

UNIVERSITY OF ZIMBABWE



**LEFT OUT IN THE COLD: INTERROGATING THE INCLUSION OF WOMEN
EMPLOYED IN THE INFORMAL SECTOR IN LESOTHO INTO THE FORMAL
SOCIAL SECURITY SYSTEM.**

BY

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ABSTRACT

The economic crisis in Lesotho has led masses in resorting to informal sector as an alternative survival strategy to sustain their livelihoods. The author is human rights based lawyer and women activist who is agitated by the imbalances in both the application and/or enforcement of rights and distribution of resources within the citizens in the country. She was motivated by her experiential data as a daughter and dependant of an informal sector worker and by being sentient to the fact that in Lesotho the wellbeing of an informal worker or of his and/or her dependants is insignificant to the tax collector, what matters most is the proceeds accruing from the actual business itself leading to dichotomisation in both sectors and in the provision of social security social measures accorded to workers in each sector. Consequently, in the process, the inherent idea of human rights engrained in UDHR, ICSECR, ACPHR, amidst others, becomes delusional notwithstanding the fact that Lesotho is a signatory to various human rights instruments which entails promotion, protection and respect of human rights and has weaved her Constitution and labour regimes on the basis of such instruments.

Various methodologies including women law and legal pluralism approaches were utilised to get a full insight on the women's lived realities and experiences. The research was based on the review of primary and secondary sources of data to assess discriminatory impact of the existing measures of social security system in relation to women employed in the informal sector. It was qualitative based research, using random and purposive sampling. The interviews were instigated mainly on the women themselves even though male counterparts were also interviewed. It exposed how institutions such as family commonly cut across the two systems compromising the position of women further by putting all the burden of care on them.

This paper concludes by making several recommendations and emphasis on possible reforms on the existing laws and policies.

Declaration

I Lebohang Lieu certify that this dissertation is my original work; it is an honest and true effect of my personal research. I certify that the work has not been presented anywhere else before for any other thesis.

Signed.....

Date.....

This dissertation was submitted for examination with my approval as the University Supervisor

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Dedication

This work is dedicated to my mother Alice and late father Calvin for their invaluable upbringing and principles they instilled in me who moulded me into the woman I am today. Not forgetting my one and only child, my beloved daughter Nosipho Abigail, for all her endurance of my absence, unconditional love and her constant reminder at the end of every call that ‘Don’t forget the path’...it really kept me going...Ngiyabonga Ngwane Elihle!!!!

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Acronyms

ICESCR	International Convention on Economic, Social and Cultural Rights
CEDAW	Convention on the Elimination of all kinds of Discrimination against Women
NGOs	Non Governmental Organisations
WLSA	Women and Law in Southern Africa
FIDA	Federation of Women's Lawyers
ILO	International Labour Organisation
DWP	Decent Work Programme
SACU	Southern African Custom Union

NATIONAL LEGISLATION

Constitution 1993

Labour code order no.24 of 1992

Labour Code (amendment) Act 1997

Labour Code Amendment Act 2006

Labour Code order (HIV/AIDS at Workplace) Guidelines 2010

Public Officers' Defined Contribution Pension Fund Act 2008

Public Regulations 2008

Old Age Pensions Act of 2005

National Strategic Development Plan 2012/13-2016/17

National Vision 2020

HUMAN RIGHTS INSTRUMENTS

ILO Convention on Social Security (Minimum Standards)) No. 102 of 1952

ILO Convention on Equality of Treatment (Social Security) no. 111 1962

ILO Convention on Social Policy (Basic Aims and Standards) 1962

ILO Convention on Injury Benefit C121 of 1964

ILO Convention on Invalidity, Old Age and Survivors Benefits Convention 1967 c129

ILO Maintenance of Social Security Right Convention 1982 c157

ILO Convention on Part time work convention 175 of 1994

ILO DWP 2004

ILO Maternity Protection Convention No.3 of 1919

ILO Convention on Maternity Protection no.183 2000

ILO Declaration on the Fundamental Principles and Rights at work 1998

ILO Convention on Discrimination (Employment and Occupation) 1958

Convention of the Elimination of All forms of Discrimination against Women

International Covenant on Civil and Political Rights

International Covenant on Economic, Social, Cultural Rights,

SADC Treaty 1997

SADC Code on Social Security

Universal Declaration of Human Rights, 1948

African (BANJUL) Charter on Human and Peoples Right

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

CASES

S v Grootboom 2001(1) SA 46 (CC)

Khathang Tema Baitsokoli V Maseru City Council and another CONST/C/1/2014

Thabo Fuma V Lesotho Defence Force CONST/8/2011

Griggs v Duke PowerCo. 401 US 424 (1971)

Table of figures

Figure 1 RESEARCH SAMPLE	16
Figure 2 category of respondents	17
Figure 3Focus group held in Berea	32
Figure 4Tax Clearance required by Lesotho Revenue Authorities on Informal Sectors	43
Figure 5interviews at Ministry of gender.....	46
Figure 6 payment required by government for women involved with handicrafts	56
Figure 7penalties increased if women delay to pay tax	57

Executive Summary

The labour force in Lesotho is divided into two sectors, namely the formal sector and the informal sector. This dichotomisation of labour is subsequent to the categorisation of benefits accruing to formal sector to curb against the predicaments of life, that cause income insecurities, such as death, old age, industrious sickness or injury, and maternity, eluding informal sector. The former is state regulated and is characterised by labour relations that are based on contractual agreement with formal terms and conditions. It comprises of the government as the sole employer and the private sector. The latter denotes that part of economy ran by those who endeavour to make ends meet through their own initiatives enterprise. It often lacks government support. It acts as a safety net for unemployed people. (Njenga and Nganibi).The labour relations thereat are based on casual employment, kinships, personal and social relations. The workers in this sector rely on alternative strategies of survival such as traditional safety nets and self organised nets to guard against the aforesaid shocks of life. Studies have proven that the majority of women are located here and they are mostly affected

The research interrogates whether the present formal social security benefits accruing to the formal sector exclude women employed in the informal sector and whether this amounts to discrimination on the basis of work. It therefore aims to encourage domestication and implementation of international and regional instruments in relation to the socio economic right of social security that Lesotho has ratified.

Targeting women in the informal sector has divulge questions of culture and/or tradition with regard to social security; the issues of power dynamics and trite practices in our society. They research engaged interviews to obtain the views and insight information of informal workers, especially women, on the issues of social security and the state obligation to uphold socio economic rights as an indivisible and interdependent right. Also, in the mean time to get their lived realities.

The research findings uncover the alternative survival strategies availing to women employed in the informal sector mostly which are based on the values and roles ascribed by society. This depicted a new pattern that women are not homogenous; the kind of work one do can define or determine the type of social security she is entitled to.

Furthermore, this study provides discussions on how the formal coverage excludes these women on the nature of their work, the inefficacy of their devised alternative strategies of

survival and government obligation to provides the basic foundation in the realisation of these rights

The women's experiences, views and challenges in terms of predicaments ranges from short and long term; maternity, sickness, injury, retirement and death were very essential to this research. The research concludes enumeration of strategies and recommendations to respond to findings and mainly addressing challenges the realisation of the realisation of socio-economic right of social security.

TABLE OF CONTENT

ABSTRACT	ii
Declaration.....	iii
Dedication	iv
Acknowledgements.....	v
Acronyms	vi
NATIONAL LEGISLATION	vii
HUMAN RIGHTS INSTRUMENTS.....	vii
CASES	viii
Table of figures	ix
Executive Summary.....	x
CHAPTER ONE	1
1.0 Introductory Note	1
1.1 BACKGROUND OF THE STUDY.....	2
1.2 STATEMENT OF A PROBLEM	3
1.3 DEFINITION OF KEYWORDS AND CONCEPTS	4
1.4 HISTORICAL CONTEXT OF SOCIAL SECURITY IN LESOTHO	5
1.5 OBJECTIVES OF THE STUDY	7
1.6Overarching Assumption	7
1.7Overarching Research Question	7
1.8 RESEARCH ASSUMPTIONS.....	7
1.9RESEARCH QUESTIONS.....	8
1.10 Delimitation of the study	8
1.11 Conclusion.....	9
CHAPTER TWO	11
2.0 METHODOLOGICAL FRAMEWORK	11
2.1 Grounded Approach.....	11
2.2 Women’s Law Approach	11
2.3. Women’s Human Rights Approach	12
2.4 Legal Pluralist Approach.....	13
2.5 Sex and Gender analysis	14
2.6 Actor and Structures Approach.....	14
2.7 RESEARCH DESIGN	15

2.7.1 The sample	15
2.7.1.1 Purposive sampling	16
2.7.1.2 Random sampling	17
2.7.1.3 Passive observation	17
2.8 SOURCES OF DATA	17
2.9 DATA COLLECTION METHODS.....	17
2.9.1 Qualitative	17
2.9.1.1 In-depth interviews	17
2.9.1.5 Collective/ focus groups interviews	18
2.9.1.3 Influence of the Actors and structures	19
2.9.1.4 Observations	19
2.10 Study limitation	19
2. 11 CONCLUSION	20
CHAPTER 3	21
SOCIAL SECURITY; WHAT IS THE GOVERNMENT’S RESPONSE?	21
3.0 INTRODUCTION	21
3.1 DEFINING SOCIAL SECURITY; GOVERNMENT’S RESPONSE?	21
3.2 GOVERNMENT’S RESPONSE	24
3.3 FORMAL SECTOR	27
3.3.1 Defining the formal sector	27
3.3.2 Who comprises the formal sector?	28
3.4 FORMAL SOCIAL SECURITY.....	28
3.4.1 Severance Pay	29
3.4.2 Sickness/ illness leave	30
3.4.3 Public holidays and Paid holidays	32
3.4.4 Maternity Benefits	32
3.4.5 Unemployment (Pensions/ Provident/medical fund).....	33
3.4.6 Death/ disability.....	34
3.4.7 Compassionate Leave	34
3.4.8 Retirements benefits.....	34
3.4.9 INJURY	34
3.4.10 National Social Security Scheme	34
3.5 CONCLUSION	35
CHAPTER FOUR	37

INFORMAL SECTOR	37
4.0 INTRODUCTION.....	37
4.1 Informal Sector	37
4.1.1 Defining the informal sector	37
4.2 What Comprises The Informal Sector?	37
4.3 What Is Informal Social Security?	38
4.3.1 Traditional safety nets	38
4.3.2 Self Arranged Nets	39
4.4 The implication of dichotomization on women employed in the informal sector	45
4.5 State obligation on the issue of social security in relation to women employed in the informal sector?.....	46
4.6 CONCLUSION.....	47
CHAPTER FIVE	48
CHALLENGES CAUSED BY WOMENS RELIANCE ON THE INFORMAL SAFETY NETS (TRADITIONAL SAFETY NETS AND SELF ARRANGED NETS)	48
5.0 INTRODUCTION	48
5.1 Types of traditional safety nets	48
5.2 Types self arranged nets	49
5.3 What is available to women employed in the informal sector and their male counterparts?	49
5.4 Factors affecting the consistency of the informal safety nets.....	49
5.5 Sex and gender dynamics; barriers for women employed in the informal sector to enjoy the benefits of their contribution to these nets?	50
5.6 CONCLUSION.....	51
CHAPTER SIX.....	52
CONTEXTUALISING THE RIGHT TO WORK AND THE RIGHT TO SOCIAL SECURITY.....	52
6.1 Defining right to work?	52
6.2. Correlating the Right to work to Right social security	53
6.3 Impact of the exclusive coverage of formal social security on women employed in the informal sector.....	54
6.4 Government responses: what is being done to protect these women?	55
6.5 The significance of conformity by state to its international, regional and national obligations.....	57
6.6 CONCLUSION.....	58
CHAPTER 7	59

7.0 CONCLUSIONS AND RECOMMENDATIONS	59
Bibliography	63

CHAPTER ONE

1.0 Introductory Note

In general parlance, employment is an important aspect of human survival and development. Formal employment has predominantly been perceived as the sole employer over the years and guarantees benefits. However, the economic crisis that has befallen Africa, Lesotho included, has caused a great divergence from that orthodox perception and resulted in the upsurge of unemployment. Gradually, the formal sector is failing dismally to absorb any more people. A lot of graduates queue in hope for placement. This meant that a lot of people have been deprived of the core of their social ties, their guarantee of social protection, social identity and status (Bernie, 2002:2). The informal sector has become an alternative survival strategy for most people especially women, to sustain their livelihood.

Notwithstanding, there has always been dichotomy between informal and formal sector based on regulations, income and production. The formal is state regulated and covered by well designed measures of social security to stabilize income in case of life exigencies such as death, injury, maternity and sickness that causes income insecurities while the latter is dismally excluded yet there is no significant number of informal workers who does not need social security. It could be noted that this dichotomisation, has also manifested itself in the categorisation of benefits afforded to workers in both sectors; only the formal sector is covered eluding the informal sector.

The prevailing system of social security is failing to address the aforesaid economic crisis since it only avail the formal sector excluding the informal sector. This resulted in the unfair distribution of resources to certain class of people; both sectors are contributing to the national economy but a social security measure discriminates against women employed in the informal sector in their coverage. Subsequently, the family, community and private saving clubs have become main institutions of redistribution. The government has not taken any positive steps to address this disparity but continues to put rigid clauses and or prescription by failing to specifically provide for social security as a fundamental right but rather quantifies the right to work under state policies which are not justiciable. Consequently deviating from its international human rights obligation.

The research then interrogates the dichotomisation in provision of social security measures that result in the exclusion of women employed the informal sector in Lesotho. An analysis and recommendations are made based on the findings.

1.1 BACKGROUND OF THE STUDY

“today I am not going to work, I am not well; am dizzy and cannot maintain my balance and my heart beats are very low. I do not have energy so I will rest a little maybe will feel better afterwards. This is better than going to the ever congested government hospital and die while awaiting help in the queue wish I could afford a private doctor. This is a genesis of difficulties, with my son dead leaving me with orphans and my husband back home from the mines critically ill, what do I do with all these children? On the other hand, the business is not generating enough income, we do not have enough to eat or wear, the young ones are consuming my time to go work early and I tend to lose a lot of customers making it difficult to also pay rentals. To make it worse, the customs officers at the border are so vigilant these days when we try to smuggle out dresses and sell in South Africa for better profits because truly speaking we cannot afford the ridiculous revenue charges and or bribes they demand from us. I just wish things were different.”

It is this anguish which my mother went through almost every day while I was growing up until now, with my father passing away thereafter adding to her existing troubles that inspired me to address the issue of social security in relation to women employed in the informal sector. I experienced how it is to be a dependant of an informal worker and how my mother and many other women in the informal sector suffered in the impact of exclusion from the work benefits. This made worse by the cultural expectations and roles that society endows on women.

My mother has been a tailor even before I was born, more than thirty years ago. This was to supplement my father’s salary from the mines to take care of eight children. Even though my parents are semi illiterate, they tried to give us the best education. Things took a turn when my father and brother died from critical illnesses; my brother had meningitis and my father suffered from chronic asthma. She took in and cared for my late brother two orphans whose mother completely abandoned and disappeared immediately after my brother’s burial. During his lifetime my brother was unemployed and my mother was basically taking care of his family. When he was sick and on death bed, she would close business and look after him. We would then suffer a lot. Sometimes we would sleep on empty stomach and go to school hungry. I for instance would be expelled in and out of school because of lack of fees. My brother passed away and my mother bore all the funeral expenses.

After four years asthma took a toll on my father who had to live his work in the mines immediately after I enrolled for my Form A, not forgetting that there were other siblings still at school. Due to reasons only known to the chief and other members of my village which the Ministry of Social Welfare entrusted with powers to write down and approve children in

need, my brother's orphans and my younger siblings excluded on the entitlement to any social assistance. The social assistance offered by the government for orphans and other vulnerable children is means tested and the chief together with his committee must give out a letter of approval; just because my father managed to build a big house in his heydays, he is a South African citizen and has a plot there where he occasionally stayed, that my elder sister (a widow with three children) is working in government and am a lawyer in a renowned women rights NGO, and my mother is a tailor, the chief and his committee decided we are well off and therefore the children do not qualify.

My mother was a member of mpatesheleng (Patanang ka Lerato burial society) in the village which could not help her during the two deaths in my family since she defaulted in her payments. The relatives could not help out; we bore the brunt of the burial. The villagers supported with their services of cooking foods and brewing traditional beer during both burials.

The inspiration to pursue this research was drawn further by the optional courses I took during this Masters programme, courses of Women, Labour, Social Securities and Law as well as that Women Commerce and the Law. These courses gave me insights on the concepts and debates surrounding undervaluing work done by women in the informal sector, including family, leading to discrimination on the basis of work, and gave me informed point of actions against the state to assist in the fight for realisation of their socio economic rights to social security in order to alleviate poverty.

1.2 STATEMENT OF A PROBLEM

The economic crisis has brought upon many countries an upsurge of unemployment. People have resorted to informal sector, which has been proven to be the main contributor of the country's GDP, as their alternative strategy to sustain their livelihood. However, there are so many disadvantages correlated with this sector such as lack of state provided security to absorb shocks of life unlike the formal sector which is government oriented.

In Lesotho labour has two divisions; formal and informal. The state provided social security has a discriminatory impact on women entrepreneurs within the informal sector since it does not include the informal sector in its spectrum; it covers the formal employment only. This is in despite of the fact that the right to social security is an internationally recognised fundamental right which application thereof prohibits discrimination on whatever basis. There is no uniform law in Lesotho which provides for the right to social security. The

constitution does not explicitly provide for it but it could be gleaned from various provisions in the constitution and other labour laws. In the constitution it falls under the ambit of state policies and not considered as a fundamental right thereby rendering it non justiciable before any court of law in the country.

Furthermore, the labour laws somehow provide for it but it ought to be noted that this laws only permeates the formal sector only excluding the informal sector. Women are the majority denominators of this secluded sector informal sector which is characterised by being non-state regulated, low production and low skilled labour. In order to cover both immediate and future shocks of life, women tend to rely on traditional safety nets and self arranged systems that are often unreliable.

1.3 DEFINITION OF KEYWORDS AND CONCEPTS

Informal sector: units involved in small-scale production, unincorporated, family owned and unregulated by states law

Formal sector: a state operated economy by labour laws, characterised by taxation, employment, registration of enterprises, monitoring of financials by government and social security for its employees

Social security: protection which society provides for its members through a series of public measures, against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, invalidity and death; the provision of medical care; and the provision of subsidies for families with children. ILO (1952)

Informal social security: a states unregulated type of social security based on coping strategies devised by informal worker as an alternatives way of survival

Traditional safety nets: type of informal social security based on kinship or family ties and is informed by the principle of solidarity and generalised reciprocity to guard against both immediate and futuristic predicaments of life.

Self arranged nets: type of informal social security based on neighbourhood or community or people from different locations who have mutually agreed to pool resources together to guard against the specific contingency of life agreed to by members. It goes beyond kinship and family ties.

Formal social security: a type of social security meant to protect employees under the ambit of formal sector against the exigencies of life, such as death, employment injury, sickness and protection on maternity

Labour rights: rights endowed on the human being on the basis of her capacity to work

Shocks of life/exigencies/contingencies: events that happen in life that a person has not prepared for both physical and economically

Socio economic rights: rights encompassing social and economic rights as provided for by the International Convention on Economic Social and Cultural rights

1.4 HISTORICAL CONTEXT OF SOCIAL SECURITY IN LESOTHO

Social security/protection is described as a means taken by state to cushion individuals against exigencies of life (Mosito: 2014). However, according to the definition provided by the International Labour organisation (ILO, 1952:102) which serves as a standard definition, social security refers to

protection which society provides for its members through a series of public measures, against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, invalidity and death; the provision of medical care; and the provision of subsidies for families with children.

Before dealing with the historical context of social security, is imperative to give out the economic review of Lesotho.

Lesotho means a land of the people who speak Sotho. It is also known as “the Kingdom in the Sky”. It is a constitutional monarch found in the southern hemisphere classified as a lower-middle income country located within and completely landlocked by Republic of South Africa. It has a total population estimated at 2,200 million with being 51% women (World Population Clock). It is based on the patriarchal and patrilineal system based on kinship relation of family solidarity ties. (Mosito: 2014). Lesotho draws its main revenues from SACU. (ILO DWCP report 2012).

In pre-colonial times, wayback between 1824-69 during the violent upheavals of Difaqane wars (crushing/scattered) among chiefdoms in Southern Africa, there was lot of insecurities of conflict, King Moshoeshoe 1 gathered together the annihilated, dispersed or incorporated people into a chiefdom and occupied a mountain called Thaba-Bosiu (mountain at night)

which was regarded a defensive centre. He created a Sotho (Basotho) identity and unity which he used to repel external forces that threatened autonomy and independence. This nation used to live on hunting and gathering. There were no labour policies governing the labour. The nature of such labour excluded women; they were confined to homes, caring for children, cooking and housekeeping. The economy was not monetary but based on barter system.(Cobbe, 2015).In this time, the form of social security was based on the family and community solidarity.

Traditionally Basotho had along had based their relationship on the value of botho (mutual support and care) *that letsoele le beta poho/ntja peli ha e hloloe ke sebata* (A nation cannot be defeated by a beast- in this sense of poverty or any predicament). They used a system of *Mafisa* where animals will be loaned to poorer families to plough and support the destitute family and to return the later taking one of the offspring. Further in cases of them, they use a term that *lefu ke ngoetsi ea malapa ohle* (death can happen anywhere) where every person would take it his mandate to help the bereaved family bury their dead. Different services were brought thereto, support and services.

During colonial era, on or around 1833 and 1868 there was arrival of missionaries who introduced monogamy, Christianity and education and voortrekkers who challenged the Basotho on their land and took most of their arable land. Introduced forced labour for minerals in 19th century in South Africa and introduction of land taxes. This was emergence of paid labour. The migration of men to work in SA increased a workload on woman; they played a role in subsistence farming and caring for the family.

The emergence of labour regulation came about post independence in Lesotho; there was introduction of labour laws and ordinances. There was also a Proclamation in 1964 dealing with gratuities where only the employer was contributing towards pension fund against any predicaments related to the employment. For instance, the Labour code order No. 24 of 1992 which is now the principal law of employment. However this law only regulates the formal sector excluding the informal sector where a majority of women are and now there are so many laws addressing the predicaments in the formal sector.

1.5 OBJECTIVES OF THE STUDY

1. To determine who comprises informal and the formal sector and find out common predicaments in both sectors affecting women.
2. To determine the type of social security availing each sector to absorb shock of life
3. To find out challenges posed by women reliance on the of alternative nets
4. To investigate the constitution of membership in the nets and power dynamics within the nets
5. To investigate any demarcation between the business expenditure and the family engaging the notion of the power relations and roles ascribed to women in the families in order
6. To assess the level of women on knowledge about social security and investigate the level of their awareness of the rights attached to it and determine their ability to demand them and seek redress in case of violation thereto
7. To assess the ability of the judiciary to interpret the socio economic right indivisibly and interdependently.
8. To assess and review the constitutional and policy provisions on the right social security and the right to work if it's being interpreted to include women in the informal sector.

1.6Overarching Assumption

- Most Women in the informal sector in Lesotho are excluded by the formal social security system and this amounts to discrimination on the basis of work

1.7Overarching Research Question

- Are Most Women in the informal sector in Lesotho excluded by the formal social security system and does these amounts to discrimination on the basis of work?

1.8 RESEARCH ASSUMPTIONS

1. Most women are employed in the informal sector which is not covered by state provided social security

2. Women in the informal sector rely on traditional and self arranged nets to absorb shocks of life
3. The traditional safety nets and self arranged systems rely on family cohesiveness which is now fragmented because of industrialisation and urbanisation
4. Most women employed in the informal sector are situated within family businesses such that women's contribution to traditional and self arranged systems do not benefit them because of the power relations within families
5. Lesotho does not conform with its international obligations to uphold the women's rights to social security regardless of dichotomisation in labour sector

1.9 RESEARCH QUESTIONS

1. Are most women businesses located in the informal sector which is not covered by state provided social security?
2. Do women in the informal sector rely on traditional and self arranged nets to absorb shocks of life
3. Do the traditional safety nets and self arranged systems rely on family cohesiveness which is now fragmented because of industrialisation and urbanisation?
4. Are most women entrepreneurs businesses situated within the family such that women's contribution to traditional and self arranged systems does not benefit them because of the power relations within families
5. Is there a need for Lesotho to conform with its international obligations to uphold the women's rights to social security regardless of the dichotomisation within the labour sector?

1.10 Delimitation of the study

My area of study was the capital city of Lesotho, Maseru. It is found in the district of Maseru and a capital thereof. It lies along the Caledon River that separates Lesotho and South Africa. It has a population of 227,880 (census, 2006). My interviews were mainly on the streets along the city's main thoroughfare of Kingsway and main markets and surrounding streets in the cathedral area. I chose this location because it is here that proliferation of informal sector is visible providing a majority of people, especially

women, with alternative survival which the formal sector fails to provide. My research covered from the street vendors to those in rented rooms. In addition, a few interviews were made in the districts of Leribe, Quthing and Berea just to compare the views and experiences of the informal workers thereat.

1.11 Conclusion

The notion of social security is not a new phenomenon in Lesotho. It emanates way back when the labour sector was not even monetarised. The diversification of paid labour came with colonisation and post colonial periods and this led to dichotomisation of labour. Several objectives and assumptions, couched on a set statement of the problem, were drawn to guide this research delimiting the informal sector mainly in Maseru as the capital and commercial city where a proliferation of informal business and worker are mostly found. Comparative research was also done in a few districts and was found that the situation is the same throughout the country.

This paper is structured into seven chapters; Chapter One deals with introduction and the motivation of the research topic phrased upon the statement of the problem women employed in the informal sector face when the informal sector is eluded from the coverage of the formal social security which includes only the formal sector.

Chapter Two will discuss the methodological framework and methods adopted to elicit information from the respondents and challenges encountered during research.

Chapter Three define the notion of social security and what it entails. It further explains the formal sector and social security accorded to the formal sector. It entails contingencies covered there under. It also deals with instruments which encompass social security at international, regional and local level. It enunciates the government response and its obligation on social security on its citizens.

Chapter Four explain the informal sector and the type of social security availing to workers in the informal sector to counter the predicaments of life. It also deals with findings with relation to questions.

Chapter Five elaborates on challenges caused by women reliance on informal safety nets, namely traditional and self arranged nets. It also seeks to explain what type of social security is available to women's male counterparts in the same sector.

Chapter Six discuss the right to social security as linked to the right to work. This the author do by laying a foundation on the understanding of the right to work and correlate it to social security and what the state in question has done to conform to its international obligations.

Chapter seven deals with conclusion and recommendation based on findings.

CHAPTER TWO

2.0 METHODOLOGICAL FRAMEWORK

INTRODUCTION

This chapter discusses the methodologies engaged to conduct the research processes and also encompass a discussion on the enumeration of methods used to unveil the realities and personal views on issues affecting women employed in the informal sector in relation to social security.

2.1 Grounded Approach

The approach that requires the researcher to start the research with an open mind and take nothing for granted. (Bentzon et al: 178-9). She then uses such empirical knowledge to define a problem and use it to propose interventions in order to address any problems that women face in the informal sector. Thus in regardless of my assumptions about the situation at hand I found out that there are some grave circumstances which goes beyond them. For example, on the issue of maternity, it emerged from my interviews that there some women when they are pregnant or have delivered they are bound to leave their young ones as soon as possible to continue their business r to take them to the place of operation so as to avoid loss of profit. This caused me to look further in the rights of the children of these workers. Thus I had to interview further the Ministry of labour and that of Social development on this apparent discrimination which now affect the new issue being children. This expose the extensiveness of the state provided social security in regard to women entrepreneurs in the informal sector. It also assisted me to find out what continually emerge in the application of the law and gave me a grassroots approach. It assisted me to discover that there is dichotomisation in the labour sector and categorisation in the social security measures afforded in both sectors.

2.2 Women's Law Approach

This is a woman centred legal discipline which takes women's actual lived experiences and life situations as a starting point in order to understand their actual lived realities and also, to understand their position in law and society.(Kanyongolo, 2011).

This approach assisted me in revealing problems that women encounter with the laws, policies and their implementation programs. Thus it exposes the law in terms of sex connections which might not be apparent prima facie until the practical effect of the rule of law is observed. (Stewart and Armstrong, 1990). In my interviews the respondents I found

out they are not aware of their right to social security and did not even know what it entails. Most of them were willing to be comfortable with the present situation since they thought they do not merit a better life. This category of women is excluded in the spectrum of labour laws in that benefits accruing to women in the formal sector elude women in the informal sector. This is in spite of the constitutional provisions against discrimination and vouches for equal treatment on all citizens.

Furthermore this approach not to be amused by the general application of the law but equipped with tools in order to be able to reconceptualise it to account to the needs of women since women are not a homogenous group.

The position of women at the low receiving end of economy is depicted in the theory of Marxism where it denotes the system of patriarchy in control of women's work and reproduction which is couched as the system of capitalism. This placed caused a public private divided where man are placed in the productive and salaried work while omen in the unpaid and reproductive work. AHL (2004). This divide has reinforced itself in the dichotomisation in the labour force and categorisation of the formal social welfare systems; the informal sector provides cheap labour and contributes to economic growth without any significant benefit to it.

The approach made me see that the law is not appropriate for women and i was able to make recommendations that are inclusive of women in the informal sector. The definition of employee in the Labour Code excludes the informal worker, it is contract tied and the pensions provided are employer and employee contributed forgetting the pattern in the informal sector. This Act was enacted in line with the ILO conventions as articulated in section 4 of the code.

2.3. Women's Human Rights Approach

This approach examine the basic rights at stake and the corresponding state obligations as both bearer and guarantor of women's socio-economic rights and ensure of their implementation. It assisted me to determine whether women are aware of their right to social security and able to demand it. Most of the women did not have a clear idea of what socio economic rights are and had difficulty in explaining social security. It further assisted me to inquire whether

whether Lesotho constitution or any other legislation in Lesotho in relation to labour issues are in line with the international and regional standards prescribed by the human instruments in the realisation of women right to social security. The constitution of Lesotho does not embrace the indivisibility and interdependency of human rights. In fact it groups the socio economic rights into a chapter 3 and does not regard them as being fundamental but state policies which are not justiciable. Thus in Lesotho there is no effective remedies and redress available to women in case of violation of such rights which are categorised under such section. To make it worse labour right are not regarded as constitution. There is no even a specific and clear provision in the constitution on the right to social security. It could only be gleaned from other provisions such as the right to life and right to dignity. All this practices are against the human rights instrument especially the African Charter which does not circumscribe any clawback clauses and limitations to socio economic rights as compared to political rights. It explicitly obliged member states to immediately implement them not to adopt the progress approaches provided by the ICESCR.

Therefore reconceptualization to meet the needs of women is rhetoric if those who make demands do not have tools to establish their case. (Bentzon et al 1998).

2.4 Legal Pluralist Approach

The approach goes beyond the centralist meaning of the law which privileges law as provided by state and examining how law regulates the people's behaviour by also engaging other formal or informal source of law such as statutes, norms, customary law for a critical investigation of women legal position. This is on the basis that if other sources are overlooked there is a tendency to miss out on the dynamics on the ground. Thus was able to learn that even though the social security can be so exclusive there are alternative strategies engaged by the these women to curb against the predicaments even though not all of them are able to engage both nets. I also used it to understand the power dynamics and hierarchies in the families and in the participation within the alternative nets of survival in the informal sector. Therefore i was able to interrogate the both systems as it affects women in the formal and informal sector.

This gave me a fledged out discrimination against women as I saw the resilience of the institution unfolding cutting across all sectors. This also putting greater burden on women in the informal work on the basis of the flexibility of their work.

The approach assisted me in unearthing the relational nature of women in that even though they may be contributing and sacrificing for the nets do not benefit but their dependant is

enjoys. Most commonly man puts himself as the main decision maker of the benefits. Most men interviewed were quick to say the women cannot enjoy the benefits alone but be used to in the family. Traditionally women being given the subordinate position. Women has as a result internalised this view and treat men as the essentialist while themselves as being in essentialist in the society. This is espoused by Simone de Beauvoir in extentialist feminism. This theory offers insights on the relations between men and women that cut across cultural divides and give a more nuanced explanation of women's position beyond culture, custom, religion or patriarchy. This position is perpetrated by the two roles which contribute to the otherness of women, namely wifing and motherhood. (Tsanga and Stewart, 2011)

Further, it illustrated that law has a discursive power; that law is not neutral; it can be negotiated to assign roles. It can include and exclude. In this case it determine which class of woman can benefit from the social security

2.5 Sex and Gender analysis

This approach focuses on the power relations at play in this situation. It determines the roles played by men and women and how they affect women and their male counterparts differently. This assisted me in comparing what form of security is available to women in the informal sector compared to their male counterparts, further it helped to determine the role of men in the women's life involved in the informal sector. It is here that I observed that most women sell perishables while men are involved in more profitable products. This determines a lot the kind of social security she can afford.

I noted that women have double roles of being a housewife at home, care for the children and expected to satisfy the need of her man at the same time expected to wake up in the morning to go to work. Sometime they do not even have transport sacrificing for the well being of their families, again in times of bereavement it is the women who takes time off and go help out, care for the sick and lose out on the profits. This made me realise that these men needs a serious sensitisation on the issues to deconstruct set roles and get involved. This would help them in the development of women.

2.6 Actor and Structures Approach

The approach establishes perceptions that are embedded in different institutions and structures of our society. This is done by focusing on a woman and her relationships with

men and with other women and the society to uncover what really influences her life. (Bentzon et al, 1998). It even helps to uncover the interplay between the law and other norms in the society. It assisted me in unveiling the mind of the law officials in view of informal sector and protection of women. I was able to find out whether they are taking initiatives in the realisation of the socio economic rights to social security. To my dismay, I found out there is nothing tangible on the ground, even the proposed changes which were launched ten years ago with no guarantee that they will suffice, still to a larger extent excludes the informal sector on the defence that it is difficult to quantify their salaries or contributions to an organised system, further, the right to social security is divisibly interpreted against the international instruments which Lesotho has ratified. It also helped me to establish the historical method of social security and the underlying values that motivated it.

2.7 RESEARCH DESIGN

This area provides the kind of methods used to adduce information from people themselves, getting their experiences and lived realities. It will also encapsulate the observations and experiences in the field. The research was predominantly qualitative. The interviews were conducted in Sesotho depending on the person level of literacy.

2.7.1 The sample

The sampling was done both purposeful and randomly. Observations were also made.

Name	Field	Female	Male
Ministries And Parastatal	MoL Min Of Gender Min Of Finance Min Of Social Development Bedco Small Business Development Cooperatives And Marketing Maseru City Council	10	4
Law	Clerk	1 female	1 male
Culture	Chief		1male
Associations	Informal association		1 male
Clubs	Burial societies, cash clubs	10 females	12 males
Informal Workers	Street vendors Tailors, Bakers, Butchers, Boutiques, Saloons, Decorators, Spazas	119 females	48 males
Civil society	WLSA,FIDA,HABITAT,CRS	2females	2 Males
TOTAL		142	67

Figure 1 RESEARCH SAMPLE

2.7.1.1 Purposive sampling

It provided me with insight information and detailed one from those who know the concept of social security and its implications. This assisted me to also uncover emerging issues surrounding social security. I interview relevant institutions and structures. I wanted to know how they view the phenomenon and what structures they have put in place to address it. Also the women themselves gave me glimpse of how they managed to curb the exigencies of life without a comprehensive support from the government.

2.7.1.2 Random sampling

I engaged this method to adduce information from the women themselves because I was interested in their daily experiences of their lives. This would assist me so much to then interrogate their position in law and where the law includes them under its spectrum. This was very important because getting a full insight is different from what one would get from secondary sources which may vary on the ground.

2.7.1.3 Passive observation

It helped me to detect any discrepancy of information given. It assisted me in the triangulation between the key informants and the informal workers themselves.

2.8 SOURCES OF DATA

Married women	80
Widowed women	14
Single	25
Men	48
Key informants	17

Figure 2 category of respondents

2.9 DATA COLLECTION METHODS

2.9.1 Qualitative

The data was collected using the qualitative method since saved me from the stress of compiling the statistics and avoiding questionnaires which most my respondents would have much to fill because of the nature of their work. I drew data from various sources such as the street vendors, market place, tailors in rented flats, saloons, bakeries, decorators, butchers and boutiques, spaza shops, traditional and self arranged nets; clubs and burial societies, churches, the chiefs, families, informal association, NGOS, the courts and relevant ministries such as the Ministry of Labour and Employment, Ministry Of Small Business Development Cooperatives And Marketing, Ministry of finance, the Municipality Council, parastatal like BEDCO.

2.9.1.1 In-depth interviews

This was mostly done with women on the street to get their full insight because I discovered that some of them are not free to talk about their alternative strategies in the presence of others. So it somehow gave them privacy to talk and answer my questions. From these

interviews with my respondents, the women themselves demonstrated that do not have an idea of what is social security and what it was on about. I wanted to know how they survive now that they are not getting any support from the government either in cash or in kind. My question was basically on their understanding of the notion and rights attached to it together with awareness of the state responsibility to implement.

A lot of them did know about it and simply did not believe me when I told them about the state obligation towards them. Some have already given up and made conclusions that the whole matter was politicized and that's it. They even mentioned that even if they knew about all such there is nothing they can do because they do not have money to tackle the government. This interview revealed that government and relevant stakeholder were not doing enough to sensitize and raise awareness on this issue. This became my point of interrogation. I also interviewed their male counterparts and they gave me the same response; they did not have knowledge of social security whatsoever.

2.9.1.2 *Individual interviews*

These interviews I did to get insight from the family on the role of a woman and the issues of social security. It is here that I found a lot of stereo types that she is still expected to succumb to the man. It also assisted me to investigate the issue of family cohesiveness how it is affected and fragmented by factors of urbanisation and industrialisation. It also emerged that these are not the only factors but currently the El Niño imposed draught and heavy rains attacks subsistence farming and they are forced to live their home searching for jobs. They may fail to remit any money back to their societies because it may be little or have not found a job yet.

2.9.1.5 *Collective/ focus groups interviews*

The focus groups assisted me to get different ideas and experiences. It is through them that i discovered that the type of business one is engaged in truly determines the kind of net to meet exigencies of life. For instance my focus group in the market of women selling vegetables and those selling handicrafts I discover that the former only rely more on traditional safety nets but the latter can combine the two on the basis of the profits they make. It here that I also learnt that the government is encroaching in the informal sector by forcing women dealing

with handicrafts to pay for licences and rentals way above on what they make on a good day.

2.9.1.3 Influence of the Actors and structures

It uncovers the interplay between the law and other norms in the society. It depicts how peoples choices may be limited by family or social structure, legal structure, religious or either economic. This was illustrated in the issues of coverage, the biblical vies on the roles of the family and

2.9.1.4 Observations

Passive observation helped me to detect any discrepancy of information given. It assisted me in the triangulation between the key informants and the informal workers themselves.

2.10 Study limitation

Despite my restricted financial capacity to pursue the research, most of my respondents were often busy towards the end of the week curtailing most of the interviews. Some respondents because of the nature of their jobs would often postpone me until I was about to lose hope. Some of them would not even talk to me but continue with their work. Sometimes the vendors suspected me of being a government spy and that I want to put them in trouble. Some had expectation for me to buy their products in order to incorporate in giving me information otherwise they would become hostile. Most respondents refused even to take photos. Some in the market would laugh at me and say;

you have important information but why do you choose me yet we are so many, pass me and go to others because my sister your friends have been here before you all this year, we help give them information and they forget us when they enter paradise.(Maseru: November, 2015).

After several rejections I devised a strategy of wearing my former workplace T-shirt WLSA. Thus I used the renowned status of WLSA to solicit information. I explained to them that have no political objective, I was also not looking for clients and not even working in government. I assured them to relax because I was even giving them free legal advice on any issue that affects them in their daily life. Some would even show obvious rejection;

This is one of the women who advise us to divorce our husbands when they are beating us. Tell me are you even married *ausi* (girl) but anyway will listen. (Maseru, October, 2015)

In essence, most withheld valuable information because of their insecurities to be interviewed. I even observed that some do not like to talk about their alternative strategies they wanted me to believe they do not have anything to rely on with the expectation that I am doing free hand outs or will put in a good word for them with donors.

The key informants were corporative especially the Ministry of Labour and Employment, I went to set an appointment but the officer advised to do the interviews right away. The other officer entasked with social security sacrificed her personal time and allowed me to interview her time on weekend and gave me all the necessary information. However, I could get a relevant officer for MSMEs I was looking for in the Ministry of Small Corporative; I would go there several times not to find him until I decide to interview the commissioner of oaths. This denied me to interview a relevant respondent who could have valuable information I needed. This was based on the fact that government is now indirectly encroaching in the formal sector by encouraging and forcing some informal workers to register, obtain licences and pay tax. I saw this as unjust enrichment on the part of government since this sector is excluded from benefiting from any form of social security measure unless maybe when they have reached the age of 70 years where they would qualify for universal pension.

As for the clubs, about three of them I targeted were not eager to talk to me. So I would target them during funerals and pretend to be interested in becoming a member. I would ask them questions that could not make them aware that I am interviewing. For instance, his other club Ipopeng Limapo, was rendering services at one of my colleague's father in law funeral; it included men as members.

2. 11 CONCLUSION

In the conception of the topic of this paper I had a preconceived idea of what should have been the situation of the women employed in both sectors based on secondary sources and my single story of my mother. However after using several approaches and methods I was able to get invaluable information of the situation on the ground from different respondents involved in different informal businesses. The following chapter will deal with the notion of social security and the formal sector. This assisted me to understand the demarcation between the two sectors and the government response either to confirm or challenge my assumptions.

CHAPTER 3

SOCIAL SECURITY; WHAT IS THE GOVERNMENT'S RESPONSE?

3.0 INTRODUCTION

In Lesotho there is no uniformed law on social security but it could be gleaned from social protection measures available in different law provisions. It could be noted from the preceding chapters that labour rights are not fundamental in Lesotho. However, the principal law of employment in Lesotho is said to be read in line with the ILO conventions. The labour sector in Lesotho is divided into two sectors, namely, formal and informal sector. The former being contract based, state regulated and has guarantees and benefits for the work performed while the latter does not.

The foregoing dichotomization in the labour sector, has also led to categorization of social security measures befitting women in each sector. This chapter will deal with the notion of social security. It will also proceed to discuss the formal sector and the kind of security afforded to formal workers.

It is imperative to define the notion of social security before delving in the entailed discussion about formal sector.

3.1 DEFINING SOCIAL SECURITY; GOVERNMENT'S RESPONSE?

According to ILO Convention 102 of 1952, social security is defined as the protection which society provides for its members through a series of public measures, against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, invalidity and death; the provision of medical care; and the provision of subsidies for families with children. (ILO 1952:102)

The purpose of social security is to promote the well being of all citizens and thus enable them to function as fully integrated individuals. This is mainly on the ground of enhancing and to preserve human dignity and promote redistributive justice. The concept of social security allows flow of resources from those who have power to those with less power ensuring that everyone lives acceptable standard of living. (Kaseke, 2004)

Social security is also a universal human right based on principles of social justice. This is illustrated in Universal Declaration of Human Rights, 1948 stipulates in article 22 that

Everyone, as a member of society, has the right to social security and is entitled to realisation through national effort and the international co-operation and in accordance with the organisation and resources of each state of the economic, social, cultural rights indispensable for his dignity and free development of his personality.

Further, Article 25(1) of the same instrument stipulates that

Everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, and housing and medical care and necessary services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age and other lack of livelihood in the circumstances beyond his control.

It could be coined from the above provision that the right to social security is equally inherent to every human being without discrimination

Social security is a socio economic right provided by IECSR.¹ It obligates member state to take steps, through international assistance or cooperation and to the maximum availability of its resources to take all appropriate means including particularly the adoption of legislative measures to achieve progressive realisation of the economic social and culture rights.

The convention further recognises the right of every person to social security and social insurance.²

The family is considered as the essential unit in the society. States are obliged to protect and recognise the importance of family as it is the natural and fundamental group unit of society and provide everyone with adequate standard of living to himself and his family.³

The African (BANJUL) Charter on Human and Peoples Rights provides for right to economic social and cultural development with due freedom and identity and equal enjoyment of the common heritage of mankind.⁴ The rights in this charter are not circumscribed by clawback clauses like the political right but state are obliged to take immediate steps to implement them. (Bosl et al, 2009). Thus, states are obliged to have effective domestic remedies by providing effective national legal system so that in case of individual's violation of their economic rights, the victims are able to seek redress and

¹Part II, article 2

²article 3

³Article 10& 11, ICESCR

⁴article 22

remedies under domestic law. Subsequently, any rigid classification of socio economic rights which puts them beyond reach of the courts would be incompatible with the principle of human rights which entails the indivisibility and interdependency of rights. However, in Lesotho, the socio economic rights, from which the right to social security could be gleaned from, are enshrined in Chapter 3 of the Constitution and classified as not justiciable; this is incompatible with the human rights principle that is provided by the human rights instruments that Lesotho is signatory to.

Moreover, the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa further obliges member states to adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities.⁵ It particularly obliges member states to establish a system of protection and social insurance for women working in the informal sector and sensitise them to adhere to it.⁶ Moreover to take measures to recognise economic value of the work of women in the home.

Further, SADC Treaty 1997 it obliges member states to adopt measures that ensure equal access and opportunities and benefits for women and men in trade.⁷

Furthermore, The SADC Code of Social Security fully embraces the right to social security and extends further the objectives in the Charter of Fundamental Social Rights in SADC region which enunciates the importance of social protection. It defines social security generally refers to social security programs that are directed at meeting a specific need, are usually financed on the basis of contributions, and are available to beneficiaries on the basis of their participation and entitlements (although benefits are not necessarily proportional to contributions on an individual basis).⁸ It is mainly designed to protect individuals and families against income insecurity caused by contingencies such as unemployment, employment injury, maternity, sickness, invalidity, old age and death

Furthermore, the Code advocates for equal coverage of and access to social security – including equality in receiving social security benefits – between men and women.⁹ It further obliged to recognise the existence of informal modes of social security and should seek to

⁵article 13

⁶article 13(f)

⁷Article 17

⁸Article 1

⁹article 13

strengthen and rationalise them (by, for example, providing skills training and relevant forms of support) and to integrate them with formal modes of social security.

3.2 GOVERNMENT'S RESPONSE

The government of Lesotho is a signatory to all the above essential human rights instrument. However in Lesotho, international law does not automatically become direct applicability, it has to be domesticated first through an Act of Parliament. The Constitution is the supreme law of the land and no other that is inconsistent with it shall hold. Thus Lesotho follows a dualist approach in regard to the implementation of international law,

The laws in Lesotho prima facie follow the content of human rights instruments but the practicality of those proves otherwise. For instance, women have equal access and opportunities to trade but in regard to women employed in the informal sector this fails to have a significance since they are indirectly barred from enjoying benefits available to women in the formal sector enjoy. For instance, this right would be curtailed by the fact that during this time the women in the informal sector are forced to close down business to care for the newborn or bring it to the work place and make it difficult for the specific woman to make profit for the day since she will be worried about nursing while working at the same time.

The Constitution of Lesotho, as the ground norm of the country, enshrines the fundamental human rights which every person in Lesotho is entitled, whatever his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It splits the human rights into two groups; Chapter 2 provides for Fundamental Human Rights and Chapter 3 provides for Rights that are unjusticiable and are considered as state policy and could be realised on the availability of the economic resources. It is also important to note that in Lesotho socio economic rights, of which labour rights are part thereof, are not regarded as fundamental rights but as state policy with a progressive nature. Moreover, does not explicitly provide for the right to social security.

Social security protects the wellbeing of people by taking in cognisance the right to existence and development since it protects people against exigencies of life. Therefore it could be said this brings into play the right to life as provided for by the Constitution in section 5(1)

Every human being has an inherent right to life. No one shall be arbitrarily deprived of his life.

Further, since it is provided in the constitution that the right are enjoyable without any discrimination whatsoever, this bring about the right to equality in section 19 as enunciated in the constitution and which entails

Every person shall be entitled to equality before the law and to the equal protection of the law.

And the right from discrimination in section 18 which prohibit discrimination and further which entails in subsection 3 that

In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

This is on the ground that this right to life is inherent in every human being because without life, in the sense of existence, it would not be possible to exercise rights or to be the bearer of them. Thus, it entails right to be treated as a human being with dignity and to live as a human being, to be part of a broader community, to share in the experience of humanity. (Mosito, 2014).

In nutshell, Lesotho, the government should implement its undertakings both at the national and the international level to uphold the rights of its citizens with equal treatment in all spheres including socio economic rights without any discrimination. For instance, Lesotho makes a rigid classification on economic rights. These rights are enshrined in chapter 3 of the constitution as non justiciable rights. This separates them from the fundamental human rights which are against the principle of interdependency and indivisibility of rights. This was enunciated in the case of This was enunciated in the case of ***Khathang Tema Baitshokoli v Maseru Municipal Council***, wherein a registered association of informal traders called Khathang Tema Baitshokoli instituted an action against Municipality council for removing them from plying their trade in along the Kingsway Street, the capital's main through fare selling items to the public. Their claim was based on the right to livelihood which they state is incidental to the right to life therefore resulted in the violation of their fundamental human rights. However the Court held that on the basis of the language of the Constitution which

distinct between the two rights; the right to life in chapter II as a fundamental right and the latter in Chapter III as a state policy and unjusticiable. Therefore the appeal was dismissed

Further, this implies discrimination on the basis of work for women employed in the informal sector since all the benefits accrues only to the formal sector.

On the basis of human right obligation, Lesotho should not be seen classifying the rights in the constitution, into others being fundamentals and other being non justiciable. In fact it should copy a example from the Constitution of its neighbour, Republic of South Africa where the socio economic rights are enshrined in the constitution and there is a positive implementation of socio economic rights, *In S v Grootboom 2001(1) SA 46(CC)* applicant and others fed with the appalling conditions they were living in the informal settlement, moved onto a private land. They were evicted from the private land because of unlawful occupation, they occupied a sports field and were evicted again and their property destroyed. They applied to the Cape High Court for an order requiring the government to provide them with adequate basic shelter or housing and their order was granted. The court held and opined that all human rights are interrelated, political or socio economic rights, one cannot enjoy the other without the other. Therefore, state should take reasonable legislative measures and other measures progressively to realise this rights.

On a positive side, the government of Lesotho provides for universal pension is a non contributory pension available to any citizens within a country that offers it without expectation of contribution from the beneficiary. It is a social assistance provided for at the expense of the concerned State. However it is only available to specific group like the old aged.

The government of Lesotho in line with the National Vision 2020 and the Poverty Reduction Strategy Programme enacted an Old age Pensions Act 2005, for senior citizens. Under this Act, the government establishes a universal pension for senior citizens which shall be paid under the consolidated fund for the elder to curb against poverty. This pension is age restrictive and not transferrable; it is only payable to elders aged 70 year and above. Section 2 states that

A senior citizen means a citizen of Lesotho who is of the age of 70 years and above.

However, during the interviews with the pension officer, she stated that the pension is not available to those already benefitting under the consolidated fund such as civil servants cannot benefit under this pension because it would be double benefitting since it comes under the same source. Also beneficiaries under the African Pioneer Pension fund are also prohibited to access this fund. The pension is not specifically target to the informal sector but it covers every Mosotho who has attained the age of 70.

Thus the worker within the ambit of informal sector can only benefit under this Old age Pension Act only if she/he meet up the requirements as specified. The question is how many people in this era live up to that age? This is bearing into mind that when one is confronted with income insecurity can cause one to age faster than the original age and die due to inadequate standard of living. How are they expected to survive in the mean time?

Some street vendors lamented that due to poverty before one could even reach 60 they have already aged and some die quickly due to sickness. They recommended for the age to be decreased to at least ages of 59 for women and 60 for men and also to be given children grants just like their fellow South African neighbours.

Furthermore, the pension was said not to be transferrable. This was supported by section 4(b) of the Act.¹⁰ This shows that should the pensioner die not any of his dependants will continue to benefit under this fund. Thus the dependants would then suffer, not forgetting that nowadays the old people are a hub of care for orphans, the sick and unemployed children which may be adults.

Further, there is also an African Pioneers pension established under African Pioneer Act 2 Of 1973 for Basotho soldiers who comprised the British army voluntarily during World War 1 and 2. It is not assigned or inexcusable and only the widowers benefit.

3.3 FORMAL SECTOR

3.3.1 Defining the formal sector

Formal sector refers to a state operated economy regulated by labour laws, characterised by taxation, employment, registration of enterprises, monitoring of financials by government and social security for its employees. It operates on contracts agreement.

¹⁰Old Age Pensions Act,2005

3.3.2 Who comprises the formal sector?

According to the Labour Code (HIV and AIDS at Workplace) Guidelines 2010, a formal sector means the public and private corporate sector and comprising of enterprises and the professional self employed that are accorded legal status and are regarded as legal entities. Formal sector is also characterised by large-scale production, incorporation, and the use of capital-intensive technologies. (Bernabe, 2002)

The unemployment rate in Lesotho is 21.2% male and 24.6% female. The labour participation rates were 72.6% men and 53.3% for women. (Labour Survey, 2008). The private sector is the largest source of the formal sector and contributes a total of 30% total employment. (Lesotho Country Report, 2012).

The principal law of employment in Lesotho is the Labour Code order No.24 of 1992 and regulates the working condition such as working time, wages, death benefits, sickness, illness, maternity protection. However, it regulates and provides only for employees in the formal sector excluding the employees in the informal sector. This law defines employment as

Any person who works in any capacity *under contract (own emphasis)* with an employer in either an urban or a rural setting, and includes any person working under or on behalf of a government department or public authority.

3.4 FORMAL SOCIAL SECURITY

Formal social security is measures meant to protect employees under the ambit of formal sector against income insecurities caused the exigencies of life, such as death, employment injury, sickness and protection on maternity. It has various forms; social insurance, social assistance and social allowances. It is state operated, depends on employer/employees contribution and is tax funded. However, it can also be non-contributory. (SADC Code of Social Security). Thus it can also cover even for those that are neither employees nor dependants of employees in the formal sector such as the old, orphans or other vulnerable children in the form of social allowance or social assistance. For instance, old age pensions and orphans grants.

It prevails from the afore going discussions that discrimination was prohibited at all costs in all spheres of labour. This was provided for by Labour Code Order No. 24 of 1992. However, this law only applies to the formal sector. The Act in section 5 prohibits discriminatory practices in employment, and seeks to eradicate unfair discrimination and to promote the achievement of equality. In section 5 it stipulates that states that

“the application of any distinction, exclusion or preference made on the basis ofwhich has the effect ofimpairing equality of treatment in employment or occupation is incompatible with the Code”

The following are various measures of social security I found out during my interview with the offices at the Ministry of Labour and Employment in Lesotho.

3.4.1 Severance Pay

The severance payment benefit is payable where termination occurs at the initiative of the employer, or at the end of a contract of employment with fixed duration, or upon resignation by an employee. In an interview with the labour officer, she indicated that where the contract of employment is terminated on the initiative of an employee or employer for economical reasons, the employee would be entitled to terminal benefits called severance pay. Severance payments are “meant to cushion the blow of unemployment, as a gratuity for services rendered, and as compensation for employees who have lost their jobs through no fault of their own”. (Mosito, 2014).

Further, severance pay is payable only to retrenched employees and employees who have not been dismissed for misconduct. However, where termination of employment is based on the misconduct on the part employee, employee will receive summary dismissal and forfeits benefits. This was buttressed by the code in section 79 on perusal. It provides that upon termination of employment initiated by employer or at the end of the contract, the code orders employer to pay employee a severance pay.

Furthermore, according to the Labour Code Amendment Act 1997, in section 8, it adds that if the employer operates some other separation benefit scheme that provides for more

advantageous benefits for an employee than those stated, the employer should submit written application of exemption.

3.4.2 Sickness/ illness leave

In my interviews with the labour officers they said when an employee is sick he/she should take an initiative to provide certificated form from a renowned medical practitioner and avoid “fly by nights” services so that his employer would grant him leave.

In section 123, the Labour Code provides that absence due to sickness employee is entitled to full payment up to 12 days in the next six months continuous employment with the same employer thereafter leave may be half paid up to 24 days in 12 months . Employee is entitled to this payment during the first six months of employment. Notwithstanding payments can only be paid upon production of certificate of incapacity signed by a registered medical practitioner and only if sickness is not self inflicted.

Furthermore, the officer stated that the epidemic of HIV/AIDS is recognised as an obstacle to development in Lesotho. It is ranged at the 23.3% putting the country at the 3rd highest rate. This has a negative effect on a country with such a small population. It affects the labour force and mostly people between the ages of 15-49 mostly. However, she continued that the Ministry has engaged safety guards to protect such workers and ensure their wellbeing. She stated that that they are treated like any other employee without discrimination. This was supported by the provisions of under the Labour Code Amendment Act 2006 and the Labour Code (HIV/AIDS at workplace) guidelines, 2010 it encourage that the workplace should develop comprehensive and gender sensitive HIV/AIDS policies aimed at prevention, treatment, care and support and it also serve to ensure that this type of employees are not discriminated and victimised in the workplace. This was also confirmed by a few people I casually interviewed in different spheres of formal sector in that they are not discriminated on the basis of their status and their employer usually give them time off to fetch their medication from the hospital.

This was demonstrated in the case of *Thabo Fuma V Lesotho Defence Force*¹¹, where the constitutional court decided against a case of discrimination on the basis of medical status. In casu, a soldier was recommended for retirement due to blindness caused by HIV/AIDS. He allege he was not given a hearing and claim the action of the commander to dismiss him from work amounts to discrimination because there were other officers in the same condition of being blind but were given alternative roles. Therefore he said he was discriminated against because of his HIV status. The court awarded him damages.

In terms of the informal sector, the stated also apply. However, I found out the difference in the application of these guideline in both sectors is that the employee in the formal sector would continue to earn his normal wage while in absent from work due to sickness or full blown by HIV/AIDS infection and be able to sustain her livelihood while in the informal sector, should one be infected and becomes ill, there is no financial support she receive from government other than the provisions of free ARVs in the from the ever congested health care centres. In this case she will be forced by circumstances to close down business and stand to lose for that period she is sick or went to fetch medication. Most in times she has nothing to rely on.

The focus group I held with HIV/AIDS informal workers in Berea also revealed that the health workers, especially nurses, fail or refuse to distribute the food assistance they are entitled to from World Food Programme meant to support HIV/AIDS people so that they would be able to take medication since not all of them have enough food. They indicated that these nurses would rather take this food stuffs to their relatives or sell in their communities other than distributing it to them.

¹¹Const/8/2011



Figure 3 Focus group held in Berea

3.4.3 Public holidays and Paid holidays

The Labour Code entitled an employee alone working day off holiday to any on full pay in each month or continuous employment with same employer. Thus an employee is entitled to 12 working days off holiday or as agreed by both parties.¹² Moreover, every employee is entitled to a day off with pay on every public holiday declared and if they agree for her to work on such holiday then she would be entitled to paid double or they agree with his employer to be paid on the normal daily wage rate and entitled to take a working day off on normal pay rate in lieu of the public holiday.¹³

3.4.4 Maternity Benefits

Since pregnancy cannot be detected at the early stages unless the woman informs her employer about it, it was only seen as fair for the woman employee to give his employer a notice of anticipated confinement. The labour officer cautioned that an employer should not

¹² Section 120

¹³Section 121

serve employee with a notice of termination while she is still in confinement.¹⁴ Payments during this period lies with the discretion of employer but since the labour codes expressly provides that it should be read with labour standards therefore practically is paid.

In section 136 read in pursuance of sec 133 binds a pregnant female employee to give a notice of her anticipated confinement to her employer. She is entitled to six weeks from her date of confinement and after. However, those weeks be can be extended if necessary. Her absence from work due to pregnancy is said not interrupt with continuity of employed which imply payment even though it is not explicitly stated that the employer is bound to make payments. Labour code is interpreted in line with ILO conventions and recommendations as per section 4 of the Code. Therefore in this case this particular provision should be read with Maternity Protection Convention no.3 of 1919 and Convention on Maternity Protection no.183 of 2000 which requires payment in order to ensure that a working mother should be able to sustain and care for herself and her baby over the period immediately before and after her confinement. The UDHR further provides in Article 25 (2) that

“Motherhood and childhood are entitled to special care and assistance....”

3.4.5 Unemployment (Pensions/ Provident/medical fund)

Pension is a source of income that replaces part of the wages which are lost due to insecurities of life due to when an old age or early retirement. This is meant to stabilize insecurities of income when an employee has retired which is basically at the age of 60 other than early retirement. However she told me that the employee should contribute towards such benefits. Thus they come out of the payroll taxes.

In section 85(2), the code allows for any deduction to be made from employee wages to any provident, medical or pension fund or any fund or scheme approved by the minister. This is supplemented by Public officers Defined Contribution Pension Fund Act no.8 2008 which denotes that a pensioner is retired permanent a public officer. This Act in sec 4 entails that contributions shall be made monthly into bank account of the fund at the rate to be determined by the Minister. Furthermore in section 27 it states that in case of retirement an employee is entitled to 25% of his fund credit as cash benefit while remaining will be used to purchase annuity from her.

¹⁴Section 136

3.4.6 Death/ disability

The consolidation fund even provides for disability and death benefits which shall be received by beneficiaries of employee. The Public Officers Defined Contribution Pension Fund Act 2008 provides that whenever a member is declared disabled, he or she shall be entitled to benefits.¹⁵ Further, it states that on the death of a member to the fund, being an employee, the member's beneficiaries shall receive a death benefit.¹⁶

3.4.7 Compassionate Leave

This leave is given to an employee in times of bereavement. This would be given after the approval of the minister who will determine days to be granted. This is provided for by the Public service Regulations 2008 in section sec 79

The minister in pursuant with Public Service Act shall....determine the number of days to be granted to an officer on compassionate grounds

3.4.8 Retirements benefits

These are benefits entitled to an employee on when she retires. In this case the employee is entitled to a portion of his or her fund credit to the maximum of 25 % as cash benefit. The remaining percentage shall be used to purchase an annuity for him or her.¹⁷

3.4.9 INJURY

This means injury sustained during the scope of employment. Lesotho established a workmen's compensation scheme under the Workmen's Compensation Act No. 13 of 1977 requiring an employer to purchase insurance with a private agency to insure any injury sustained during the cause of employment. However, the Act excludes the informal worker in that in Section 2(1) it defines a workman as any person who has entered into, or works under a contract of service or apprenticeship with an employer.

3.4.10 National Social Security Scheme

In Lesotho, there is no national social security scheme, unlike in other countries such as South Africa, Tanzania and Zimbabwe. Efforts to enact laws that mandates and establish such have not yet sufficed. In the interview with MOL, I learnt that the ministry in line with the ILO Decent Work Programme of 2004 enhancing social protection, has enacted National Development plan 2012- 2017. With this plan, it calls for option to establish is a

¹⁵Section 28

¹⁶Section 30

¹⁷Section 27, Public Officers Defined Contribution Pension Fund.

comprehensive and inclusive contributory national social security scheme for every employee in Lesotho including the civil servants, private sector and the Migrant workers in South Africa after it recognised that there is no adequate social security and fair social protection on them upon termination of employment.

This initiative was stated to be based was also upon recognition that existing arrangement provide for some protection on medium to high earners in formal sector, setting a separate fund for those not covered. The scheme main function was to increase labour mobility since it was not attached to a specific job and it that would work as an economic stabilizer and prevent brain drain. The initiative was also to bring Lesotho labour laws up to international standards after it was realised that the laws herein are outdated. The officer however, denoted that the anticipated scheme does not include workers in the informal sector. This she said was on the ground that since the scheme is going to be contributory, it was difficult to quantify their contribution as those workers do not earn or not have stable salaries. She said it will be included eventually after the ministry devise a strategy on how to absorb them under the scheme. However, the plan is not yet promulgated in to law because the MOL was yet to conduct a pilot study in relation and Bill in relation thereof was yet to be approved by parliament.

During my perusal of the records there, I discovered that the plan to established a social security scheme was launched way back in 1995/97 development plan and in 1998/99 government got a financial assistance from Arab Labour Organisation and Arab Bank in drafting a national security scheme policy in 2002 which did not suffice since the ILO criticizes it for lack of equity and there is no guarantee that it is not it will work now. She said their social security task team have presented a Bill in Parliament in relation to this initiative but it has yet been approved.

She further demonstrated the ministry does not disseminate knowledge of labour rights to informal Sector; they believe is not their mandate but of ministries such as constitutional affairs.

3.5 CONCLUSION

The concept of social security is coined as a universal human right justifying social justice but its implementation on the domestic level is always marked by dichotomisation from its definition to its application. Consequently, the type of work a person does categorise the form of social security one is entitled to. This notion has always been defined or tailored upon the

contract of employment. Thus most of social security measures cover only the formal sector. The following chapter will discuss the informal sector to weight the contingencies that affects them against the formal sector and the kind of social security that the workers in this sector rely on.

CHAPTER FOUR

INFORMAL SECTOR

4.0 INTRODUCTION

The economic crisis that has befallen the country has resulted in the upsurge of unemployment leaving the state with the burden to sustain the livelihoods of many people. This state has been demonstrated and proved in the previous chapter to have failed. Lesotho used to rely on South Africa for migrant workers income remittance, especially the miners but now it is faced with masses of miners being retrenched back home without anything much to rely on in terms of social security. The wives of these men have resorted to informal sector as an alternative means to sustain their family.

4.1 Informal Sector

4.1.1 Defining the informal sector

The informal sector is defined as the set of ‘units engaged in the production of goods or services with the primary objective of generating employment and incomes to the persons concerned (ILO, 1993b,)

According to the Labour Code (HIV/AIDS at Workplace) Guidelines, 2010 an informal sector was defined as economic units that are in law or in practice not covered or insufficiently covered by formal agreements.

In general parlance, informal sector denote that part of economy run by those who endeavour to make ends meet through their own initiatives enterprise. It often lacks government support and labour regulations. It alleviates poverty in that the informal sector is important because it provides a considerable source of income and employment in countries where formal employment opportunities are limited and social security is almost non-existent.

4.2 What Comprises The Informal Sector?

Informal sector comprises of unit's involved in small-scale production, mostly unincorporated and family owned and used labour intensive technologies (Bernabe, 2002). It is often characterised by unregistered activities or which include various degrees of illegality such as escaping taxation, non compliance with labour regulations, financial transactions outside the monitory of state or banks (capital flight), lenders and smuggling. (Njaya, 2014).

It acts as a safety net for unemployed people since they do not have a private income from a formal employment sector and no social security measures backed up by the state as compared to the formal sector. Therefore, the informal sector they provide a very important source of income and social security in the absence of formal social protection, and they may be an important source of economic growth. (Bernabe, 2002:56)

In Lesotho, the informal sector is often characterised by non-standardised relationships; labour relations which exist are based on casual employment, kinship or personal and social relations rather than contracts agreements with formal guarantees against income insecurities brought up by unemployment, old age, sickness, injury, death or maternity. (Country Report, 2012).

The Marxist theory perceive informal sector as exploitative in that it is an extension of the production network of large firms, providing a pool of cheap and flexible wage labour through self-exploitation and it subsidizes the formal economy by providing cheap goods and services to the labour force, therefore enabling large firms to pay extremely low wages. (Bernabe 2002)

4.3 What Is Informal Social Security?

Subsequent to government exclusion of informal sector in its formal social security measures, workers here have their own devised own strategies for survival and to guard against the contingencies of life. These are referred to as informal social security nets since it is available to those who operate informal businesses. This type of security is not formally regulated nor is it documented. It is family and community based. It is also based on kinship relations and the principle of social solidarity. However, it covers a few contingencies compared to the spectrum of formal social security. It mainly covers death leaving out most of the shocks of life.

There are two types of social security in the informal sector namely the traditional safety nets and the self arranged nets. Both will be discussed in detail.

4.3.1 Traditional safety nets

Traditional safety nets are a form of social security which revolves around the kinship and family ties. In this case the family feel a sense of belonging and togetherness by sharing risks

and responsibilities. It is underpinned by the values of solidarity and generalised reciprocity. (Kaseke: 2004)

Lesotho has a patrilineal system where the husband is the head of the family and the women is subordinated. Subsequently, this has brought a great distress on women employed in the informal sector since it means the proceeds they make in their business or benefits they get from the informal social security nets are majorly decided upon by their husbands.

In essence, according to Kasente, traditional social security systems refer to those forms of social security which have a close link to social tradition, and which are frequently very binding for members of the community on the basis of common law or custom. (Kasente, 2004)

In Lesotho the underpinning value for traditional safety nets is *botho*,¹⁸ which is based on the social mind-set based on social symbiosis. This literally means that humanity makes all people human. The Basotho also have incidental notions to the value of *botho* in that joint effort can resolve social problem. For instance, they is a saying that *motho ke motho ka batho*¹⁹ and *ntja peli hae hlolo ke sebata*²⁰. (Mosito, 2014).

4.3.2 Self Arranged Nets

Self arranged nets are which are based on membership of a particular social group or community, including, but not limited to, family, kinship, age group, neighbourhood, profession, nationality, ethnic group, and so forth. Even though they are based on the principles of solidarity and reciprocity, in this case it depends on balanced reciprocity on which if default in payment one forfeits benefits. They arise from circumstances imposed by social and economic change. Thus, they were formed when it was seen that the element of family cohesiveness in traditional safety nets is being fragment by various factors such as urbanisation and industrialisation. (Kasente, 2002).

During my interviews with the women I learnt that in this net membership here is quite balanced. Also those women members are not shadowing but are participatory and can be seen in the highest hierarchy of the net. For instance, in most *mechaellanos* they are treasurers and general secretaries.

¹⁸ Meaning humanness

¹⁹ Means a person is a person through other people

²⁰ Means that a joint effort cannot be defeated by a beast

Further, the women said contributions made here are not used for their personal benefit but are used by most women to the benefit of their families not for their enjoyment per se. They can be used for various conditions as agreed by members of the nets. For example it could for education and general upkeep of the household or even for just buying groceries only. It covers a few contingencies also.

In my interviews I found out that the clubs can be woman only membership based or men or mixed. The clubs differ because they pay different contributions from M300 –M1, 000.²¹ These clubs mainly are orientated towards education, furniture or general necessities of the household. The respondents said the sharing could be daily weekly or yearly. It does not cover maternity necessities. They still rely on family for helping out. Even unemployment, sickness or injuries are not covered. If they occur when it is not ones turn to get money, then she had to borrow money from the club and attract interest and if she does not pay on time, she is charged penalty.

This is what I found during my interviews about how the workers here deal with life contingencies and when determining the extent of the informal social security coverage.

(a) Death/ disability

In my interviews, the bulk of respondents said they rely more on their families. The resources of the extended family system are mobilised to support members who are exposed to crises which they cannot address on their own. The problems experienced by an individual as a result of exposure to a contingency such as the death of a member of his or her immediate family are shouldered jointly by the extended family. Children born within the extended family are not only reared and raised for the benefit of their nuclear family parents but also for the common benefit of the extended family. (Mosito, 2014)

Some street vendors said most of the time they rely on their relatives for support. They said normally where one relatives is befallen by death they contribute towards burial. Some would pay from M300 to M500 and give to the bereaved family. This is on top of the moral support and staying with the family up to a certain period of mourning,

The other family I interviewed said the youth in their family, those working join hands and bury such relative.

²¹M=Lesotho currency, Maloti, 1Loti is equivalent to South African Rand

Some said there are no longer many people left in their rural places to rely on because due to drought people have abandoned their subsistence farming to look for supplementary jobs. They take long to come back home to help or do not have enough money. Therefore, this support is deteriorating since most people are unemployed and moved to town to seek for jobs since they can no longer rely on subsistence agriculture which used to be the main stay of the country was affected by the El Nino imposed drought.

The others said traditional safety net is not reliable because it could be found that during burials those who are not so educated are burdened with most of the work; they brew traditional beer, cook on wood based fire; those relatives in town only come in the last day of burial. They lament that there is a lot of unreliability. Some women stated agitatedly that;

“Those wearing these sharp heels shoes like they are going to plant pumpkin seed where ever they step think they are better because we are not educated they think black pots benefit us. They come to funerals late. They money they donate earlier but fail to come and help even though they love to eat food who they did not know who prepared it when they are gaping their mouth in town”

Some of the respondents told me their chief makes donate cartons of maize meal and M7 from each family

Some have also joined self arranged nets; they have joined *Mpate Sheleng* (funeral schemes). They said in these schemes they make certain contribution which may vary according to the scheme but it ranges from M25.00 to M150.00 per month. In time of bereavement the members give support by providing services of tents, chairs, pots, contributes each M10 to M20, samp, candles, matches, salt and sugar, cook for the burial and offer moral support. They further receive a cash payment ranging from M2000 to M3000 for coffin.

Others said it is difficult sometimes to pay for this scheme since they are not making enough money. As a result they default in payment and are faced by penalties or face forfeiture of benefits. They could even loan from loan sharks to pay off their debts and stay in debts for ever

Some managed to join local insurance companies such as MKM, Alliance group and Lesotho funerals saying they find it more reliable than the others. The other lady said she is tired of being told that the rat has caused a hole of money, meaning the treasurer fail to account for loss of money on the defence that she does not really know what happened to the money and she goes scot free.

For disability they only rely much on their relatives and get nothing from the government.

(b) Food

In this case some respondents said they are contributing M200 per month with a monthly subscription of M50 and buy food seasonally. It can be a scheme to buy winter meat and paraffin or it could be the one for festive where they buy variety of food for Christmas and share. Some said during the year they rent out the money and attract interest so that their grocery could be many.

However I found out it are not all workers who can afford this kind of scheme. Some said:

“We do not make enough profit in the streets, taking into consideration that we must pay rents and commute from our place of renting to town. Most of the time we end up not having enough money to buy food, let alone clothing. We then call home to ask for food from their previous harvest.

(c) Injury

There is generally no scheme aimed towards unpredicted injury anytime at work especially in cash. Most of them rely on the free primary health care or loan from loan sharks so that they could find urgent help since the government hospital are always congested. The women were chosen randomly but purposefully. Most of them mainly make lishoeshoe dresses apart from other things. One woman said they struggle to make a living because the little that they make goes to rent and LRA; they are forced to register and declare and pay annual tax returns. These affect them negatively since they end having less money to take care of the family or themselves. This was buttressed by women selling handicrafts.

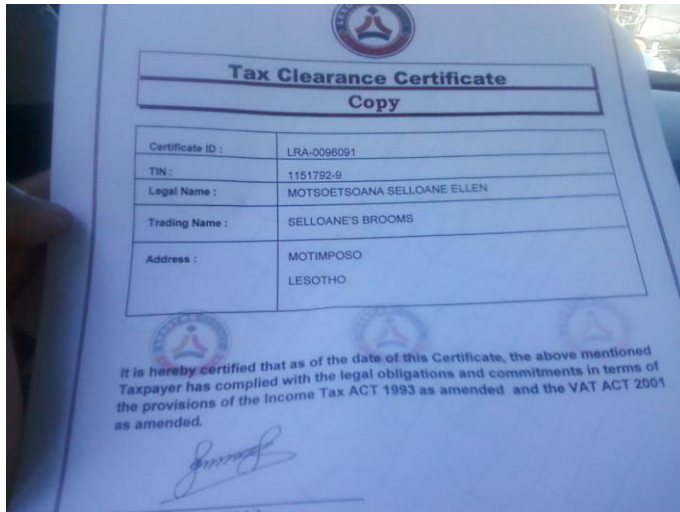


Figure 4 Tax Clearance required by Lesotho Revenue Authorities on Informal Sectors

(c) Sickness/illness

In this case, most respondents rely on their families for care and support. If they cannot get it becomes difficult to overcome this contingency. Some even die if they do not have money to ferry them to government hospitals. In my interviews with the men they said with their *mochaellano* money they can even able to pay private hospitals as a result of their self arranged nets. Notwithstanding, they said they make enough money to pay for funerals, joined mpate shelengs back at home and funeral covers with Alliance in case of death.

Furthermore, they demonstrated that they have roundtables where each member manages to hop home amounts of M7000 per month. They feel government is obligated to help them since they are paying for levies and even tax for their materials when they cross the border

(d) Maternity

Most women in this case rely on their traditional safety nets for help. Some would have their mothers, grandmothers, sibling or aunts to help out in the caring of the child. In this process some bring sorghum to make porridge. But generally, in this time their business I closed they cannot make any profit and it therefore becomes difficult to take care of the child and the rest of the family. That is why most of them leave the children at an age to go back to their businesses to make a living.

Some said they cannot afford to hire any replacement since their turn out is already small. Therefore, most of them could find themselves taking along their newborns to the cold or hot streets to make a living because they do not a choice. All in all they have nothing to rely on.

(e) Pension

This sector does not have any pension with relation to retirement. In fact they do not retire unless one gets sick or die. The only pension they can access is old age but it is age restricted to 70 years and above which most of the hardly attain.

I interviewed women from the market; those women sell mostly old newspapers, M2 a roll. They said these are mainly used for toilet purposes or by people who smoke “zoll” (rolled tobacco/dagga in a newspaper) or even by tailor when they decorate their lishoeshoe dresses. They said the money is not to make enough money to cover their contingencies. The business is mainly meant to provide for the family. They only manage to join burial schemes at their home districts, where they contribute less in case of death. They do not have anything to cover them for other predicaments. They stated they are very unhappy for the government to exclude them in many instances, pensions. They consider the present old age pensions fund meaningless since it requires one to be 70 years to qualify for it. One asked me, “my sister in this time of life, how many reach that age, people die fast as a result of these venereal diseases and even poverty its self makes one to age faster that their real age.

The other women stated in dismay that

“my dear, a few can reach that age. This because we do not eat well and not well take of medical wise so we are always stressed causing us to look old even though we are still young in age” (Maseru: December,2015)

(f) Leaves/holidays

There are no paid leave in related to the informal sector. Most of the informal sector workers continue working even on weekends except those who belong in different religions. One takes a leave on holiday against his own loss. I interviewed saloonists; they were women based on the town surroundings to attract customers to their saloons, calling everybody passing. These women do not make much money. Majority of them are not able to join the burial schemes or *mechaellano* due to lack of finances.’ One mentioned that winter or even January when children are going back to school is a bad time for business. Some are hired on

a commission just to attract customers. They paid between M10 –M15 a customer. They said they even work on holidays and weekends to make money.

They contribute to burial schemes and funeral policies at Alliance insurance. The interviewees whom I did around the malls most buttressed the same foregoing point and even added that their situation is worse since they pay rent and tax annually. The women said they do not have enough customers because people say they are expensive. They state that they have to come on holidays too. They stated that they pay high rents and taxes so that is the reason they become expensive. They cover for other contingencies

(g) Severance pay

Since there are no contracts related to informal sector, most are self operated should one decide to stop working there are no severance payments related. For instance, in my interview with a spaza (small shop owner), he said he does not report to anyone but himself. He said should he decide to stop operating that would be to his own peril. Most women informal workers reiterated this point. Some were even old but vowed to leave their work if only death stops them or they become sick.

4.4 The implication of dichotomization on women employed in the informal sector

The international human rights set a standard which Lesotho should adhere to since she showed interest to be bound by them. The respondents seemed to be aware of the dichotomisation in the labour sector but were not sure what causes it; they even though it is political decision and therefore blamed it on government. They said government only remembers them at the time of elections. They more or less said the same thing. When I asked them about their knowledge on social security and rights related, they did not have any knowledge. They were also not even aware if Lesotho has any international obligation in that regard. One said;

‘I only hear over the radio when is announced that Minister so and so has boarded a plan to go overseas’ nothing much.

Some said they were aware of the indifferent treatment afforded to the two sectors by the state; that those people working in government and/or factories have certain benefits aligned to the type of job they are doing. This was basically because no one has ever took any initiative to teach them or concietize them about such important issues, “they only know us when it is time for elections, making a lot of promises they usually fail to keep”. The ministry

of Gender, Youth and Sport district officer indicated that it is not their mandate to do this but that of other ministry, maybe of justice. Even MOL reiterated it.



Figure 5 interviews at Ministry of gender

The other women went further to state that their business is basically a hand to mouth type since they don't make more to save on the side. She went further to state that all the proceeds they make goes to the benefit of the family as a whole; sent children to school since the government is not paying for high school level, buying food and other household necessities.

4.5 State obligation on the issue of social security in relation to women employed in the informal sector?

In the context of Lesotho, there is no uniformed law accorded to social security. It could be gleaned from various provisions of social protection available in the country. This notion, however, depicts the dichotomisation in the labour force. There is a formal sector and informal social security; the employees in the formal sector covered by various benefits to stabilise the insecurities of income in case of death, sickness, injury, old age, retirement and maternity protection. These benefits do not include those employees in the informal sector;

they have devised their own alternative survival to protect them against the few exigencies of life known informal safety nets.

The main objective of employment is for people to enhance and sustain their livelihoods. For the present argument, the formal social security covers only the formal sector which tends to have a limited number of people, thus in this case women are covered but it is only a particular class of women in formal employment and it leaves out other class of women in the informal sector on the basis of work.

The issue of social security should have a general application and state should not be seen abdicating part of its obligation on the society. This as discussed earlier amounts to unfair distribution of resources whereat certain class of women is benefitting while the majority is not.

On the basis of the principle underlying human rights, thus they are inalienable, indivisible and interdependence, the state should not rely much on the defence of lack of economic resources and should also not label other rights as being fundamental and others as nonjusticiable. This is because; there would not be any rights without the bearer.

4.6 CONCLUSION

The present formal social security measures fail to take into consideration the economic crisis which has caused a great change in the labour sector. The state is seen as abdicating its responsibility on the society yet it enjoys the profits from this sector as it contributes much on the country GDP. Unlike before, the informal sector is now an alternative resort for those people who are not absorbed by the formal sector. Even though this sector provides alternative informal safety nets, it is not adequate since it does not cover many contingencies. For instance, most of them are channelled towards death or food. The following chapter will discuss more of this challenges attached to reliance of women in the informal safety nets.

CHAPTER FIVE

CHALLENGES CAUSED BY WOMENS RELIANCE ON THE INFORMAL SAFETY NETS (TRADITIONAL SAFETY NETS AND SELF ARRANGED NETS)

5.0 INTRODUCTION

Notwithstanding the fact that the alternative strategies of survival protect the informal workers from exigencies of life which the government through its formal based social security exclude them dismally, these informal safety nets have their own challenges.

Informal safety nets are a subset of the range of coping strategies that people adopt in response to episode of acute food insecurity. They are the manifestation of ‘moral economy’. They involve drawing from the social network of extended family, neighbours, and wealthy patrons, for assistance in times of need either with or without expectation of reciprocity. In essence, these nets are invoked response to economic shocks and stresses (Devereux, 1999:5). For instance, income insecurity

The preceding chapter have defined the types of informal social security and this chapter will proceed from that juncture.

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5.1 Types of traditional safety nets

The essence of the traditional safety nets implies that the wellbeing of the individual, especially in poorer households, depends not only on the individual’s economic situation, but relies to a larger extent on the economic situation of the community. (Benda-Beckmann).

The nets are family and kinship based and is generally assisted based schemes. In this case, a family provides assistance to those members who are unable to provide for themselves. Support provided may be in cash or in kind. These support systems operate on the basis of the principle of (traditional) solidarity. Thus each member of the family or kinship system assists a member in need of support even though there is no guarantee that the assisted member would be able to reciprocate (Olivier and Kaseke, 2004).

It could be observed from the preceding chapters that the informal safety nets only cover the informal based workers. The traditional safety net is based on the family and kinship ties.

5.2 Types self arranged nets

These are neighbourhood or community-based informal social security systems that go beyond kinship and family ties. These may be in the form of burial schemes, grocery schemes, education, furniture schemes, cutlery scheme, and blanket.

On the issue of self arranged nets even though they have shown some viability, they are based on trust. But due to the fact of cash contribution, they are as well affected by the economical changes, the women cannot make their payments on time; they default or end up forfeiting their benefits. These pose a risk because they might lose membership due to non payments.

5.3 What is available to women employed in the informal sector and their male counterparts?

I observed that most men sell non perishable goods while women sell perishables. This affects their profit making in that now and then their good need to be replaced. Generally they contribute towards the informal safety nets. However for men they extend their coverage by also subscribing to funeral insurances. Even the kind of mechaellano they contributes to, they are able to donate high amount more than women. From the benefits man can be able to afford to do many things or buy outstanding things like property such as cars and plots to build houses.

5.4 Factors affecting the consistency of the informal safety nets

The informal safety nets provide a form of social security to the informal based workers. This assertion has however been challenged on various factors which may be social and economic based. Firstly, the element of family cohesiveness has deteriorated because of labour mobility and resulting in migration. Most people disperse from their places to look for jobs or better opportunities in town, they ended up establishing residence there and take time to visit their homes or take part in family issues, and this has defeated the sense of togetherness which has been the underlying principle of sharing risks and pool resources in times of problems.

Secondly, most people have changed their way of living, because of the negative impacts of economic crisis all over the country. They have moved from the notion of extended family where they would shoulder and share the burden of family members together. Most people do not have enough money, they have now moved to a nuclear family way of living where it may be found that one is more concerned with the issues of his/her own house excluding and or ignoring other members of the family.

The value of generalised reciprocity is no longer of importance since most people are not interested to fully participate in caring for one another. This become apparent when urban based people have to attend functions in the rural places.

Furthermore, the issue of subsistence farming has been the mainstay of the country but because of the El Nino imposed drought things have changed. There is not ploughing at al. This affects the traditional safety net in that some of the exchange made there are in kind or cash since some people may not afford to contribute in cash.

The nets also target a few contingencies as compared to the formal based one. Most of these nets were funeral based. Other contingencies such as illness are not funded in cash, just in kind. This put a strain on women since they have now to close business and concentrate on the contingency before she resume with her business. That is how some people end up withdrawing because of this gap

The nets are not government oriented; they are not documented or regulated. There is a lot of corruption and lack of accountability. Some give defence or rats making holes on the money back or when it is time for cash payments they seek faults even where it is not necessary. The usual type of adjudication is normally of the chief who may somehow be partial.

5.5 Sex and gender dynamics; barriers for women employed in the informal sector to enjoy the benefits of their contribution to these nets?

Furthermore, even though women work so hard to contribute to the nets they do not tend to benefit, on the contrary they are further burdened. For instance in the traditional safety nets it could be seen that the system is quiet patrilineal, the man is he head, he makes decisions as what has to be done and what not ought to be done. There is no reciprocity in this case; at times of funeral most of the work is done by women; they are the ones who cook and prepare most of the things during funeral in Lesotho.

The traditional systems of social security have a tendency to exploit women for the benefit of other members of the extended family, with no guarantee of women's own social protection (Kasente, 2002). This could be seen most on the issue of care, in general are women who are tasked with it. They take care of the sick, family and the husband is also looking forward for the woman to satisfy his conjugal needs, bear and take care of the children. As a result all contribution she made benefits most of the family members. This could also be blamed on women relational nature; they sacrifice much on other people and forget about themselves.

During most of my interviews I found out that most women still pursue their chores after a long day at work, sometimes the husband will be at home but refuse or fail to help the woman. Care is normally utilised as a social practice rather than a political issue where a state can resume responsibility. It is coined as a social process characterised by four phases; of *care giving, caring about, caring for, and taking care of* which are mostly done by women. State abdicates its responsibility and makes it a familial responsibility shifting the burden on a woman (Sevenhuijsen)

There is also emergence of women headed families where men are not the sole deciders of everything but still their contribution goes to their families because of their relational nature. This goes down to the issue of access and control. Those women can make money and not actually enjoy the benefits of it due to power relations in the households.

When I was continuing with the interviews on what factors might be contributing to the challenges facing family cohesion, I found out from the respondents that HIV/AIDS has emerged to be an economical obstacle. It affects the membership of these nets. Many members are lost due to the epidemic threatening the existence of these systems. Women have to sometime leave their work to care for the sick

5.6 CONCLUSION

The informal safety nets may act as safety nets for informal workers against predicaments of life but these nets may not be adequate enough since they cover a few contingencies unlike the ones covered under the formal system. There are also shortcomings which are basically espoused in their nature and constitution of the safety nets, this pose unreliability thereof. The type of work a person is engaged in is used as a tool to determine the form of security he may be entitled to. The following chapter will discuss the right to work and try to contextualise it within the ambit of social security.

CHAPTER SIX

CONTEXTUALISING THE RIGHT TO WORK AND THE RIGHT TO SOCIAL SECURITY

6.1 Defining right to work?

Before defining this right it is important to define the concept of work.

In general parlance, work refers to a productive activity for household or exchange (Tilly & Scott, 1978). Traditionally it was defined to include the control test of supervision of employer to employee, defining working hours and remuneration for services done. Nowadays work is gradually being defined in economic or legal realities is applied to get to seek who bears the risk of loss.

Work has a critical significance to the individual and/or the society at large. It has an economic, psychological, social and political nature; it enhances livelihoods and gives individuals self fulfilment which builds sense of self dignity and self worth and acts as an important platform for building relationships. (Gwisai, 2006). On this basis work has been generally is defined as paid work, that definition has an inherent prejudice on women since they do different kinds of work, for instance, unpaid work to sustain the household even though in terms of social security purpose this kind of work is not recognise. (Olivier – Kaseke, 2004)

The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, makes it clear that the right is universal, and that they apply to all people in all States - regardless of the level of economic development. It particularly mentions groups with special needs, including the unemployed and migrant workers. It recognizes that economic growth alone is not enough to ensure equity, social progress and to eradicate poverty.

In this case, it could be noted that the women's work is inseparable from the family. The business expenditure is difficult to separate from household expenses. Thus they are interdependent. This is depicted in their work pattern which starts in the household, to their place of work. they wake up very satisfy their men's conjugal needs, sweep the house, wash the children, cook, serve the meals, go to work, come back after a long day to resume her house hold duties. Moreover, her profits are meant to take care of the family and house hold in general.

The right to work is a human right enshrined by UDHR in article 23(1) and applies to every individual without any discrimination whatsoever. The ICESCR In article 6 and 7 and recognises enjoyment of everyone to the enjoyment of just and favourable conditions at work. The African Charter also provides for the right to work in Article 15, it entails that every individual have the right to work under equitable and satisfactory conditions. Moreover, CEDAW in article 11 recognises the right to work and states that it is an alienable right to all human beings. The constitution of Lesotho provides for this right but creates caveats in that are protected as part of state policy and not as a fundamental right. The rights in this category also depend on economic availability of resources. Even the ICESCR supports this progressive realisation of such right.

As indicated earlier, employment issues in Lesotho are governed by the Labour code order 1992. In this Code employee is defined as within the contractual parameters leaving out the informal work which does not have characteristic of formality.

6.2. Correlating the Right to work to Right social security

The right to work and the right to social security are both socio economic rights provided by human rights instruments. It could be remembered that human rights are interdependent. Therefore the recognition of one of the other gives rise to the other. They do not make distinction of which kind of worker is entitled to them but denotes that it applies to every individual to every individual regardless of her status. Work can have eventual income insecurities so to guard against all these there has to be social security. It is this social security which protect the right to work as it realise sustainable development of a human beings.

Provision of social security to workers would increase their productivity and contribution to economic growth. This is on the ground that the informal workers right is somehow jeopardised in their conditions and terms of their work does not provided much of the benefits and the loose a lot of profit trying to counter act the exigencies of life. Therefore these rights go together.

6.3 Impact of the exclusive coverage of formal social security on women employed in the informal sector

The impact of the exclusive coverage of formal social security on women employed in the informal sector amounts to discrimination. The language of the Constitution by the very fact of making rights classification on the rights is discrimination. This is compatible to the human rights instruments

Further, UDHR in Article 7 talk about equality before the law and equal protection of the law. Thus it condemns any kind of discrimination. The constitution also provides for it in section 19 and provides for non discrimination in section 18. the constitution defines discrimination as affording different treatment to differentiate persons attributable wholly or mainly to their respective descriptions by race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

In this case there is discrimination on the basis of work since the formal sector is afforded benefits which are not available for workers in the informal sector. Thus a certain class of women is favoured over another class.

There are two type of discrimination, namely direct and indirect discrimination. The former is overt, thus is an open discrimination that everybody can make out. While the latter denotes discrimination that does not depict discrimination but on application it brings about disparate treatment. Thus the effect of practice is what matters.

Labour code Order 1992 in section 5 prohibits discrimination. It articulates that any distinction, exclusion or preference made on the basis of sex which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation is incompatible with the Code.

The labour law definition of employment depicts direct discrimination on women in the informal sector since it expressly exclude the type of work the informal sector is operating on by being based on a contract agreement, defining duties and rights of employer and employee, that are non existence in the informal sector labour relations.

The requirements for direct discrimination as laid down in *Griggs V Duke Power by Burger CJ* denotes that in order for applicant to prove direct discrimination she/he must establish a prima facie case on the part of respondent, thus the discrimination complained of must be overt and there must be a causal link between the respondent and applicant actions. *In case*, this was a group of incumbent employees at Duke Power Company petitioned the company on the basis of discrimination of race in hiring and assigning employees to its plant. The plant was organised in operating department and black people were employed on the lower level, paid less while whites occupied the highest position and paid more. Hiring was done on a policy requiring the highest education to transfer from the lower department to the highest. Practically black people could not qualify since they did not attain such education due to racism then. The policy was held to proscribe discriminatory preference for any minority group being the blacks that policy was ordered to be removed.

Similarly in the present scenario, the informal sector is directly discriminated on the basis of work. The definition of the concept of social security as per ILO conventions is defined on the basis of employment contract ignoring the fact that Africa is facing economic crisis which caused a massive change in the structure of employment; there other forms of employment to be considered, which mushroomed such as informal sector, as a result of the social and economic change. This is a very unfair treatment against the informal workers taking into consideration that the informal sector in all its forms is contributing to the economy and increasing growth.

The labour laws are failing dismally to take cognisance of unpaid household work which also contributes and subsidize the country's economy by cutting expenditures. It is essential to note that this kind of work is done by women and is part of informal work. Thus the unpaid work brings into play the issue of public/private domain where women are confined in private (domestic sphere) with unpaid household chores and bearing children while the man is at the public domain with a salary.

6.4 Government responses: what is being done to protect these women?

In all these disparate treatment afforded to the informal sector, the government has not taken any positive steps to remedy this discrimination. In fact it is perpetrating it further. During my interviews in the MOL I was told the ministry is initiating a plan for National social security organisation which is going to be contributory and it covers only the civil servants,

private sector and migrant worker excluding the informal workers. This was done on the excuse that it is difficult to quantify the amount the informal workers could pay since their salaries are not stable. It was said they might be included in the long run should the MOL come up with a strategy to include them.

Instead of protecting the women in the informal sector by providing them with financial or basic social security, government is impoverishing them further. Through its ministry of trade is extorting amounts of approximately 500 for licence and monthly levies for women selling handicraft. And also encouraging more informal sectors to register in order to pay annual taxes.

The image shows a government-issued license form for 'SELLOANE'S BROOMS'. The form is filled out with the following information:

- License granted to:** SELLOANE'S BROOMS (Trade Name)
- By:** SELLOANE ELLEN MOTSOETSOANA (Individual owner in case of sole proprietorship, otherwise name of partnership, Private/POB)
- Operating from:** MOTIMPOSO (Street address - SEBARA SA KODIRO)
- Location:** MASERU (Suburb/Zone/Village - MOTSE)
- Category:** Small Scale Industry (ARTS AND CRAFTS PRO)
- Business Products:**
- Date of first License:** 17/12/2014 (DD/MM/YYYY)
- Should be renewed by:** 21/08/2017 (DD/MM/YYYY + 1)
- License Fee Paid:** 150.00 (Matsi)
- Receipt Number:** F097379
- Penalties Paid:** 0.00 (Matsi)

At the bottom, it states: 'LICENSE IS ISSUED TO THE PERSON/ENTITY AS'.

Figure 6 payment required by government for women involved with handicrafts

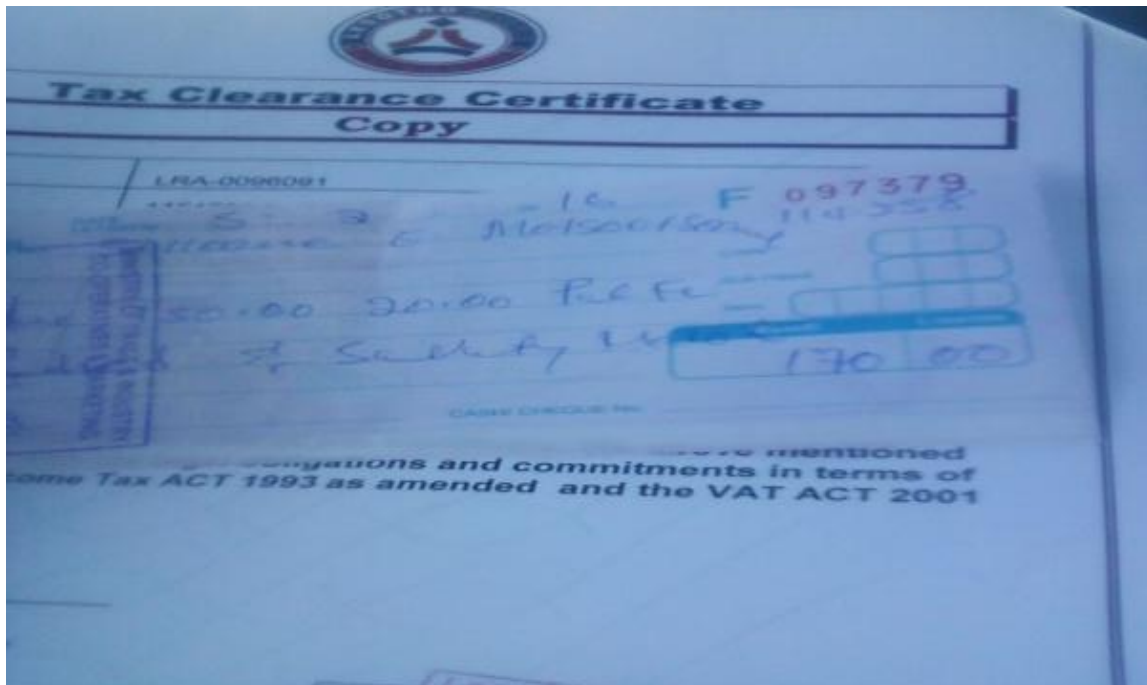


Figure 7penalties increased if women delay to pay tax

6.5 The significance of conformity by state to its international, regional and national obligations

When the state conforms to the obligations it will be upholding the principles of human rights where every person right are protected, promoted and respected. Subsequently the informal workers will be recognised, be included in definitions pertaining to labour.

The informal sector activities will be well documented so that it would be clear as to their statistical contribution to the economy. This would also boost their productivity, encourage incorporation amongst them.

Where a broad spectrum is given to different kinds of informal work other which have been overlooked will bring economic empowerment to some women. If for example, unpaid work-house hold work is given an economic cognisance, most women will break dependency on the husband, be able to take care of themselves and make decisions.

Moreover, if issues such as maternity leaves are considered within the informal sector, more lives will be saved and mortality rates decreased since more women will have something to substantiate themselves and the children. This helps avoid nursing mothers coming back to work immediately after birth because of pull and push factors of poverty and hunger. This is because some may have birth complication which needs prolonged confinement but since she has no reliable maternity protection benefit she is bound to resume business,

Somehow the government would benefit, they will be less brain drain and capital flight.

People would try to create business opportunity at home and stop going to South Africa and enriching the economy there with their ideas and buying and selling.

It also creates international harmony between countries and open business with other country meaning more economic growth.

6.6 CONCLUSION

The definition of work has always been limited in the sense that it includes a contract based relationship of employer and employee relationship. This excludes the informal sector as it is not characterised by any contracts agreements with guarantees against life contingencies. It is on the basis of this definition that social security is categorised. The classification determines who has the right to work and who has the right to social security. This rigid classification poses an overt discrimination on informal sector women since it even restrict their access to local remedies and redress in case of violation. This is considered incompatible with the principle of human rights, interdependency and indivisibility, contained in the international human rights instrument which Lesotho has ratified, indicating her intention to be bound by the contents thereof. Consequently this necessitates interventions which could either be both immediate and futuristic in order to reconceptualise the existing laws to account for the needs of this category of women without exception. The following chapter will make recommendations and conclusions on the findings.

CHAPTER 7

7.0 CONCLUSIONS AND RECOMMENDATIONS

This chapter will make conclusions and proposals for recommendations to be undertaken based on the findings of the research. This I make after my enquiries on my assumptions and the objectives of my research, having attained most of the first hand information from women and my key informants, I now will draw conclusions and propose both for immediate or futuristic recommendations intervention based on the women's needs, experiences and actual lived realities on the law and practices.

From the findings the following conclusions were drawn;

1. That Most women businesses are located in the informal sector which is not covered by state provided social security to absorb shocks of life;

This is depicted by the labour statistics and observation escalated by the economic crises which has caused a huge economic and social change. Women are now breadwinners which has not been the case historically. Due to the high retrenchments in the South African mines, which was the main source of income, and the deteriorating substantial agriculture, women have left their homes to seek for an alternative survival strategy and sustain their families. The key findings particularly from the MOL denotes that the formal social security measures available in the labour force only avail workers in the formal sector eluding those in the informal sector. The state is seen in this case abdicating its responsibility to provide social security for all, and shocks of life facing the informal sector left to be dealt with by the family and community underpinned by the values of solidarity and reciprocity.

Moreover, this demonstrates a discursive power of the law. It can be negotiated to include or exclude a certain group of people. The labour law include a limited number of women in the formal sector and exclude those in the informal sector. This can be shown in the definition of employee, the limited concept of work and social security which is ascribed to contractual agreement only

2. That women in the informal sector rely on traditional and self arranged nets to absorb shocks of life

The notion of social security is defined and tailored upon the contract of employment which is non-existent in the nature of the informal sector. The women in this sector, on the basis of this direct discrimination on the basis of their work, has devised strategies which are both traditional and self arranged to curb against the insecurities brought by shocks of life such as

old age, sickness, maternity, injury and death. These nets are sometimes used at the same time or alternatively. The work one does determines the kind of social security one gets in this sector. For instance, from the findings for those women who have butchers, tailors and mobile restaurants, they tend to be able to pay even the insurance companies on top of the traditional safety nets and self arranged nets so that her benefits can accumulate more. It was further found that some women on the nature of their work they cannot even afford the self arranged system. They tend to rely on the traditional safety nets which are rapidly deteriorating due to economic change.

3. That traditional safety nets and self arranged systems rely on family cohesiveness which is now fragmented because of industrialisation and urbanisation.

The nature of traditional safety nets relies on family reciprocity and kinship ties. The burden is shared by the extended family or the whole society hence why in Lesotho there are practices of joint solidarity in cases of death or any other shock of life facing a particular family. The self arranged nets even though are based on the solidarity and reciprocity principle, in this case the reciprocity is mutual and balanced. Thus the fact that people are dispersing from their villages or places of residence to look for jobs make it difficult for them to make remittances to their informal safety nets thereby bringing about unreliability on the nets; they lose membership, the reciprocity is broken because some tend to be free riders, a lot of corruption for those who keep the money, excessive penalties making people to lose interest in the nets. I also found out that the El Niño imposed draught has negatively affected the substantive agricultural sector leaving most informal workers with almost none to rely on.

4. That most women entrepreneurs businesses are situated within the family such that women's contribution to traditional and self arranged systems does not benefit them because of the power relations within families.

From the findings, I found out that most businesses are a hand to mouth business. It was also difficult to separate the business expenditures from the household ones. Also, the position of many women in the informal sector is influenced by the social stereotypes related to the subordination of women which was influenced further by the system of capitalism which exploits further the position of women. These have resulted in women work in the household not being given an economic cognisance by the state and their families as well. The man

decides upon on their benefits and results in them not benefitting from their contribution. I also found that women have a relational nature in that they sacrifice for other people.

Thus, in as much as the informal sector try to create alternative safety nets for women, they may not benefit on their by contributions due to power dynamics in the household the wife does not benefit. This also applies even where a woman is single, she still looks out to other members of the family or account to a male figure in the family, being a brother, father or uncle.

5. That there is a need for Lesotho to conform with its international obligations to uphold the women's rights to social security regardless of the dichotomisation within the labour sector?

The human rights instruments have a general applicability; the rights are said to be inalienable, indivisible and interdependent. One cannot claim one right without the other. I found out that the government of Lesotho is failing dismally on the ground to implement these instruments in despite of their undisputable intention to be bound by them. On the contrary it put legislative obstacles like adopting a dualistic approach which requires the instruments to be first domesticated into local law in order to be enforceable. And, it puts rigid classification particularly on socio economic rights hiding under a defence of lack of resources all the time. This bar victims of violations of such rights from seeking redress and remedies. To make matters worse the government is not making initiatives to sensitise and concientize women on their rights to social security. As a result, the municipality evict the women at any time they deem fit when they feel they are making a nuisance.

From the above conclusions, the following recommendations are made:

1. The dichotomisation in the labour sector be eliminate in terms of provision to social security, government should not be seen abdicating its responsibility to care for its own citizen, on family and community. This would avoid unjust distribution of resources. As a result every person would live at least on acceptable adequate standard of living.
2. The alternative safety nets even though so helpful to the informal sector they have their own shortcomings and cannot stand on their own. They need to be alongside the

formal ones since there are so many factors which are now challenging their viability such as drought, industrialisation, and urbanisation. In addition, these nets cover a few contingencies such as compared to the social security in the formal sector.

3. Also in there is a need for a comprehensive national social security scheme inclusive of the informal sector. This will also to allow for labour mobility. All these types of social security cuts across the resilience of family therefore the government should take steps to value the existence of family. For instance, it should recognise such unpaid labour with the family, issue of care, pay those women offering care.
4. It should be accepted by most people that the family and community cohesiveness no longer holds due to economic change. Therefore every individual should be forced by the responsible authority to take care of their families and not expect relatives to shoulder their responsibilities on their behalf.
5. The language in the constitution should be explicit to avoid incidences of judiciary or any administrative body misguiding itself. For instance, the courts fail to read social security in the provisions relating to fundamental rights in the constitution as well as principle of state policy. There is not enough sensitisation on the part of judiciary and administration.
6. The state to show support of women in the informal sectors that they could at least maximise on their profits should at least give the informal workers free trainings on how to increase their productivity so that they can be able to invest for their future income insecurities.
7. The government should consider trying to integrate the two sectors. Integration is also an attempt to preserve and strengthen the core values embedded in informal social security systems, namely that of self-help and solidarity. Ultimately, this would also help to foster the cohesiveness of groups and communities which is also one of the prerequisites for national development. This could help the unit of family since it is very difficult to coordinate or regulate it. Thus should it provide regulation, it should be flexible enough to allow for the smooth running of the sector. This would also ensure integration provides the basis for ensuring a minimum level of social protection for everyone in society enabling everyone to achieve everyone to achieve an acceptable living standard.

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