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STAFF SEMINAR PAPER

No. 17

LAW AND POPULATION GROWTH IN LESOTHO

III. FERTILITY REGULATION AND EDUCATION

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21 February 1979 at 4.00 p.m.

Explanatory Note

This paper is one of several prepared under the auspices of the Project "Law and Population in Lesotho" which are being presented at N.U.L. Social Science Faculty seminars during the early months of 1979.

The Project is examining the impact which a variety of legal provisions (whether statutory, customary or derived from the common law) are having upon the country's population size and specifically its rate of growth. Some laws may be found to encourage the birth of children (pro-natalist), while others may act as a discouragement (anti-natalist). Studies will be presented covering areas such as family law, child welfare, sex education, abortion, contraception, employment, taxation, land tenure, etc.

Since the focus of the research is on the internal legal position within Lesotho a narrow approach is necessarily being adopted in terms of the current general debate about appropriate population levels and whether or not the world is facing a 'population problem'. Many people argue that the solution to the problem of poverty lies not in reducing population growth but in a more equitable distribution of the world's resources. In this context it is natural for Lesotho to join other countries in the Third World in seeking both a 'new international economic order' and a fundamental shift in the balance of political and economic power in Southern Africa. However, these issues of an international dimension fall strictly outside the area of our study. The 'Introduction' paper merely seeks to establish vis-à-vis the resources available the existence of a population problem within Lesotho and the other papers explore the extent to which the law may be said to be a contributory factor in the current rate of growth.

A major objective of the Project is the production of a report to be submitted to Government and other interested bodies and individuals at a National Symposium which will probably be held towards the end of 1979. The attached paper is only a draft of part of the report and it is by no means to be treated as in its final form. For this reason your comments are welcomed - either at the seminar, or if you are unable to attend, through contact with the author at N.U.L. Since the paper is a draft you are requested not to quote from it without permission.

The Project is financed by the United Nations Fund for Population Activities (U.N.F.P.A.) and it has the approval of the Lesotho Government through the Central Planning and Development Office.

S. M. Poulter
Project Director

Population changes occur mainly as a result of the combined operation of fertility, mortality and migration. In this paper we shall discuss the law and practice in Lesotho which relate to fertility regulation and education as factors which may have a direct or indirect effect on the population growth of this country. In this paper we define law to include statutes, common law and Sesotho customary law.

A. FERTILITY REGULATION

Fertility is the reproductive performance of a woman or the number of children borne by the mothers in a community and we define fertility regulation as the means of controlling such a process. There are three main methods used to do it, that is, by using contraceptives, sterilization and abortion. Our concern in this paper is with the former. In addition there are various other methods and though their efficacy today is very much doubted, numerous people practice them. The most popular of such methods is the so-called rhythm method or safe period; there is also the withdrawal method (coitus interruptus), and complete abstention from sex (this is the most effective method though probably the most impracticable one).

The annual growth rate in Lesotho's de jure population is estimated at 2.27 per cent. The Government has set itself a target in its Second Five-Year Development Plan of reducing this growth rate by 0.2 per cent. Voluntary birth control is naturally one of the most sensible means of achieving this target and maintaining the desired annual growth.

1. Birth Control in Lesotho

Control in Lesotho

Control or family planning is not a new phenomenon in Lesotho society. According to traditional belief and custom, it is a woman who is breast-feeding to conceive, and this means she must abstain from sexual intercourse during that time. The origin of this taboo was stated by the Hon. Mr. C.D. Mofeli, a member of the National Assembly:

The concern of the Basotho was the child's underdevelopment if birth was not properly controlled. Basotho banked their hope for the development of a child on the mother's milk...

...if the mother becomes pregnant during the suckling period of the child her milk in Sesotho custom becomes stale or improper for the child, feeding on such milk, it will lose its sanity and hence chances of normal development are very limited."¹

Some people believe that even if sexual intercourse does not result in pregnancy, the milk would still go bad. This belief is reflected in the results of a sample survey conducted by the Lesotho Distance Education Centre (LDTEC) where a vast majority of the people interviewed (80 per cent) indicated that this was indeed their belief.²

It is noted that this belief has no scientific basis and is of little value since it assisted the Basotho in spacing their children with the result that mothers had a chance to rest before another pregnancy and to take proper care of their infants. In the same L.D.T.C.

1. A copy of a resolution in the National Assembly on 16/6/1978 to ban the Basotho Family Planning Association (Unofficial translation by the author).

2. See Access to Family Planning in Lesotho". (Report of a survey conducted by L.D.T.C. as part of the Project "Education for Family Planning in Lesotho"), 1976, p. 14.

sample survey, over 80 per cent of the people interviewed indicated that a woman who has had a baby should wait for two or more years before she has another one.³ This is a clear pointer to the awareness and desire on the part of the Basotho for child spacing.

Whether the customary taboo is still observed and to what extent, it is difficult to say. But as an efficient means of birth control it has obvious limitations. In the first place, it depends on how long the breast-feeding lasts and today when it is supplemented by artificial milk it is likely to be shorter than previously. Furthermore, especially amongst the educated young, the customary reasoning is likely to be questioned and taken as mere superstition. But even more important it is based on the assumption that sexual intercourse only takes place when the couple want to have a child which of course is not true.

2. Use of Contraceptives.

Various contraceptive devices are in use in Lesotho. These include oral contraceptives (the pill), IUDs, locally inserted foam-forming tablets, creams, condoms, injections, etc.

Generally there is no law which prohibits or restricts the use of any one of these devices. However, the Medical, Dental and Pharmacy Order, No. 13 of 1970, imposes restrictions on the sale and dispensing of some of them. In this Order all substances which are mentioned or included in the first schedule are defined as poisons.⁴

3. ibid., at p. 14.

4. Section 39 (See, definition of "poison").

This includes:

"Oestrogenic and progestational substances, the following: Benzoaestrol, derivatives of stilbene, dibenzyl or naphthalene with oestrogenic activity, their esters steroid compounds with oestrogenic or progestational activity, their esters. Zacyclonal, its salts".⁵

Save where those substances are for external use, the law prohibits their sale except by a person or body corporate authorized to sell poisons. This means an individual who is a registered Pharmacist, or, if it is a body corporate, it must be registered as a pharmacy carrying on such business from registered premises.⁶ The law requires, in the former case that the substances be sold under his direct supervision, and in other cases, under the direct supervision of a pharmacist.⁷ Moreover, sales are prohibited except on and in accordance with a prescription signed by a duly registered medical practitioner.⁸ Oral contraceptives clearly fall under those restrictions. In view of the very limited number of doctors, it is questionable whether it is absolutely necessary to restrict the signing of prescriptions for oral contraceptives to registered medical practitioners. In many other countries, there are trained nurses and other personnel with power to examine and prescribe pills.

5. Part 2, Schedule 1.

6. Section 45. Medicines for treatment of human ailment dispensed from a hospital, infirmary, or health centre, are exempted from this provision - See Section 55.

7. Section 45.

8. Section 46 (1).

Even in Lesotho, at present, it is the nurses working for the Lesotho Family Planning Association who make out most of the prescriptions for the pill, though technically this is illegal.

If the government has not so far detected any serious irregularities in this practice, it might just as well be legalized.

Other contraceptives which do not contain the above-mentioned substances are clearly outside the restrictions. This group includes condoms, jellies, locally inserted foam-forming tablets, creams, etc. These may therefore be sold by any general dealer to anybody. In practice, however, it is only pharmacies which stock them. General dealers are probably under the mistaken impression that they are prohibited by law from selling them. This obviously means their commercial distribution is very limited since there are very few pharmacies in the country. Strangely, even in pharmacies, although they may be sold to anybody, they are under the direct supervision of the pharmacist.⁹

It is recommended that since there are no legal restrictions general dealers should be encouraged to stock these contraceptives in their shops in order to maximise their distribution. In many countries this is already a widespread practice, and in some countries they can even be bought from slot machines. I would, in particular, recommend a wide commercial distribution of condoms for a number of reasons. In the first place, they are easy to use, have no proven adverse side effects or complications, and are quite

9. One pharmacist gave as the reason why he controls them that he may explain to customers, where necessary, their proper use.

effective contraceptives.¹⁰ This view seems to be shared by the general public in Lesotho because in the Lesotho Distance Teaching Centre sample survey, 100 per cent of those interviewed who use or had ever used condoms indicated their belief that a woman cannot become pregnant if the man uses a condom during sexual intercourse.¹¹ Furthermore, apart from being contraceptives, they help to prevent the spread of sexually-transmitted diseases.

3. Manufacture and Importation of Contraceptives.

There is no law which directly prohibits or restricts the manufacture of any type of contraceptive. However, under Section 7 of Industrial Licensing Act No. 10 of 1969, there is a general requirement that all manufacturers in the country be in possession of a licence granted by the Industrial Licence Board to manufacture any product for sale to the public. At the moment there are no contraceptives manufactured in Lesotho and all have to be imported. For those sold on a commercial basis, the Republic of South Africa is the biggest source, but the bulk of those dispensed from hospitals and by the Lesotho Family Planning Association are mainly donated and naturally the source depends on the donor.

4. Import Duties and Restrictions.

Lesotho, Botswana, Swaziland and the Republic of South Africa are parties to a customs union agreement. Under this agreement, goods manufactured by any one member country are imported duty free into the other member countries. With respect to goods imported

10. See "Birth Control" by Ernest Havemann (Published in 1967 by Time Incorporated, N.Y.) at pp. 58-59. Condoms are rated more effective contraceptives than chemical barriers, the withdrawal method and the rhythm method.

11. op. cit. at p. 24 (compare 84% for the pill and 79% for IUD).

from elsewhere, a uniform customs duty is charged.¹² For instance, at the time of writing, a tariff of 20 per cent is charged on all imported oral contraceptives and 50 per cent on the sheath contraceptive.¹³ On top of that, a 12½ per cent import surcharge is made on all imported goods. The duty charged on oral contraceptives corresponds with that charged on other pharmaceutical products. But that charged on the sheath appears to be quite excessive.

It is submitted that these duties are anomalous and in no way reflect the Lesotho Government's policy towards importation of any of these goods. The decision in regard to what duty to charge is almost invariably dictated by the big partner, the South African Republic, which is probably motivated purely by the desire to protect its local industries.

The Lesotho Family Planning Association and all government and missionary hospitals are exempted from paying import duty upon any type of goods imported for use in their activities.¹⁴ This means that the contraceptives donated to them are duty free.

There is no law which specifically prohibits importation of any type of contraceptive, but under the Customs and Excise Order, No. 14 of 1970, there is a general power to restrict importation of certain types of goods. Under Section 113 (1) (f) the Minister of Commerce and Industry is given power to prohibit the importation of goods

12. Customs Union Agreement, 1968.

13. Schedule 4 of the Customs Union Agreement.

14. Section 4 (4), (5), of the Customs Union Agreement.

which are "indecent, obscene or any ground objectionable except for educational research with the Minister's specific permission."

Whether any particular goods fall under these provisions or not is for the Minister to decide and his decision is final. Arguably, the Minister might, pursuant to those powers, restrict or prohibit importation of any type of contraceptive, but this seems rather improbable.

5. Provision of Family Planning Services.

Most people who use contraceptives do not buy them from the pharmacies but from the Lesotho Family Planning Association (LFPA), government hospitals and clinics (whether government, missionary or private). The LFPA is by far the leading body engaged in the dispensing of contraceptives. It is a voluntary, charitable, non-governmental institution supported by other international charitable bodies, in particular the International Planned Parenthood Federation (IPPF). These organizations provide it with funds and equipment to carry out its services.

The LFPA was established in 1967. It was the brain-child of a Mr. and Mrs. Robinson who had come to Lesotho from Britain to spend their last days of retirement. What mainly motivated them to start this organization was their observation of widespread malnutrition and the deterioration in the mother's health due to producing too many children without proper spacing. ¹⁵

15. See "History of LFPA", paper read by Mrs. Mkorosi on the occasion to celebrate the LFPA's 10th anniversary on 2/12/1978.

According to the LFPA constitution, its objectives are inter alia -

- (a) To provide a family planning service which takes account of the religious and moral views of the people concerned so that they may avail themselves of this service; and
- (b) To make known and provide facilities for family planning so that interested adults, who wish to do so, may space their families, and thus increase their happiness and means to give them a reasonable chance in life.

The Association has had some reasonable success in achieving its objectives and continues to do so. Whereas by the end of 1968 they had only 305 family planning acceptors, this number had grown to 4 264 acceptors ten years later. The table below indicates the position as it was by the end of June 1978.¹⁶

	<u>New Acceptors</u>	<u>Continuing Acceptors</u>	<u>TOTAL</u>
Pill	592	1487	2079
Injectable	428	564	992
Condom	64	532	596
I U D	183	330	513
Others	56	28	84
TOTAL	1323	2941	4264

The Association has a clinic in each of the 10 districts of the country and recently opened three branch offices in the mountain area to further improve and expand its services to the people.

However, as might be expected because of the sensitivity of the association's activities, its history has not been without incident. In March 1970, shortly after its registration, the Association was banned by the then Minister of Health, and its founders, Mr. and Mrs. Robinson, were immediately deported.¹⁷

16. LFPA six-monthly Progressive Services Report.

17. Mkorosi, supra.

The reasons for this drastic action are not very clear but they were obviously political, as a state of emergency had just been declared during the aftermath of the abortive election. A year later, the government consented to its re-establishment provided "the Ministry of Health or government would not at any time be called upon to ratify or answer any matter relating to the Association's activities." ¹⁸

The government's subsequent attitude towards the Association came to be popularly known as 'benevolent tolerance'. Since that time it has generally flourished under such tolerance. Recently, however, its life was again threatened. A lady member of the National Assembly, Chieftainess Mathanabe Matela, tabled a private motion to ban the Association. The motion read:

"That this Honourable House urges the Government to consider prohibiting all operations of the LFPA in the country because they have caused an unfortunate state of affairs whereby they do not only reduce the birth rate through their use of drugs but also prevent the increase of the population of this country in the very same manner as did the Egyptians to the Israelites." ¹⁹

The supporters of the motion accused the LFPA of a number of things. It was accused of being an agent of foreign culture bent on the destruction of the Basotho Nation so that they could take it over. Others accused it of acting contrary to God's word who is said to have told the people to go and multiply till they are proportionate to the sand of the sea or hair strands. ²⁰

18. Mokorosi, supra.

19. Friday, 16 June 1978.

20. Per Hon. Lelimo (Unofficial translation by Mr. Masemene).

Yet others contended that Lesotho is a very sparsely populated country and therefore there is no need for birth control or child spacing. Lastly, it was allowed that apart from the fact that the pills provided by the LFPA had serious side-effects, they encouraged promiscuity amongst young girls and wives of miners whose husbands are away in the Republic of South Africa.

Such criticisms are not necessarily surprising. They have been advanced elsewhere in different contexts. They are mainly based on a misconception of what the LFPA stands for and does. Others are based on a misunderstanding of elementary economic principles, using only numbers to determine whether a country is over-populated or not, irrespective of the available resources. But even if it were true that this country is under-populated, the planners should not wait for that state of affairs to arise and then start thinking about how to control the problem.

Some of the criticisms mentioned may indeed be valid. For instance, the pill may have some bad side-effects on some people; and use of contraceptives may encourage promiscuity amongst some women. But we have to weigh these disadvantages with the advantages and decide which one outweighs the other.

At all events the motion was defeated by a vote of 33 against with 16 in favour and 5 abstentions. It was significant that, although the Government did not come out with any specific policy statement on the motion, all the Cabinet Ministers who contributed to the debate opposed the motion.

6. Services of the LFPA.

The Association's staff nurses examine applicants for the services on payment of a nominal fee of 30 cents and contraceptive devices are also sold at nominal prices. For instance pills are sold at 30 cents a packet and condoms are sold 3 for 30 cents (compared with pharmacies where prices for pills range from R1.50 to R2.97 a packet, and for condoms from 25 cents to R1.05 for three depending on the brand).

Although it is not expressly so provided in the LFPA's Constitution, their services are restricted in practice to married women who are coming with their husbands' consent. Unmarried women must similarly have parental consent. This means that a large section of the population who might want their services are excluded. It is submitted this restriction is unrealistic because it is now common knowledge that pre-marital sexual intercourse is very prevalent in Lesotho as in many other countries. Refusal to supply contraceptive services will not stop or deter it. On the contrary the consequences may be very serious both for the individuals concerned and for the nation.²¹

The LFPA should make its services available to all persons over the age of 18 irrespective of marital status or other considerations apart from strictly medical grounds. This is particularly important because LFPA is the main body which is mainly engaged in providing these services.

It is also questionable whether family planning activities should be largely left in the hands of a private body like LFPA without direct government control. In view of the importance of family

21. See infra at p. 24 : recommendation of the Population Symposium.

planning to population growth, it is recommended that LFPA should either be incorporated in one of the government ministries (preferably the Ministry of Health) so that the government has a direct control over its activities; or, if it is to remain as a private body, that the government should be represented on its General Committee to provide a direct link and closer co-operation between them.

7. Other Bodies Providing Family Planning Services.

A number of hospitals, both government and missionary, combine their maternal and child health care programmes with family planning. This is the result of a Project undertaken by the University of California, Santa Cruz, in 1972. The project demonstrated the advantages of combining child health care and family planning which in fact are inseparable. Other hospitals, though providing some patients with contraceptives, do it more as a medicine for the cure of ailments than for birth control per se. The latter cases are normally referred directly to the LFPA. ²²

B. EDUCATION

22. At the moment, the Bureau of Statistics, in conjunction with the World Fertility Survey Organization, is in the process of analysing results of a field survey conducted between May and November 1977 to determine inter alia the number of contraceptive users in the country and knowledge of contraceptive methods.

B. EDUCATION.

The value of education in a nation's socio-economic and political development is almost universally accepted as a matter of first priority which may be "consciously manipulated to suit the circumstances of a particular country."²³ In this country, education is not free and is not compulsory. However, the country reportedly has one of the highest literacy rates in black Africa. Estimates made range from 47.5 per cent to 85 per cent depending on the maker's definition of literacy.²⁴ But in all those estimates, the female literacy rate has been put higher than that of the male. In the 1966 census report, the male literacy rate was put at 32 per cent whereas the female was 56.1 per cent. This is a very unusual situation compared with other African states where it is normally the reverse. Lesotho's position is mainly attributed to the migratory labour system whereby most males are destined for the South African mines and thus less emphasis is put on their education. The herding of cattle by young boys also delays their entrance to schools and renders their attendance there rather intermittent.

The country's education system is closely linked with the missionaries, namely the Roman Catholic Church (RC), the Lesotho Evangelical Church (LEC), the Anglican Church of Lesotho (ACL), and the Adventist Mission Church (AMC).

23. J.C. Williams: Lesotho: Three Manpower Problems: Education, Health and Population, at p. 2.

24. J. C. Williams, op. cit., at p. 22. The 1966 Census report put literacy at 47.5 per cent, defining literacy as the successful completion of four years at school. The 1976 census report estimates have not yet been released.

The tables below indicate the numbers of primary and secondary schools operated by the Churches and Government and the respective percentages. 25

Number of Primary Schools & Governing Body

<u>Governing Body</u>	<u>Number of Schools</u>	<u>% of Total</u>
L E C	426	39.15
R C	440	40.44
A C L	151	13.88
A M E	10	0.92
Govt & Community	16	1.47
Other Missions	45	4.14
TOTAL	1088	100

Number of Secondary Schools - Governing Body

<u>Governing Body</u>	<u>Number of Schools</u>	<u>% of Total</u>
L E C	16	26.23
R C	29	47.54
A C L	4	6.56
A M E	-	-
Govt & Community	8	13.11
Other Missions	4	6.56
TOTAL	61	100

From these figures we gather that the missionaries own approximately 98.5 per cent of the primary schools and 87 per cent of the secondary schools.

25. "Education Statistics, 1977", published by the Bureau of Statistics. N.B. In January 1979, the Government has approved the opening of 31 new Secondary Schools, not appearing in the above table. See, MACHOCHONONO Newspaper, 3 Ilakola, 1979, Vol. V, No. 228, p. 2.

Although there is this independent and private ownership, all schools come under the general umbrella of the Ministry of Education. Education in all schools and colleges has to be in accordance with the syllabuses issued by the Permanent Secretary of the Ministry of Education, after consultation with a syllabus committee.²⁶ This enables the government to control the standards of schools and to determine what ought to be taught in the interest of the Nation. But, since the churches are the owners of most of these schools, they obviously are very influential in this matter. This was recently reflected in a statement issued by the representatives of all the church schools wherein they reminded the government that:

"At the moment the schools belong to the churches. If the government wishes to effect some changes it has to arrange with the Churches for talks and should not undermine the Churches by subsequently bringing a division between the Church and the Nation."²⁷

This statement cannot be taken lightly. The churches have control of the schools and therefore any reforms that may be desired in the schools syllabi must have their blessing. Otherwise there could be a "head-on collision" between church and government.

26. Section 4 (2) of the Education Order, No. 32 of 1971.

27. Statement entitled "Baruti ba re ha ba ikamahanye" ("Ministers of Religion dissociate themselves") *** Unofficial translation by Mr. L. Maema *** This statement was issued after an Education Conference held in May, 1978, attended by teachers and other educationists. Later the Minister of Education issued a statement denying the Ministers of Religion's allegations and declared the government's willingness to discuss any matters which do not satisfy them (See, Lesotho Weekly of 27/5/1978).

There is one university in the country owned by the Lesotho Government. According to the 1978-79 records, the University has an enrollment of 847 students, slightly over 650 of whom are Basotho. Until recently, education for Basotho students at the University was free. But with effect from the 1977/78 academic year all new Basotho students sponsored by the government are granted bursaries in the form of a loan. These loans are repayable in monthly instalments over a period of five years with effect from the end of the first month of employment. 28

In addition to the University, there are other institutions of further education such as the National Teachers Training College, and a number of technical and vocational institutions. The University's Institute of Extra Mural Studies (IEMS) also conducts part-time Certificate and Diploma in Business Studies courses, and recently embarked on a part-time degree course.

1. Relevance of Education to Population Growth.

Education in general plays a significant role in influencing the overall population growth of a country. Research which has been conducted elsewhere indicates that a lower fertility rate correlates with the education a person has received. Usually the higher the education a person has received, the greater the tendency and desire to have a small manageable family, whereas the uneducated opt for larger ones. In Lesotho, such a tendency has also been detected as indicated in the table below. 29

28. Loan Bursary Fund Regulations, Legal Notice No. 20 of 1978.

29. "Attitude to Family Planning in Lesotho", p. 18.

<u>Age</u>	<u>Ideal no. of children</u>	<u>No Education</u>	<u>Standard 5/6</u>	<u>Std. 7 +</u>
20-39	1 to 4	24%	48%	56%
	5 or 6	30%	27%	33%
	7 +	8%	6%	0
	Don't know	38%	19%	11%

A number of reasons may be given for this difference, including the following -

(a) Educated parents are more likely to avail their children of medical facilities, for example, vaccines, nutritive feeding, etc., all of which are necessary for their healthy growth. This is likely to reduce infant and child mortality and hence their confidence of the child's survival. The uneducated on the other hand may still be haunted by the fear of infant and child mortality, thus a tendency to produce as many as possible and wait for fate to take its course.

(b) Parents with education tend to aspire to even greater education for their children. They realize that, to satisfy this desire, they should have a small family which they could manage to provide with the necessary educational facilities.

(c) A woman's chance of getting a good job is greatly enhanced the more education she has. The desire to keep this job may effectively compete with the desire to raise and maintain a big family.

Education may also have other practical effects on population growth. For instance, most people usually marry or produce children after school. Thus, the longer a person stays in school the more likely is this to delay the age of marriage. This, for girls, means a reduction in child-bearing years. But perhaps the most important effect of education is, the more educated the members of

a community are, the easier it is to inform them in particular about birth control through the mass media and printed materials. Reading on one's own the available literature usually enlightens the reader and puts him in a better position to make an informed personal decision.

Although it is not here suggested that education necessarily leads to all or any of the above effects, it is submitted that at least it increases their likelihood. And the more education a person has the greater the likelihood. But in view of the country's limited economic resources, it seems best to aim at a basic education (with a practical orientation) for as many people as possible rather than a highly academic education for the very few. This is already reflected in the Education Order, No. 32 of 1971, one of whose objectives and purposes is expressed as follows -

" to ensure that as soon as circumstances permit every child shall be provided with opportunities and facilities to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner, and in conditions of freedom and dignity."³⁰

As a first step towards this objective, we may add our support to the recommendation already made by the Population Symposium that free and compulsory primary education be introduced at the earliest opportunity.³¹

30. See Section 3 (a) of the Education Order.

31. Report on the National Population Symposium, at P. 13.

2. Sex Education and Information.

With many people, irrespective of their education or status, when one talks about sex education or information, they assume it is the teaching of love-making. But even if this were true, it would only be a very small part of a very wide and comprehensive subject. In fact, the subject is so wide that it is up to whoever formulates it to map out its content and scope. The topics to be covered would range from instruction about the human sex organs and their roles; health, especially with respect to sex-transmitted diseases; family planning or birth control, etc. The object of all this is to prepare young people for their future roles as mothers and fathers and also as responsible citizens. Adults, in particular those who never had such an education when they were young also need it for their own good and that of the country.

In traditional Basotho society, what we may term sex education in a narrow sense was not unknown. The Basotho, as with many other African societies, had so-called "initiation schools" for both boys and girls.³² In these schools the elders taught the young people, inter alia, accepted moral standards of behaviour, their respective roles as husbands and wives, girls' menstruation, and so on. The object of those schools was to initiate them into adulthood. A person who had been to an initiation school was thereafter regarded as an adult.

32. Also known as "circumcision schools", because circumcision took place in these schools.

These schools still exist today but their number and importance is rapidly dwindling. The reasons are not difficult to find. As with other traditional African beliefs and practices the influence of the churches has led many people to regard such things as works of the devil.³³ Urbanization and education are other factors responsible for the collapse of these traditional institutions. Many people, especially the old, lament the death of those schools. One can sympathize with such people, because these schools had a lot to teach the young in preparing them for their future roles. The question now is whether there has been any replacement for this role.

3. Formal and Informal Sex Education.

Sex education is not formally offered in any school in Lesotho. Indeed many teachers and education officials regard the idea with abhorrence, a common argument being that such education would encourage promiscuity amongst the young.³⁴ Some post-school institutions, however, have in their syllabi topics which cover certain aspects of sex education. For instance, the National Teachers Training College, the Agricultural College, and the Nurses Training Centre, teach family planning in some of their courses.

On the informal side, a number of bodies and persons are involved in the teaching of sex education to the public. Amongst these is

33. In one case, Maqaba v Masita, J.C. 384/1947 it was held to be illegal to put an initiation school near a church.

34. Some schools occasionally invite officials from LFPA or the Education Unit of the Ministry of Health to give informal lectures to their students. Other schools have informal discussions with the students.

the LFPA, the Education Unit of the Ministry of Health, and the Maternal and Child Health Care sections of various hospitals. These bodies in conjunction with the Lesotho Distance Teaching Centre issue and distribute sex educational pamphlets, organize public lectures, converse in people's homes, use the mass media, etc. The object of all these is to inform and increase the awareness of people about the different aspects of sex education, in particular family planning. At the moment it is not possible to make a reliable assessment of the success of these campaigns, though it is hoped that in the not too distant future, the results of surveys by the Bureau of Statistics and the Lesotho Distance Teaching Centre will be published which should give us a fuller picture of the situation. 35

4. Legal Control of Advertisement, Printing and Publication.

There is no law which specifically prohibits or restricts the advertisement or publication of sex education materials. But, generally, under the Printing and Publishing Act, No. 10 of 1967, it is an offence to import, print, publish, sell, distribute or reproduce any statement which is "a clear and present danger to morality." Exactly what constitutes this is for the courts to decide. It is submitted that the words used in the statement are not per se conclusive of the issue and that regard must be had to the object of the publisher. There is a tremendous difference between publication of such magazines as 'Playboy' and publication of LFPA's pamphlets. The latter are strictly intended to be informative and educative and are not for amusement or entertainment

35. See footnote 22.

with 'juicy' stories or pictures. These statutory provisions should not therefore be regarded as a serious constraint upon the educational activities of the LFPA, the Education Unit of the Ministry of Health, etc.

The government has however, at least on one occasion, ordered the confiscation and destruction of one of the LFPA's educational pamphlets on the ground that it was immoral.³⁶ This pamphlet, written in Sesotho, was directed towards men informing them how they could control births by using condoms and explaining away some of the myths associated with them. Curiously, the government only ordered the destruction of the Sesotho pamphlet and not of its English version, which is still in circulation.

5. Conclusion on Sex Education and Information.

We believe all persons are entitled to know about birth control and its advantages and disadvantages, if any, so that they can make an informed and responsible decision with respect to the sizes of their families. Also, since the government has set itself a target in its Second Five-Year Development Plan of reducing the growth rate by 0.2 per cent there is a need to actively motivate people to practice birth control. In view of this the following suggestions are put forward to assist in the achievement of these goals: -

36. "Thabo o khutlela hae" (= 'Thabo returns home'). The pamphlet depicted a miner, worried about the number of children he had, returning home from work in South Africa.

(a) The government should encourage the activities of such bodies as LFPA in their endeavours to educate the public in these matters.

(b) Sex education which incorporates inter alia family planning, should be introduced at an early stage in the school curriculum with the content of the course depending on the stage the pupils have reached. The argument that children might be spoilt at an early age is outweighed by the risks consequent on not informing them until it is too late. This same view appears to have popular support because the delegates to the National Population Symposium made a similar recommendation. They stated -

"Noting the further fact of today's life that extramarital sex is now very prevalent even among the nation's youth in spite of our moral codes and cultural norms, it was recommended that sex education should be given to the children by the family, the church, and the state (through the schools) at an appropriate stage of the child's development." 37

It is submitted that this reflects a realistic and sensible approach to the problem.

Introducing this education in schools has a number of advantages. These include the following -

(i) It will offer the children a guided study as opposed to misinformation and myths they are likely to pick up from unreliable sources to satisfy their curiosity;

(ii) Schools offer a centralized place affording a useful propaganda springboard for creating future citizens who will be responsible both to themselves and to their Nation.

37. Report of the National Symposium, p. 48.

(iii) the traditional teaching institutions which offered some valuable guidelines to adulthood are collapsing. There is a need to replace these decaying institutions. Many parents are unwilling to talk to their children about sex, or even if they are willing, they may not themselves have sufficient knowledge to be of much use.

The churches, as noted above, have also a very important role to play. Religion in this country has quite a powerful influence over a large section of the population, in particular members of the Roman Catholic Church. Church officials should be encouraged to assist in this campaign to reduce the growth of population. It is no secret that even within the Catholic Church there are many high-ranking priests who do not share the views on contraceptives expressed in the papal Encyclical Humanae Vitae.



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