



## Convention on the Rights of the Child

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### COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

#### SUMMARY RECORD OF THE 1173rd MEETING (Chamber A)

Held at the Palais Wilson, Geneva,  
on Monday, 18 September 2006, at 10 a.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Swaziland (CRC/C/SWZ/1; CRC/C/SWZ/Q/1 and Add.1)

1. At the invitation of the Chairperson, Ms. Jabu Dlamini, Ms. Nomathemba Dlamini, Mr. Masuku, Mr. Mazibuko, Mr. Maziya, Ms. Mkhwanazi and Mr. Ntshangase (Swaziland) took places at the Committee table.
2. Ms. Nomathemba DLAMINI (Swaziland) said that the preparation of Swaziland's initial report had involved the participation of the Government, non-governmental organizations (NGOs), community-based organizations, United Nations specialized agencies and children.
3. The current HIV/AIDS pandemic was one of the greatest challenges her country had ever faced. According to the 2004 sentinel surveillance report, the HIV prevalence rate among women attending antenatal care clinics was 42.6 per cent. The pandemic was having a devastating effect on children, and the number of orphans and vulnerable children was currently estimated at 70,000 and expected to reach 120,000 by 2010. The high level of poverty was a major problem: according to current statistics some 69 per cent of the population was living below the poverty line. Children were the most affected, and their rights were greatly compromised economically, legally and socially by such conditions.
4. Notwithstanding those challenges, the Government was fully committed to implementing the Convention. In the past five years, it had given priority to the reduction and ultimate elimination of child vulnerability. In line with its policy of "putting children first" and "children are our future", the Government had commissioned the drafting of the Poverty Reduction Strategy and Action Plan, which highlighted the urgent need to break the poverty cycle by addressing priority needs for orphans and vulnerable children. To that end, in 2002 the Social Protection of Vulnerable Children including Orphans project had been prepared, and the Government had mandated the Ministry of Health and Social Welfare to establish the Children's Coordination Unit to implement it. The project followed a holistic, rights-based approach in order to ensure access to education, health care, food security and nutrition, community care, legal protection and the prevention of abuse. The Government had adopted the National Plan of Action for Orphans and Vulnerable Children for 2006-2010, which had been developed through an extensive consultation process and had taken into consideration the participation of children and their views. In response to the growing number of orphans and vulnerable children, initiatives that included neighbourhood care points and child protectors in schools had also been launched at the community level.
5. In July 2005, the Government had adopted the new Constitution, which contained a bill of rights. The Bill of Rights guaranteed the protection and promotion of the fundamental rights and freedoms of individuals on the basis of equality. The Constitution also addressed most of the children's rights issues not previously covered in the country's legal framework. In particular, the status of illegitimacy had been abolished. Pursuant to the Constitution, the Government would shortly be establishing a human rights commission.

6. The Constitution guaranteed free education for all children, at least up to the end of primary level. Since 2003, the Government had been providing grants to orphans and vulnerable children, and had supported 65,548 children in 2005. In 2005, the Ministry of Education had completed the Universal Primary Education Plan, which involved the provision of primary school textbooks and school meals in Lubombo and Shiselweni regions.

7. Among the various reforms being undertaken to bring Swaziland's legislation into line with the Constitution and the various international legal instruments to which it was a party, the Marriage Act had been amended to raise the age of marriage to 18, and the Criminal Procedure and Evidence Act had been amended to establish children's courts. The Government, in cooperation with its partners, had embarked on a project to develop comprehensive draft legislation on children and sexual offences as well as domestic violence. A children's policy was also before the Cabinet, and it was hoped that the policy would be adopted before the end of the year.

8. In recognition of the growing number of children with disabilities, the Government had ordered a national survey of all forms of disabilities. In order to reduce child mortality, the Ministry of Health and Social Welfare had developed a strategy to provide every child in the country with a basic child survival package, which included immunization for all under-fives, vitamin A supplementation, regular deworming, provision of insecticide-treated bed nets in malaria-endemic areas, and prevention of mother-to-child transmission of HIV/AIDS. Swaziland had been certified as a polio-free country. The recently opened Children's Clinical Centre of Excellence provided treatment, care and support for HIV- and AIDS-infected children and their families, and was actively involved in preventing mother-to-child transmission.

9. The Government was aware of the need to strengthen its information systems and to improve and build capacity in the area of collecting and analysing statistical data and publishing the results.

10. The decentralization policy adopted in 2005 would allow for the involvement of traditional structures and institutions, communities, NGOs, civil society and youth to ensure the protection, promotion and implementation of children's rights.

11. Ms. ORTIZ (Country Rapporteur) said that the Committee regretted the long delay in the preparation of the State party's initial report, which had been due in 1997. She welcomed the fact that the report had been prepared on the basis of consultations with governmental and non-governmental bodies and that the reporting guidelines had been followed.

12. She commended the positive developments that had taken place in Swaziland, including the adoption of the Constitution in 2005; the establishment of children's courts; the adoption of the National HIV and AIDS Policy and the Second National Strategic and Action Plan 2006-2008; investment in education, which made up 26 per cent of the general budget; the breastfeeding policy, which had resulted in increased numbers of breastfed newborns; the ratification of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the adoption of the National Plan of Action for Orphans and Vulnerable Children and the Children's Policy.

13. The new Constitution did not clarify what happened when there was a conflict between traditional law and general legislation. That could give rise to problems, primarily with regard to the definition of the child, the age of marriage, sexual consent, alternative care, abuse, and children in conflict with the law.

14. While she commended the high number of studies conducted on the situation of children, she wondered how the Government made use of them. The Committee was surprised at the lack of some very important information, such as the current infant mortality rate and data on malnutrition; early pregnancies; adolescents with sexually transmitted diseases; the number of international adoptions; children in care; children belonging to minorities; drug, tobacco and alcohol abuse; and AIDS orphans living in the extended family, in institutions or as heads of household.

15. She requested information on the situation of children born out of wedlock; the possibility of mothers passing on their nationality to the child; and paternal authority and inheritance.

16. It was regrettable that the Constitution allowed moderate corporal punishment. Moreover, it appeared that a number of articles of the Convention were not addressed in the Constitution. For example, there did not appear to be a definition of the child, and she wondered whether that definition was contained elsewhere in national legislation.

17. She wished to know whether the Child Coordination Unit was the institution responsible for coordinating implementation of the Convention and whether it had the necessary human and financial resources and political authority to function properly. In addition, she would welcome further information on the role of the Ministry of Regional Development and Youth Affairs, and the domestic violence, child protection and sexual offences unit established within the police. She also requested additional information on the National Plan of Action, particularly its priorities. The delegation should indicate which government and civil society bodies would implement the Plan, and whether the necessary resources were available.

18. The definition of the child was strongly linked to the high rates of HIV/AIDS. Although legislation referred to 21 as the age of majority, in traditional practice, the age of majority appeared to be based on puberty; that was worrying, since physical development was not always accompanied by simultaneous mental development. Another cause for concern was the high rate of marriages between children between the ages of 10 and 19 and the culture of polygamous unions involving very young women.

19. Ms. LEE asked what the mandate, composition and budget of the Child Coordination Unit were. She wished to know what measures had been taken to bring national legislation into line with the Convention. Although the concept of “illegitimate” had been removed from the Constitution, she was concerned that that discriminatory term was used throughout the initial report.

20. Mr. KOTRANE asked what role NGOs had played in the preparation of the report, and who had taken overall responsibility for the report. He wished to know whether the Government intended to ratify the two optional protocols to the Convention in the near future. He requested additional information on the status of the Convention in domestic legislation. He asked what steps had been taken to coordinate measures taken by different bodies to implement the Convention.
21. He would be interested in learning who a child or parent could address in the case of a violation of a child's rights by the authorities. Given the lack of a definition of the child, it was unclear whether children under the age of 15 had the right to work. He wished to know the minimum age for marriage.
22. Mr. KRAPPMANN asked what measures would be taken to ensure that children enjoyed the right to be heard and participate in decisions affecting them at home, at school and in the community. In particular, it would be useful to know whether the Government planned to establish a children's parliament, set up children's forums in every community and reform the student council system in schools to give children greater influence.
23. Ms. AL-THANI asked how widespread corporal punishment was in the home, schools and the penal system. She enquired whether parents and teachers would receive training in non-violent forms of discipline.
24. Mr. SIDDIQUI asked what problems accounted for the inadequacy of the data collection system. The delegation should indicate which body was responsible for collecting data on children and how it coordinated its activities with other relevant bodies. He wished to know whether the State party had sought international assistance in order to improve its data collection.
25. He asked whether any detailed studies had been conducted on the impact of customary laws and practices on children's rights, and whether any attempt had been made to reduce the negative effects of those laws and practices.
26. It would be useful to learn of any transparent analysis of national budget spending on children, particularly on education and health care. The delegation should explain why most policies and legislative instruments aimed at improving children's rights were still in draft form.
27. Ms. OUEDRAOGO asked what complaint mechanisms were available to victims of discriminatory practices in access to education. She enquired what measures the Government was taking to change the attitudes that had resulted in those practices.
28. She wished to know what measures were being taken to harmonize legislation on birth registration with the provisions of the Convention, particularly regarding the child's right to a name at birth and the right to keep that name. The delegation should indicate whether the Government planned to eliminate discrimination against illegitimate children and introduce the right for a child to know his or her father's identity. It was unclear whether all children had the right to inherit their mothers' nationality, and whether illegitimate children had the right to their fathers' nationality. She would be interested in learning whether the children of people born on or after 6 September 1968 who had remained stateless were also stateless. She asked whether the requirement that birth certificates should state the parents' marital status discouraged some

people from registering their children. She wished to know whether children of Swazi mothers had the right to take their fathers' names. The reporting State should explain whether the registration mechanisms had been improved and whether the relevant legislation had been amended to facilitate registration and eliminate all discrimination in that regard.

29. Additional information should be provided on the remedies available to children who had been excluded from schools on the grounds of religious belief. The delegation should explain what measures were being taken to ensure the application of the provision forbidding places of education from enforcing their religious beliefs on children without their or their guardians' consent.

30. She requested further details on how the State party protected children from harmful information, particularly in television programmes and films. Updated information on the establishment of a media council would be useful. She asked whether the State party's two daily newspapers published information on the rights of the child. The delegation should indicate whether steps would be taken to increase the number of libraries in schools and communities.

31. She wished to know whether children were informed of their right to complain if parents and teachers inflicted corporal punishment, and whether children had access to centres at which they could report or discuss such concerns. She asked whether the toll-free hotline for children was still operating and, if so, why it was not available 24 hours a day. She wondered whether children in rural areas had access to the hotline and whether the responses to those calls were monitored.

32. The CHAIRPERSON asked how children benefited from the State party's poverty reduction strategy. He wished to know how the National Plan of Action for Orphans and Vulnerable Children and the Social Protection of Vulnerable Children including Orphans project were related, and which government body was responsible for implementing them.

33. He asked how the universal primary education plan was financed and what role international development assistance played in the State party, particularly in financing the education action plan for 2006-2010.

34. He wished to know how the Government planned to simplify the birth registration system and increase awareness of the importance of birth registration at the local level. That was of particular concern given that a 2004 study had found that only 27 per cent of births had been registered.

The meeting was suspended at 11.10 a.m. and resumed at 11.35 a.m.

35. Ms. Nomathemba DLAMINI (Swaziland) said that the Government had prepared the initial report in consultation with many stakeholders from the private sector, NGOs, local communities, United Nations agencies and other organizations. The delay in submitting the report had resulted from a protracted consultation process. The Government had learned from that experience and would strive to submit its reports on time in future.

36. The main reason for poor data collection had been the lack of experience and of resources. With the support of its development partners, Swaziland had made efforts to build capacity and strengthen the central statistics unit. Data collection was improving, and priority was being given to the establishment of a complete health profile.

37. Ms. MKHWANAZI (Swaziland) said that, while the Constitution did not provide clear guidelines on the minimum age for marriage, the age of sexual consent or children in conflict with the law, a body of case law had established useful precedents. Under the Swazi judicial system, common law and statute law took precedence over customary practices and principles. Anyone who was not satisfied with a decision from a court that applied customary law could appeal to a higher court that applied common law.

38. The children's bill was the main legislative instrument concerning children and covered such issues as the definition of the child. The Government expected to adopt the bill by the end of 2007. The bill would amend most of the provisions of existing legislation that were in conflict with the Convention and, together with several other instruments, would incorporate the Convention into Swaziland's domestic law. The Government was also preparing legislation on the issue of nationality in order to eliminate discrimination. The concept of illegitimacy had been outlawed.

39. Mr. MASUKU (Swaziland) said that the Government expected to ratify the two optional protocols to the Convention by March 2007. According to the Constitution, an international convention did not automatically become part of domestic law when it was ratified. It had to be enacted into law by Parliament before it could be invoked in the courts.

40. On the question of child labour, he said that children aged 15 or over were allowed to work for four hours a day outside school hours. In rural areas, where the majority lived below the poverty line, it was common for young people to work the full amount permitted.

41. With regard to the difference between the Social Protection of Vulnerable Children including Orphans project and the National Plan of Action for Orphans and Vulnerable Children, he said that the former focused on basic children's issues, such as the right to food, protection, education and participation, whereas the latter was a specific project concerned with education, health and related issues. The Government was responsible for the Plan of Action and for mobilizing the necessary resources.

42. Under the new Constitution, children had the right to participate and they could express their views in assemblies and clubs. Arrangements were being made to establish a children's parliament which, it was hoped, would be in place by the 2008 general election.

43. Ms. ORTIZ asked what kind of professional staff would be employed in the Child Coordinating Unit, how the Unit would work with other agencies and what resources it would have to implement the Plan of Action.

44. Mr. MAZIYA (Swaziland) said that the definition of a child had been discussed at various forums and there had been general agreement that the age-limit should be set at 18, which was in line with international standards.

45. The Child Coordinating Unit would be responsible for overseeing all activities relating to children, whether organized by the Government or NGOs, in order to ensure that such activities met all international standards and to avoid duplication. The Coordination Unit would also prepare the national budget; E 10 million had been allocated for the current financial year. The Unit would have a staff of about 10.

46. The CHAIRPERSON said that the Child Coordinating Unit's mandate was very ambitious, and it must ensure that it had sufficient powers to ensure that government departments and NGOs cooperated with it.

47. Ms. Nomathemba DLAMINI (Swaziland) said that the Child Coordinating Unit, which would be semi-autonomous, would be able to expedite work emanating from government departments and NGOs. The Unit also hoped to engage a psychologist to work with vulnerable children and orphans.

48. Mr. SIDDIQUI asked what role the chiefdoms would have in implementing the National Plan of Action and whether they could overrule local government bodies and NGOs.

49. Mr. KRAPPMANN said that, while the establishment of a children's parliament would be a significant step forward, children should be represented not only at national level but also in schools, residential homes and in the home. The agenda of school councils did not include the topics most important to children, such as the curriculum, learning methods, and disciplinary measures. He asked what plans there were to extend children's participation to all institutions.

50. Ms. ORTIZ said that the Child Coordinating Unit should not be taking direct action but delegating responsibility to other organizations. The Unit's mandate was not clear in that regard.

51. Ms. Nomathemba DLAMINI (Swaziland) said that the Coordinating Unit for Children would first identify the issues affecting children across the country and act as a centre for ideas. It would not act on its own behalf but would coordinate activities by others. Once the relevant issues had been prioritized, it would be easy to establish the appropriate budget.

52. Ms. Jabu DLAMINI (Swaziland) said that, thanks to Swaziland's decentralization policy, social structures had been revived in the vast majority of chiefdoms, where young people could discuss issues that affected them. Chiefs submitted quarterly reports on the implementation of the National Plan of Action.

53. With regard to the registration of births, the figure of 27 per cent did not apply nationwide. It related to a pilot exercise conducted in 2005, in which 17,000 children in 55 centres had been registered. The campaign would be extended in 2006, and information was being disseminated on the importance of registration and on the procedure for registration. Training workshops involving the local leadership had been conducted and members of Parliament had conducted awareness-raising campaigns in their constituencies.

54. Corporal punishment was still practised, despite the wide dissemination of research showing the danger that it posed for children. Public opinion was beginning to accept the idea that alternative forms of discipline should be found, particularly where orphans and other vulnerable children were concerned, and one NGO was campaigning for change.

55. Although the hotline for children operated only during working hours, it was hoped that it could be developed into a 24-hour service. All complaints were received and processed. Cases of abuse were reported to the police, and cases of neglect to the Department of Social Welfare. Where no telephone lines existed, community councils were available for children in distress. Some teachers were trained counsellors and acted as child protectors. Parents could petition the local chief for assistance in protecting their children. Most police stations had a child protection unit, with an officer specifically assigned to deal with children's issues.

56. Discrimination based on religion had been entirely eliminated. Any child was free to attend any school.

57. Ms. OUEDRAOGO asked whether children who did not go to school could use the hotline, which she understood to be under the management of the Ministry of Education. While she welcomed the progress that had been made in birth registration, she was concerned that the registration procedure was too complicated. She asked whether there were any plans to simplify that procedure in order to encourage the systematic and automatic registration of births.

58. Ms. Jabu DLAMINI (Swaziland) said the Government was working with community leaders to increase school enrolment and completion rates. With regard to birth registration, she said that pamphlets in the local language had been widely distributed; the pamphlets stressed the need to register births, particularly during the first two weeks after birth, when registration was free, and explained the registration procedure. Swaziland's international partners had provided assistance in simplifying the birth registration procedure: the fee had been waived, Ministry of Justice officials came to local communities and schools so that parents did not have to travel to urban centres, and non-biological parents with the proper documentation were allowed to register the children in their care.

59. Ms. Nomathemba DLAMINI (Swaziland) said that Swaziland's international partners were providing much-needed support in measures to combat HIV/AIDS. Her Government had increased its spending in that regard, and antiretroviral drugs were currently provided free of charge to HIV/AIDS patients.

60. The Government was trying to strike a better balance between funding for primary and tertiary education. In 2003, government education grants had been provided to more than 65,000 children, including orphans and other vulnerable groups. Measures to improve primary education were being implemented; for example, textbooks were provided free of charge.

61. Ms. ORTIZ (Country Rapporteur) asked what role traditional leaders and community caregivers could play in the Government's new programmes. She was concerned that, owing to widespread poverty, communities did not have the resources to meet the economic and psychosocial needs of families, orphans and grandparents who had to care for their grandchildren.

62. She requested information on the State party's efforts to implement programmes at the local level to strengthen the family unit, assist homeless children, and address the issue of religious discrimination against children. Additional information would be welcome on governmental and non-governmental bodies, including coordinating bodies, that could be considered part of the child protection network. She wished to know what efforts were being made to improve health-care services, particularly with regard to HIV/AIDS.

63. Mr. KOTRANE expressed concern that most children who had been separated from their parents were placed in institutions rather than with foster families. He requested data on the situation of refugee children, particularly in urban centres, where they were often employed in the informal sector. He wished to know the status of the draft refugee bill. He wondered how the State party intended to address the fact that there were no legal provisions for the rehabilitation or integration of children involved in armed conflict.

64. He requested additional information on customary community justice for children, where parents of children between the ages of 7 and 14 years could be charged and fined for offences committed by their children. He asked whether the State party intended to prohibit corporal punishment, provide appropriate detention facilities for young offenders and establish a juvenile justice system with specialized tribunals and judges.

65. Ms. ANDERSON enquired whether the State party planned to allocate additional resources to meet the needs of children, since it was necessary to train more social workers, increase funding for the social and correctional services and focus on the most vulnerable groups, such as child and women heads of household. She requested information on the number of cases in which the perpetrators of child abuse or domestic violence had been prosecuted and on the outcome of those cases. She asked why the Government was reluctant to allow women prisoners to keep their children with them in prison.

66. Ms. AL-THANI requested information on any measures the State party envisaged to improve access to health care, particularly in rural and isolated areas, increase immunization rates; and improve nutritional levels, especially by providing vitamin A, iodine and iron supplements. Greater efforts must be made to reverse the rate of sexually transmitted diseases and reduce the number of teen pregnancies. She enquired whether any programmes were in place or planned to provide psychological care for children living with the stresses of HIV/AIDS, violence, poverty or substance abuse.

67. She requested confirmation that antiretroviral drugs were currently provided free of charge, including to pregnant women. In that connection, she asked whether counselling and testing services were also free. While she welcomed the State party's focus on awareness-raising with regard to sexual and reproductive health issues, she stressed that adequate services, such as access to contraceptives and treatment, were also essential. She would welcome additional information on measures taken by the State party to improve access to clean water and sanitation for the population.

68. Mr. KRAPPMANN enquired whether the State party would consider making at least primary education compulsory, although he wondered whether the education system would have the resources necessary to accommodate the large influx of additional pupils. He expressed concern that, although most children started school, only 20 per cent finished primary school and

only 10 per cent finished secondary school. He requested additional information on regional differences in education rates, the enrolment and success rates for girls, vocational training opportunities for young dropouts, and youth unemployment.

69. He commended the State party for its efforts to improve the quality of education and asked whether gender bias was being eliminated from the curriculum and whether human rights were being taught in the schools. He enquired whether the State party intended to develop a State-financed preschool system to supplement the handful of private facilities available.

70. Mr. SIDDIQUI said that he was surprised that, despite Swaziland's relatively high per capita gross national product (GNP), 70 per cent of the population lived in poverty. He asked whether domestic resource mobilization policies were anti-poor and pro-rich.

71. Ms. LEE stressed the need to promote the concept of the best interests of the child. She wondered how that concept could be reconciled with such situations as arranged marriages for girls, requiring a girl to bear a child for a barren relative, or allowing a woman with no children or no male child to be given a child or male child from within the family.

72. She requested information on any policies, existing or planned, relating to children with disabilities, including definitions of what constituted a disability, and measures to meet such children's educational needs and assist their families. Referring to the statistics on promotion, repetition, dropout and survival rates contained in the written replies, she enquired how the sudden drops and increases in certain grades and forms could be explained. She also asked whether children's right to play was respected and whether children of all ages, both rural and urban, had access to recreational facilities.

73. Ms. OUEDRAOGO urged the State party to implement special measures to protect the interests of children separated from their parents and to ensure follow-up and monitoring of their situation. She requested information on the current status of the drug abuse bill and the medicines and related substances control bill. She wondered whether the Government was taking any measures to care for, rehabilitate and reintegrate child drug abusers and reduce the use of cannabis in particular. With regard to children and armed conflict, she welcomed the State party's mine clearance efforts along the border with Mozambique and asked what programmes were under way or planned to raise young people's awareness of the danger posed by landmines.

74. The CHAIRPERSON asked why the total number of youth crime suspects had dropped from over 7,000 in 2003 to under 4,500 in 2005 and what had happened to the thousands of suspects who had never been prosecuted. He noted that, in 2005, only 297 of the 823 youth suspects sentenced to imprisonment had been placed in a juvenile detention centre, and he requested statistics on the current situation. He asked how large a fine a child might be sentenced to pay and whether the child was the one who actually paid the fine.

The meeting rose at 1.05 p.m.