capacity to report.

It is challenging to assert to prevalence of different forms of sexual harassment which occurs in HEIs in Lesotho as a result of underreporting of incidents of sexual harassment and gender based violence. This unfortunately impacts the perception of HEIs, as they may proceed to deny the severity of sexual harassment at their institutions and thus claim that there is no necessity for an institutionalised response. Nevertheless, there is literature which supports that gender influences an individual's conception of safety in HEIs in Lesotho.¹⁹⁴ Furthermore, to strengthen the position of women in Lesotho, these findings are even seen in other HEIs in countries in the global South, where fear of sexual violence is more common in women than men. There are various reasons as to why university students that are victims of sexual harassment and GBV do not report the incidents. For example, some studies should that individuals do not want to be recognised as a rape victim due to the taboo and shame associated with it, a lack of confidence in the justice system to address the issue, which influence the third concern, fear of the perpetrator repeating the assault.¹⁹⁵ Thus, in the context of Lesotho, the gender inequalities which persist place women at a vulnerability of becoming a victim of sexual harassment and or GBV.

<https://www.unfpa.org/news/tackle-sexual-violence-lesotho-programme-targets-men-and-boys> (accessed 21 October 2022)

¹⁹¹ As above.

¹⁹² National University of Lesotho 'Underreporting in Lesotho' (2014) 2.

¹⁹³ As above.

¹⁹⁴ JR Jessup-Anger *et al* History of sexual violence in higher education' (2018) 4(8) *New Directions for Student Services* 2-8.

¹⁹⁵ As above.

4.2.2. Cultural attitudes

Traditional stereotypes that influence women's progress in higher education remain in place and require dedicated and strategic attention. Women are underrepresented in the category of permanent academic staff in public HEIs. As minorities, women are subjected to abuse. In most institutions there are more male students in comparison to female students. In addition to being a minority within staff members, women are also a minority in the classroom. Thus, female students are subject to abuse from fellow male students and the institutions staff.¹⁹⁶

4.2.3. Poverty

Female students are not a homogenous group, and come from different backgrounds. Young black females from poor families are at a higher risk than female white students.¹⁹⁷ Consequently, when a female student is economically vulnerable, she is more likely to 'consent' through coercion, to unwanted sexual interactions due to fear of losing financial support. Nevertheless, the vulnerability and coercion cause a female student's ability to say no to sex is undermined. It is common to see male teachers and other men in positions of authority at HEIs use their positions to intimidate and extort women for sex. This further highlights how gender inequalities expose a woman to increased vulnerability of sexual harassment.¹⁹⁸ In most instances these young women are from high density suburbs where rape, violence and abuse of women is the norm. This causes reluctance in reporting abuse as they might feel it is how men normally behave. It is also important to note that due to circumstances these young women are not aware of ways that they can protect themselves. This results in unreported assaults in most HEIs.¹⁹⁹

4.2.4. Environmental factors

Another challenge which obstructs the realisation of women's rights is arguably the environment of the campus, this poses a major risk factor for sexual harassment and GBV. The reference to environmental factor in this study focuses on the architecture of HEIs where incidents of sexual harassment are more likely.²⁰⁰ Within the campus ecosystem in the HEIs in Lesotho, there are various places wherein sexual harassment unfortunately happens, such as in residences, in specific buildings, off-campus site-work, to

¹⁹⁶ CA Moylan & M Javorka 'Widening the lens: An ecological review of campus sexual assault' (2020) *Trauma, Violence, & Abuse* 21(1) 179-192.

¹⁹⁷ JF Khan *et al* Identity formation and challenging stereotypes: Gender, sexuality and political identities. *Youth In South Africa: (in) visibility and national development* (2021) 329.

¹⁹⁸ MEASURE Evaluation Project *et al* 'Sexual violence against women in Lesotho' (2015) 6 https://pdf.usaid.gov/pdf_docs/Pnadc519.pdf (accessed 21 October 2022).

¹⁹⁹ 'The Gender Based Violence Indicator Study' (2015) https://genderlinks.org.za/wp-content/uploads/imported/articles/attachments/20068_final_gbv_ind_lesotho.pdf (accessed 22 October 2022).

²⁰⁰ As above.

name a few. Women are essentially vulnerable wherever they are. Regarding sexual harassment and GBV at HEIs, there is literature which posits that sexual harassment mostly takes place in dorm rooms.²⁰¹ Thus, it is important that environmental design is carefully considered as it can play a major role in limiting the occurrence of sexual assault. For example, a university residence with limited sexuality can be breeding grounds for stalking, as seen in case studies of the University of Cape Town. Furthermore, if the environment is designed appropriately, it can also help to minimise the fear of victims and women in general. If the environment is safe, the victim is less likely to experience trauma.

4.2.5. The lack of a sexual harassment policy in Lesotho HEIs

Lesotho is one of the countries within the Southern African region that lacks sexual harassment policies in its universities namely; NUL and Limkokwing University. Policy making in Lesotho faces various challenges such as national politics and low financial demand in the country. This has brought an increasingly high discussion on the shape of higher education in the country. In addition, there has been difficulty in restructuring initiatives which are solely directed towards the improvement of the quality of life on campuses for female learners.²⁰² This highlights a large gap in decreasing the sensitisation and awareness of sexual harassment institutionally. NUL and Limkokwing do not address this as a weakness.

4.3. Strategies of mitigation

Universities in Lesotho could potentially have a low prevalence if it took serious steps to mitigate experiences of sexual harassment, and lessons can be drawn from the experiences of South Africa and Uganda.²⁰³ In both countries, there has been an evident attempt to transform the safety of higher education and ensure that staff are trained to address issues of gender based violence and also develop a compliance procedures that HEIs must follow. Therefore, considering Lesotho experiences similar issues in relation to women's rights, it is a possible solution and must be considered. Lesotho's gender policy can adopt a similar approach to South Africa and Uganda's gender policy and gender advisory women placed in their universities.²⁰⁴ This will strengthen the gender-responsive educational system. The following section will employ a comparative analysis, highlighting best practices from both countries, which Lesotho can rely on. The reason for relying on a comparative study is to demonstrate the possibility of working towards the advancement of appropriate mitigation measures.

²⁰¹ As above.

²⁰² J Bennett, *et al* "Gender is Over": Researching the Implementation of Sexual Harassment Policies in Southern African Higher Education' (2007) *Feminist Africa 8: Rethinking Universities I* 84.

²⁰³ International Institute for Educational Planning 2021. From Senegal, meet a champion for gender equality. <https://www.iiep.unesco.org/en/senegal-meet-champion-gender-equality-13690> (accessed 21 October).

²⁰⁴ As above.

4.3.1. Lessons from South Africa

As it stands, South Africa does not have a generic policy addressing sexual harassment or gender based violence at HEIs, however, a national framework is in the works. For example, The Department of Higher Education and Training has taken initiative in forming a task-force with the mandate to develop an appropriate framework to address sexual harassment in HEIs, as well as provide training to all stakeholders. This activity has been enacted in collaboration with Higher Education and Training HIV/AIDS Programme and other stakeholders.²⁰⁵ This framework intends to:

- i. Detail the international and national regulatory framework compelling institutional and departmental responses to GBV;
- ii. Conceptualise GBV and define its manifestation in terms of existing law and policy;
- iii. Provide guidance around the structures, mechanisms and processes that PSET institutions must put in place to address GBV;
- iv. Recommend steps that universities and colleges should take to both create awareness of GBV policies and prevent incidents of GBV; and
- v. Set out a framework for oversight of the DHET and PSET institutions' development and implementation of policy

In addition to this policy, the Rhodes University in South Africa has a sexual violence task team to address the issues of gender based violence in HEIs and provide adequate support and response measures. In 2016, this task force published a report emphasising the need for guidance regarding the role of all stakeholders at HEIs in preventing sexual harassment and gender based violence.²⁰⁶ In addition to this, the report shed light on the need for clear definitions of role to ensure that the issue of GBV at HEIs can be addressed effectively..²⁰⁷

4.3.2. Lessons from Uganda

Most universities like these two in Lesotho could learn from Makerere University in Uganda. The university identified weaknesses and gaps in their policy after an alleged male lecturer sexual harassed a female

²⁰⁵ H Britton 'Organising against gender violence in South Africa' (2006) *Journal of Southern African Studies* 32(1) 145-163.

²⁰⁶ As above.

²⁰⁷ As above.

learner. The case that triggered the appointment of the current Committee to investigate sexual harassment at the university was an exposé by an NBS Television investigative report aired on their news bulletin of 26th February, 2018.²⁰⁸ The investigative reporter worked undercover with a female student who accused Dr. Swizen Kyomuhendo, a senior lecturer in the Department of Social Work and Social Administration, of sexually harassing her.²⁰⁹ The NBS news report alleged that the student played along with Kyomuhendo's demands while wearing a hidden camera to document the evidence.²¹⁰ Their policy has existed for twelve years but it was not fully enforced.²¹¹ Therefore a Makerere Committee was established to investigate sexual harassment within the university with the likes of Sylvia Tamale on the committee. Additionally, the aims of the Committee was to investigate the causes of increasing cases of sexual harassment at the University, to review Makerere University Sexual Harassment Policy and Regulations and Make recommendations for its improvement and to receive submissions on Sexual harassment at Makerere University.²¹²

Tamale was one of the leading feminists in this social change because of her transgressive methods in this committee. Makerere University had been in the spotlight for multiples cases which are similar to NUL and Limkokwing for sexual harassment. Makerere just like NUL is an old and prestigious university of higher learning in Maseru. This is being pointed out to because the university was still able to address this serious problem and focused on recovering their sexual harassment policy. Their sexual harassment policy was established in 2006 and in their eyes, represented a significant issue which required five people in the committee Professor Sylvia Tamale – Former Dean, School of Law²¹³, Associate Professor Consolata Kabonesa – Former Dean, School of Women and Gender Studies²¹⁴, Associate Professor Christopher Mbazira – Principal, School of Law Associate Professor²¹⁵, Betty Ezati – Dean, School of Education, Associate Professor Aaron Mushengyezi – Dean, School of Languages, Literature and Communication.²¹⁶ Furthermore, members of the Gender Mainstreaming Directorate (GMD) contributed support through Dr. Euzobia Mugisha Baine the Director, Mr. Eric Tumwesigye the Gender Officer and Ms. Frances Nyachwo the Deputy Director from GMD.²¹⁷

²⁰⁸ Makerere University. 'Report On The Investigation Of Sexual Harassment Makerere University' (2018) June. p. 14.

²⁰⁹ As above.

²¹⁰ As above.

²¹¹ Makerere University. 'Report On The Investigation Of Sexual Harassment Makerere University' (2018) June. 1-23.

²¹² As above 2.

²¹³ As above 1.

²¹⁴ As above.

²¹⁵ As above.

²¹⁶ As above.

²¹⁷ As above.

The committee found gaps in issues that relate to NUL and Limkokwing such as many cases where victims of sexual harassment have reported to academic and administrative members who did not take hold any lecturers accountable. The policy does not address this issue, which emboldens abusers. Furthermore, women's clothing that allegedly causes issues of arousal and causes sexual abuse. The Committee concluded that these supposed concerns violate human rights and liberties including a controlling effect on combating sexual harassment. The Committee proactively implemented a change once a significant problem was revealed to the university. The university was aware that there is a culture that would destroy their campus and acted upon it to eradicate the concerns raised by including feminists.

4.4. Conclusion

Lessons can be drawn from other states regarding the progress they have made with the protection of women and their right to education and being protected from abuse. Senegal, Uganda and South Africa serve as three states that have detailed gender policies and advisory that Lesotho can draw from. For example, Uganda has a Committee within Makerere University that actively changed their policy significantly after realising the problem they had on their campus. They included advisories such as African Feminist, Sylvia Tamale to assist in investigating sexual harassment. There is indeed a pattern in their weaknesses and gaps that relate to the Lesotho context of challenges concerning sexual harassment. The findings about the Ugandan society that also dominates socially over women and enables the myths of women's bodies as sexualized objects. However, they still maintained to overcome and practically transform their lack of implementation and errors. Their reforms are a trendsetter for reform in Lesotho in relation to abuse and right to education. The next chapter provides a conclusion of the research and suggests recommendations based on the best practices regarding the way forward and how the government of Lesotho can play a more crucial role in protecting women at HEIs.

5. CONCLUSION AND RECOMMENDATIONS

5.1. Introduction

The purpose of this study was to understand the experience of women in HEIs and the extent to which the protection of their rights is enforced. It was further guided by sub questions looking at the frameworks the nature of the violation of women's rights that occurs in HEIs, the frameworks exist to protect women from discrimination and GBV, and what measures can be adopted to mitigate the current issues.

The study first unpacked international, regional and national frameworks and documents which are geared towards the protection of women's rights. Namely, it looked at the African Charter, the Maputo Protocol and CEDAW. From its findings, Lesotho is a party to all three instruments, however has entered a reservation against article 2 of CEDAW, the principle of non-discrimination. The Maputo Protocol, CEDAW, SADC Protocol on Gender and Development, go a long way in in protecting women from abuse and harmful sexual violence. These laws and conventions can somehow be amended to comprehensively protect women and girls. Then the papers interrogates national laws and legislation of Lesotho which concern HEIs, and women's rights. For example, the Sexual Offences Act criminalises sexual harassment as well as use of authority for sexual desires. It also highlights shortcomings of the laws. It can be concluded that the Ministry of Gender in Lesotho has not succeeded in recommending public awareness regarding gender equality and developing the awareness of the policy's existence. This emphasizes the definition of the "draft" because it currently only remains a draft as there have been no further developments concerning its objectives. Sexual harassment and is a demonstration of gender based violence and from abuse.

Afterwards, a few social justice theories are explored to further understand the underpinning of gender inequity in Lesotho. The conservative and radical theories of social justice help to understand the underpinnings of gender inequality which is then be used later in the study to ascertain what measured would best ensure the protection of women in HEIs. The study then assessed the extent to which women's rights regarding discrimination and gender based violence are protected in HEIs in Lesotho. Considering the scarcity of data regarding sexual harassment specifically, the study attempted to use various qualitative sources to illustrate the prevalence of sexual harassment and the need for increased data collection. It also highlights the influence of the patriarchal society in HEIs Whilst these rights might be protected in other African states, the lack of implementation and amendments pose a threat and challenges to the existing human rights systems and legal frameworks on the protection of women's rights. Thereby requiring Lesotho to keep up with advancements and amend legislation to fit within. The legal framework of Lesotho does not adequately protect women's rights due to a lack of explicit laws regulating sexual abuse and harassment

and lack of amendment of laws that could incorporate provisions to protect women's rights. The Sexual Offences Act which is meant to address some of the gaps consists of loopholes as it does not completely address the forms of violations directly.

Then the study interrogates the experiences of women in HEIs in Lesotho, placing significant emphasis on sexual harassment and gender based violence which is prevalent, despite the lack of adequate data collection. It looks at issues that occur in NUL and Limkokwing University to establish the reality on the ground. Then, it explores further what are the underlying factors contributing to the prevalence of sexual harassment and gender based violence in Lesotho. The findings of the study suggest that several factors like underreporting, poverty, and the lack of a sexual harassment and gender based violence policy all contribute to this issue. It draws inspiration from experiences of South Africa and Uganda, who have both made progress in incorporating sexual harassment policies in universities to provide women with avenues of seeking justice, as well as being protected.

This paper concludes with the following statements. Due to patriarchal influences, women in Lesotho experience a range of violation of rights. The primary law, the Constitution, provides grounds for discrimination against women, based on customary law. As result, this seeps into all aspects of life and negatively affects women who enrol at HEIs, or are staff members there. Women have the right to non-discrimination, and to be protected against all forms of violence, therefore, it is based on the above findings that the researcher proposes the following recommendations.

5.2. Recommendations

5.2.1. Recommendations to HEIs in Lesotho

In accordance with the Higher Education Act, HEIs as public institutions have the responsibility to develop policies and regulations for their schools, thus sexual harassment should be of top priority. It is crucial that Lesotho invest in strengthening and hiring a Committee or professionals that can tackle cases of establishing and implementing sexual harassment policies at universities within the state and at HEIs. This would include African feminists, social workers, psychologists, a member from the Ministry of Gender and Sports and police officers to identify cases of abuse and violations of the right to education. Lesotho should create a sexual harassment register and the legislation must make reporting of those cases compulsory with a clear definition of what sexual harassment is.

The Ministry of Education and Gender should collaborate with NUL and Limkokwing or other institutions within the country to investigate ways in which women can be empowered for women and girls. Both

ministries should work together to achieve removing laws that undermine women specifically regarding cultural practices. All the practices that are discriminatory should be inspected. It is also recommended that the Ministry of Law and Education should train law enforcers for law reform to take place efficiently regarding laws discriminating against women.

The universities in Lesotho should develop an effective system of addressing various complaints related to examination results, such as missing marks, appeals for re-marking, and altered marks. Such a system should eliminate face-to-face contacts between complaining students and relevant examiners. Once results are released by the respective lectures, the students should go through the Department's examinations office, Dean's office and the Registrar, should exclusively handle all queries and follow-ups with regard to these matters.

5.2.2. To fulfil obligations under African Charter, Maputo Protocol and CEDAW

Women who are active in civil society can be highly effective in influencing global, regional and national treaties, agreements and laws and in exerting pressure to ensure their implementation. More money needs to flow toward supporting women's active participation in civil society.²¹⁸

Some programs have effectively structured participatory activities that guide the examination of gender norms and their relationship to power inequities, violence and other harmful behaviours.²¹⁹ They work with multiple stakeholders across the socio-ecological spectrum and across multiple sectors. But, we need to do a better job of evaluating these programs so we can move them from limited, small-scale pilots to larger-scale, societal-change programs.

The provision of GBV clinical services has focused on "one-stop shops" at high-level facilities, such as hospitals, where all services are offered in one place. But, the majority of people who access services at high-level facilities do so too late to receive key interventions, such as emergency contraception and HIV post-exposure prophylaxis. For faster access, we should focus on bringing services closer to the community, particularly in rural areas.²²⁰

²¹⁸ Civil Society Declaration on Sexual Violence. Gender Justice (2019) 1-38.

²¹⁹ As above 3.

²²⁰ World Health Organization. Public Health approach to violence 2020
<https://www.svri.org/sites/default/files/attachments/2016-03-17/Public%20health%20approach.pdf> (accessed 23 October 2022)

A human rights training program should be established for employees and not just students during Orientation Week. Employees should be taken through a two week training to be educated about these rights and laws that are being enforced. In addition, employees should undertake an exam regarding the issues of sexual harassment they would have learnt. The Ministry of Education together with all educational institutions should create an enabling environment in which women can participate fully and equally, without cultural constraints. This should be achieved by removing all the laws that undermine women, especially those facilitated by cultural practices. The government through the Ministries of Law, Education and Gender should educate and train law enforcers so that law reform can take place effectively, especially with regard to laws that discriminate against women.

Considering Lesotho is a party to CEDAW, Maputo Protocol and other international and regional frameworks, as a state it has the responsibility regarding state reporting to these bodies. However, when Lesotho reports to the African Commission concerning the Maputo Protocol, it meets its obligation and addresses sexual harassment of students. However, with CEDAW, Lesotho does not mention or highlight the issues of sexual harassment. Therefore, Lesotho should report to both bodies to receive and seek a total strategy to develop their policies and institutions.

Lesotho raise public awareness on the importance of sexual harassment and violence in collaboration with Civil Society Organisations in Maseru. The awareness should be targeted towards parents, lecturers, men who herd animals, and children themselves who should receive the appropriate information on the violation of the right to education and abuse. This information should be emphasized in a way that can reach most women and children in the highlands with the Sesotho language that is mostly understood by all citizens with evolving capacities. The use of Sesotho as a local language would send across an effective message. In addition, radio stations and Lesotho Television Station (LTV) can be used as ways to reach a larger audience.

It is recommended that the Lesotho Gender Policy should hold workshops that will familiarise and educate stakeholders with the policy about the principles of gender equality. In addition, even though there is gender policy for the state, every high school and primary should establish a gender policy which will align with national gender policy.

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