



PARLIAMENT OF LESOTHO

International Women's Day Celebration, 2023

8 March, 2023 [#TakingParliamentToThePeople](#)

ABRIDGED VERSION OF THE COUNTER DOMESTIC VIOLENCE ACT, 2022



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The Counter Domestic Violence Act, 2022 is an Act of Parliament that came into operation on Wednesday, 31st August, 2022 following its enactment by the Tenth Parliament of Lesotho.

The Act aims to protect the rights of all citizens in domestic relations including children, who are victims of all forms of abuse - economic, social, physical, sexual, technological, emotional, verbal and psychological etc. In terms of the Act, domestic relations vary from married couples, co-habiting couples, dating couples, intimate couples to family members.

The Act targets common abusive practices that can be classified as immoral and unethical. These include sexual intercourse between a parent and a child, sexual intercourse between a father-in-law and daughter-in-law, forced or arranged marriages, sororate and levirate marriages, forced initiation and exploitative child labour. Damage to victim's property, forced entry into victim's residence, refusal of victim's personal belongings, deprivation of victim's necessities are some of the acts that are also classified as domestic violence acts which are criminalized by the Act.

The Act defines domestic violence as any act, omission or behavior, which results in a direct or indirect infliction of physical, sexual or mental injury to a victim by the perpetrator, whether co-habiting, dating, or in domestic relationship; and defines a child as any person under 18 years.

In the interest of administration of justice or protection of a victim of domestic violence, the Act provides that any person who is in an abusive domestic relationship may be granted a protection order against the perpetrator which shall remain in force for 5 years or until revoked or varied by the Court. A protection order may not be granted upon application of a victim only, but any person who has an interest in the welfare and wellbeing of a victim, may also apply for a protection order on behalf of the victim. In such cases, the application shall be taken to have been made by a victim and with the consent of the victim, except where a victim is a child, mentally incapacitated, unconscious, regularly under the influence of intoxicating liquor or drugs and/or at the risk of serious harm.

Provision is made by the Act for an interim protection order which may be granted on application without notice and outside court hours or on a day which is not an ordinary court day, provided that the court is satisfied that the delay caused by proceedings on notice may entail risk of harm or undue hardship to the applicant, child, or the family of the applicant.

The protection order issued by the Court shall prohibit the perpetrator from entering or approaching the victim's work place, residence or places frequently visited by the victim and direct the perpetrator to pay emergency monetary relief for victim's needs or compensation for injuries or loss suffered or victim's wellbeing. The order may also direct either the victim or perpetrator or both to go for counselling with the perpetrator incurring expenses for such.

If within five years of issuing a protection order the perpetrator breaches its terms, a warrant of arrest shall be issued upon police officers being satisfied that the terms have indeed been breached.

The Act also provides for the institutions that should participate in the fight against domestic violence. It provides that the Commissioner of Police shall ensure that there is a unit within every police station which shall operate for 24 hours, seven days a week and be staffed with police officers with relevant expertise and training in domestic violence and other related matters. The police officers who receive a report of an act of domestic violence shall, whether a charge is laid or pursued, fill in prescribed forms which shall be forwarded to the Commissioner of Police monthly. A victim who is not satisfied with the services of the police officer handling the case shall have a right to appeal to the senior police officer responsible for the station. The Commissioner of Police shall compile annual statistics from the collected forms and forward the statistics to

the Minister who shall table the statistics quarterly before Parliament.

The Act further places a duty on Prosecutors to orientate victims of domestic violence with court structures and procedures, whilst health officials of state institutions and their subsidiaries are charged with a duty to provide free medical treatment to victims of domestic violence.

The Act establishes a family court which shall deal with problems arising out of family matters, and in a case where a victim is a child, the case shall be referred to a children's court. For protection of victims, the Act provides that cases shall be held in camera and no one is allowed to publish any information that may reveal the identity of any party to the court proceedings. The Act also establishes Restorative Justice Council which shall hear cases of domestic violence at community level, guide restorative justice processes, authenticate records by affixing of signatures of both the victim and perpetrator and advise the victim and the perpetrator on decisions the Council has taken. The Council shall compose of the Area Chief of the place of the victim and the perpetrator, one member of community policing forum, one Area Councilor of the place of residence of the victim and the perpetrator and a secretary who shall be responsible for taking minutes.

The Act also establishes shelters for victims of domestic violence and Rehabilitation Centre programs.

Lastly, the Counter Domestic Violence Act provides for offences of domestic violence and their penalties. It provides for offences such as murder, physical abuse, cunnings or any form of genital stimulation, emotional abuse, coercing another to reproduce and forces a child into marriage, to name but a few. The Act imposes heavy sentences upon perpetrators, such as life sentence without an option of a fine on murder and upon perpetrators who at the time of committing an act knew they were HIV infected. For sexual intercourse with a child, there is a heavy penalty of imprisonment of not less than twenty years without an option of a fine while perpetrators of forced child marriage will be slapped with a fine of not less than ten thousand or imprisonment of not less than seven years or both.



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ABRIDGED VERSION OF THE HARMONIZING OF THE RIGHTS OF CUSTOMARY WIDOWS WITH THE LEGAL CAPACITY OF MARRIED PERSONS ACT, 2022

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The Harmonizing of the Rights of Customary Widows with the Legal Capacity of Married Persons Act, 2022 is an Act of Parliament that came into operation on Monday, 12th December, 2022 following its enactment by the Tenth Parliament of Lesotho.

The Act aims to enhance the economic status of the customary widows to enable them to exercise their economic and property rights in line with the provision of the Legal Capacity of Married Persons Act, 2006 and incidental matters.

The minority status of customary widows is therefore repealed by the Act. The Act grants widows ownership and control of the property of the joint estate upon the death of the husband and removes the restrictions on the rights of a customary widow due to her husband marital power.

In protecting minor children of the joint estate, the Act stipulates that the widow shall take the children's rights and welfare into consideration when exercising rights granted by the Act and in cases of abuse by a surviving spouse in the control of property of joint estate, the Act authorizes the family to intervene. The Act also makes it clear that in case a surviving spouse remarries, the property of the joint estate from previous marriage shall not form part of the community of property of the subsequent marriage.

It also aims to protect children from harmful practices where incoming spouses prevent them from having access to the estates of their deceased parent(s).