

UNIVERSAL PERIODIC REVIEW

ESWATINI, MARCH 2021

CHILDREN AND YOUTH Civil Society Report

SUBMITTING ORGANISATIONS:

World Vision Eswatini
SOS Children's Villages Eswatini
Save the Children Eswatini



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Submission of Children’s Consortium Eswatini
For the Universal Periodic Review
39th session, October-November 2021

1 Introduction

- I. SOS Children’s Villages Eswatini, World Vision and Save the Children, for purposes of this reporting known as the Coalition, present this submission concerning the rights of the child in Eswatini for consideration by the UPR Working Group at its 39th session (October-November 2021).
- II. SOS Children’s Villages Eswatini is a member of SOS Children’s Villages International, which has around 136 member countries. The organization is committed to the welfare of children and youth and to strengthening families and communities as a preventive measure in the fight against abandonment and social neglect. This is achieved through building families for children in need, in order to help them shape their own futures and share in the development of their communities.
- III. World Vision Eswatini World Vision started operating in Eswatini in 1992 focusing mainly on emergency relief after the devastating drought that hit Eswatini. In 1996 the focus shifted from relief to disaster mitigation, rehabilitation, and transformational development. Initially, WVE used the community development project (CDP) approach and later changed to the Area Programme (AP) approach to ensure greater impact and sustainability of community based development interventions. Through the APs in recent years, WVE interventions have addressed problems on food insecurity (mainly through agriculture), Water shortages, education, HIV and AIDS, health, infrastructure development, and economic development, in the process changing lives for the poor. WVE work has been concentrated in the regions chronically affected by drought and poverty, the Lubombo and Shiselweni regions respectively, but has continued to maintain operations in the poor spots of Manzini and Hhohho regions as well.

Cross cutting areas like Advocacy, child protection and Gender is mainstreamed in all the technical programmes to deliver high quality and sustainable development initiatives to the communities in Eswatini. WVE ensures a development approach that is child focused, community based, and sustainable, wherein children, their families, and communities move towards fullness of life with dignity, justice, peace and hope. WVE strives to be the main go to organisation when it comes to child protection and protecting the rights of children in Eswatini. WVE has key partnerships with a plethora of stakeholders who work on children issues in the country, including but not limited to, UN Agencies, NGOS, Government ministries/ departments and the private sector. Working in 18 APs in the poorest regions of the country, WVE is well placed to be a key player in reversing the tide of sexual violence against children in the country. WVE is a member Coordinating Assembly for Non-Governmental organizations and was one of the organizations that contributed to

the establishment of the Children Consortium (which is a network of organizations working on child protection issues in Eswatini). A key champion of Children rights, WVE Eswatini has been a major advocate for policy change and has contributed to the enactment of the Children Protection and Welfare Act (2012) and the Sexual Offenses and Domestic Violence Act 2018.

- IV. Save the Children Eswatini is children's rights organization established on the premise and vision that sees an environment in which every child attains the right to survival, protection, development and participation. We strive to inspire breakthroughs in the way the world treats children, and to achieve immediate and lasting change in their lives. We are a member of Save the Children globally. Our work is inspired by values such as children grow up in a safe family environment free from harm, caused by violence, exploitation, abuse or neglect. In humanitarian crisis the organization strives to ensure that separated and unaccompanied children are provided with adequate family tracing and repatriation services, and children at risk receive support.
- V. This report is based on the evaluation of the commitments made by the Government of Eswatini to implement recommendations accepted during its previous UPR. This report has been jointly prepared by Eswatini Civil Society Organizations (CSOs) working on the promotion and protection of children's rights or related aspects. The CSOs concerned form part of the Children's Consortium under the Coordinating Assembly of NGOs (CANGO). The data and information obtained for this submission came after a number of consultative meetings and through interview questionnaires from the consortium member organizations. However, the Coalition acknowledges the absence of updated data on the issues articulated below, and accordingly draws the attention of UN Member States to this limitation. The report addresses the following issues of concern:
 - a) Family environment and alternative care
 - b) Education
 - c) Corporal Punishment
 - d) Violence against children

2 Family environment and alternative care

- I. Eswatini accepted a number of recommendations from the previous UPR Cycle on improving the human rights situation for children in the country. The Coalition is aware of the commitment made by the state regarding the recommendation from Sudan¹ which was calling for the strengthening of programs to operationalize the National Children's Policy of 2009. However, the coalition laments that the recommendation remains unattended by the state. For example, the state has not given due attention to the National Children's Policy of 2009 which long expired and there are no visible attempts to renew the children's agenda. Furthermore, the National Action Plan for children expired in 2015, and to date there is no plan

¹Recommendation 107.9, Sudan(A/HRC/33/14 - Para. 107)

replacing that one. It is also worth noting that the long-awaited Regulations to the Children's Protection and Welfare Act have not seen the light of day. The Coalition welcomes the progress made by the government towards the development of the National Guidelines on kinship care and Foster Care and reviewing the National Guidelines on Alternative Care.

- II. Although Eswatini supported and accepted a number of recommendations relating to the protection and welfare of children through policy development and review, this coalition regrets to note that very few steps have been taken by the government to implement the commitments it made at the last UPR.
- III. Available statistics indicate that nearly half of the children (45 per cent²) in Eswatini are considered to be orphans or vulnerable children (OVCs), largely due to the high mortality rates among young parents due to AIDS. Moreover, at least 10%-15% of Swazi families today are child headed. There is a lack of information regarding children in institutional placements. In 2013, close to 1,525 children were placed in one of forty-four institutions managed by the Social Welfare Department³. Many of these institutions have limited supervision and monitoring, and children often face increased risks of developmental delay along with various forms of abuse, violence and neglect. The COVID-19 pandemic has worsened the economic and social situation in Eswatini resulting in the inability of the existing community structures to take care of orphaned and vulnerable children.
- IV. The Coalition notes with concern the lack of comprehensive disaggregated data on children's rights and protection issues. In particular, the country lacks comprehensive disaggregated data on orphaned and vulnerable children, children placed in institutional settings and foster care, children in informal family (kinship) care, domestic and inter-country adoption⁴. As per the 2018 Eswatini Child's Rights Barometer Report, it has been noted that no steps have been undertaken by the Department of Social Welfare (DSW) to document children who have been separated from their families. This department has neither licensing nor quality assurance standards that children separated from their families are regularly monitored and progress tracked.
- V. In addition, the UN Guidelines for the Alternative Care of Children⁵ emphasise the importance of a family or community in the life of a child. The family and the community are fundamental and neutral environment for the growth of a child. The state needs to ensure that a child is not unnecessarily removed from their family or place of origin. Currently, Eswatini lacks a national gatekeeping and reintegration framework that can be used to prevent family separation as well as supporting the child and the family during the reintegration process. The lack of the gatekeeping and reintegration framework perpetuates the placement of children in unsuitable care options that do not meet the needs of an individual child.

² UNICEF Eswatini. 2013. Update of Situation of Children and Women in Eswatini.

³ Ibid.

⁴ Ibid.

⁵ UN General Assembly, Guidelines for the Alternative Care of Children, 24 February 2010, A/RES/64/142.

3 Education

- I. The Coalition notes with acknowledgement that the government accepted the recommendation on “Eliminating factors preventing boys and girls from enjoying secondary school education and reduce the dropout of school rate.”
- II. The Coalition further notes with dissatisfaction the sharp increase in numbers of teenage pregnancy in particular following the closure of schools in the advent of the Covid 19 pandemic. According to the SEPARC 2018⁶ study a trend Analysis of the total enrolment reveals that, 52,814 pupils dropped out of school in the past seven years which 18.1% dropped out due to pregnancy issues. According to the 2018⁷ UNICEF Report, a number of socio-cultural problems prevent children from attending school in Eswatini. These include a low demand for education in certain households, norms surrounding child labour and teenage pregnancy, high HIV infection rates and violence against children. Although all of these problems often co-exist with poverty, they are not economic barriers to school attendance.
- III. Teenage pregnancy is a serious issue affecting school participation in Eswatini, constituting the most common reason for dropout among girls from Grade 7, and one of the top reasons among girls from as early as Grade 5. The Ministry of Education and Training 2015 Report⁸, notes the high dropout as a result of pregnancy and regards that as indicative of a need for more attention to this in the life skills curriculum.) A random survey carried out by the Deputy Prime Minister’s Office found out that an estimated number of 261 teenage girls fell pregnant during the COVID-19 lockdown. (November 2020).
- IV. Regarding re-entry of teenage mothers into education, the Education and Training Sector Policy (2018) states that “every child, irrespective of their life circumstances (teenage mothers, children in conflict with the law) has the right to be re-integrated into the same institution that the child was previously attending.” Despite the national adoption of this policy, Simelane et al. 2013⁹ report that not all schools embrace the re-entry policy to the same extent, with some schools adopting exclusionary stances toward the re-admission of teenage mothers. Other Reports explain that much of the opposition to the official policy comes from teachers, and that in many cases, teachers were not even aware of the existence of the policy on re-entry of teenage mothers.
- V. The Coalition acknowledges the positive administrative measures by Government in 2020 by re-enforcing the Sector-Policy to ensure that school administrators allow all learners who have fallen pregnant back to class for exams.
- VI. The Coalition acknowledges with appreciation the non-expulsion of learners due to non-payment of school fees. In this way the barriers to accessing education for both boys and girls have been reduced. A random survey carried out by the Deputy Prime Minister’s Office found out that 261 teenage girls fell pregnant during the COVID-19

⁶ SEPARC 2018 Study on Teenage Pregnancies in Eswatini

⁷2018 UNICEF Report on Out of School Children in Eswatini

(<https://www.unicef.org/eswatini/media/356/file/UNICEF-Swaziland-OOSC-Study-2018.pdf>)

⁸ Eswatini, Ministry of Education and Training. 2015a. The Eswatini Education For All Review Report, 2000-2015. Report to UNESCO. Mbabane.

⁹ Report by: Simelane, Q.G.S.N., Thwala, S.K. & Mamba, T. 2013. An assessment of the implementation of the re-entry policy for girls in Swaziland: school practices and implications.

lockdown.

3.1 Birth Registration

- I. Birth Registration in Eswatini is compulsory and there is a legal provision for registering births of children within a prescribed period. The completeness of birth registration has improved from 13.2 percent in 2017 to 25.9 percent in 2018 and the 2017 Population and Housing Census results show that about 43% of the children under 5 years of age had birth certificates in the year 2017.¹⁰The reasons for low number of registration are: The direct and indirect costs of the services; the fact that the services are often inaccessible in the countryside; that parents don't know how to register the child, or they don't have PIN/ID themselves; that parents often do not see the benefits of their own citizenship; and that nationality only passes through the father. Where registration facilities are difficult to access or have costs attached, parents may be reluctant to register their children. One obstacle that remains standing is birth registration which hinders children to access free primary education. The unique identification of children by personal identification numbers hinders those who have not registered at Home Affairs thus rendering them not to benefit. It can help facilitate access to essential services, such as health, education, and social welfare and can contribute to activities such as gaining formal employment.

4 Corporal Punishment

- I. Eswatini still embraces corporal punishment in all settings. According to Section 29(2) of the Constitution "a child shall not be subjected to abuse or torture or other cruel, inhumane or degrading treatment or punishment, subject to lawful and moderate chastisement for purposes of correction." The subject of administration of discipline for children was also assessed by the UN human rights monitoring mechanisms. During the previous UPR process, Montenegro¹¹ among other states recommended that Eswatini prohibits corporal punishment in all settings. This recommendation was accepted. However, Eswatini responded that corporal punishment was banned in the country's educational facilities, but it is still allowed within the home environment.
- II. This Coalition notes with disappointment that while the Education Sector Policy of 2018 discourages corporal punishment in the school thus promoting positive discipline, the same cannot be said about the home setting. The Education Act No. 9 of 1982 retains the subsidiary Education Rules of 1977 also permits corporal punishment of boys and girls which is the reason why some teachers and principals still insist on whipping children. This is in spite of efforts made by Civil Society Organisations to build capacity of educators on positive discipline. Very few schools estimated to be around 14 are documented to have banned corporal punishment in the school setting.

¹⁰ ANNUAL VITAL STATISTICS REPORT JANUARY 2018 – DECEMBER 2018 ESWATINI

¹¹ UPR Recommendation 109.58

5 Violence Against Children

- I. Violence against children is prevalent in Eswatini. According to the National study on drivers of violence affecting children in Eswatini¹², (2016) the most prevalent forms of violence against children include: violent discipline which includes both physical punishment and psychological aggression (88%), sexual violence (38%), bullying (32%), physical violence from an adult/carer or other authority figure (31%) and emotional violence (28.5%). Nearly three-quarters of children experience routine violence in the form of violent discipline and 1 in every 3 children experience some form of severe violence (including sexual violence). Experiencing one type of violence puts children at an increased risk for experiencing other types of violence.
- II. The lack of sufficient and reliable disaggregated data on violence against children contributes to the inability of Government and stakeholders to make informed decisions on program and policy development to prevent future violence and abuse. The dearth of information about the problem also contributes to a lack of services and support systems for victims of violence. While the country has comprehensive legislations relevant to violence and children, the challenge is the non-effective implementation of the legislations and the lack of political will to prioritize issues affecting children in the country.

6 Recommendations

The Coalition recommends the Government of Eswatini to:

- I. Finalise and endorse the National Guidelines on Kinship and Foster Care and the National Quality Service Standards on Foster care and allocate necessary resources for their implementation.
- II. Speed up the process of aligning the National Alternative Care Guidelines with the UN Guidelines for the Alternative Care of Children to set clear standards for alternative care, support for care providers to meet these standards, ensure a comprehensive mechanism of complaints and periodic review of the care placement for all children placed in any alternative care setting.
- III. Provide disaggregated data by age, gender and all other relevant aspects, including disability of the children concerned, and make publicly available information regarding children in alternative care placements.
- IV. Strengthen the authorization, supervision and monitoring of all alternative care settings, particularly to address abuse and neglect of children in alternative care placements.
- V. Conduct a study to assess the situation of children placed in institutions, including their living conditions, the services provided, the duration of their stay,

¹² National study on drivers of violence against children in Eswatini, (2016)

- and the actions taken to find an appropriate family environment, duly resourced and monitored, as well as take appropriate measures to implement the findings.
- VI. Fast-track the development of the National Policy and Guidelines on Learner Pregnancy Prevention and Support.
 - VII. Take adequate measures to strengthened Civil Registration Systems.
 - VIII. Review and harmonize the Birth, Marriage and Deaths Registration Act with the Children’s Protection and Welfare Act.
 - IX. Ban corporal punishment in all settings by amending Section 29 (2) of the Constitution.
 - X. Review the Education Act and outlaw corporal punishment in schools.
 - XI. Expedite the adoption of Regulations to the Sexual Offences and Domestic Violence Act, Children’s Protection and Welfare Act and the Disability Act.
 - XII. Increase budget allocation for improved services to prevent and respond to Violence against children.
 - XIII. Formalize the community child protection committees to strengthen reporting and referral of cases.

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