



Convention on the Rights of the Child

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Committee on the Rights of the Child

Combined second to fourth periodic reports submitted by Eswatini under article 44 of the Convention, due in 2011^{*}, ^{**}

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Abbreviations and acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
CPWA	Children’s Protection and Welfare Act of 2012
CPWA	National Children’s Protection and Welfare Act, 2012
CRC	Convention on the Rights of the Child
CSTL	Care and Support for Teaching and Learning
DPMO	Deputy Prime Minister’s Office
DSW	Department of Social Welfare
DCS	Domestic Violence and Children Protection Unit
ECCE	Early childhood care and education
ECD	Early Childhood Development
ECCD	Early Childhood Care and Development
EPI	Expanded Programme of Immunisation
ESSP	Education Sector Strategic Plan
FPE	Free Primary Education
GBV	Gender based violence
GDP	Gross Domestic Product
GoS	Government of Swaziland
IMCI	Integrated management of childhood illnesses
IEC	Information, Education and Communication
LL	Lihlombe Lekukhalela
MoET	Ministry of Education and Training
MOH	Ministry of Health
MPS	SADC defined Minimum Package of Services for children
NCCU	National Children’s Coordination Unit
NCSD	National Children Services Department (within DPMO)
NCPs	Neighbourhood Care Points
NDMA	National Disaster Management Agency
NER	Net enrolment ratio
NERCHA	National Emergency Response Council on HIV and AIDS
NETIP	National Education and Training Improvement Programme
NPA	National Plan of Action
NMCDP	National Master Children Development Plan
NSDVACS	National Study on the Drivers of Violence against Children in Swaziland 2016
PRSAP	Poverty Reduction Strategy and Action Programme
PPP	Public Private Partnerships
PWD	Persons with Disability Bill of 2015
SADC	Southern African Development Community

SELDS	Swaziland Early Learning and Development Standards
SWAGAA	Swaziland Action Group against Abuse
SCCOM	Swaziland Communication Commission
SODVB	Sexual Offences and Domestic Violence Bill
SWASA	Swaziland Standards Authority
TVETSD	Technical and Vocational Education and Training and Skills Development
UNICEF	United Nations Children's Fund
YHP	Young Heroes Programme

Introduction

1. The Government of Swaziland (GoS) is pleased to submit its combined 2nd, 3rd, 4th and 5th periodic reports on measures taken in terms of the Convention on the Rights of the Child (CRC). The report provides an overview of the measures taken by the State Party to respect, protect and promote the rights of children since its last Core report in 2006, up to 2017. The report also provides an indication of the measures taken to address the Concluding Observations of the Committee on the CRC.
2. The report is made up of two sections. The first is the narrative part which is organised into sections aligned to the “clusters” of rights established by the Committee for reporting purposes. The second part provides available statistical information as required by the Committee’s “Guidelines on the inclusion of statistical information”.
3. An inclusive consultative process was followed in the preparation of the report. The Deputy Prime Minister’s Office (DPMO) coordinated the collection of data from the relevant Government ministries and departments. In addition, stakeholder meetings were held in preparation of the report including civil society to share information and validated the report.

Part 1 General measures of implementation

1.1 Ratification of treaties and optional protocols

4. Swaziland ratified the CRC in September 1995.
5. The GoS further ratified the following international and regional treaties in 2012:
 - (a) The Optional Protocols on the Involvement of Children in Armed Conflict, and the Sale of Children, Child Prostitution, and Child Pornography in 2012;
 - (b) The African Charter on the Rights and Welfare of the Child (ACRWC);
 - (c) The International Labour Organisation’s (ILO) Convention 138 on Minimum Age;
 - (d) The ILO’s Convention 182 on the Elimination of the Worst Forms of Child labour;
 - (e) The Palermo Protocol on Trafficking in Person;
 - (f) The Hague Convention on Inter-Country Adoptions.
6. Swaziland is a member of the Southern African Development Community (SADC) and has committed to strengthening the protective framework for children in the region in terms of the following charters and programmes:
 - (a) The SADC Protocol on Gender and Development;
 - (b) The Maseru Declaration on HIV and AIDS;
 - (c) SADC’s Strategic Framework and Programme of Action for Comprehensive Care and Support for Orphans, Vulnerable Children and Youth;
 - (d) SADC Policy Framework and Programme of Care and Support for Teaching and Learning.

1.2 Review and domestication of laws and practices

7. The Constitution of Swaziland¹ provides that, International agreements become binding when enacted into law by Parliament. The Children's Protection and Welfare Act² (CPWA, 2012) domesticated the provisions of most of the above stated International Conventions on the Rights of Children. The CRC, the ACRWC and other treaties have been referenced and used by the courts to determine the rights of children.³

8. Since the submission of the last periodic report, significant progress has been made in strengthening the legal and supporting administrative framework for the realisation and protection of children's rights. This has been achieved through a process of review, repeal, and adoption of laws to comply with the CRC, ACRWC and related treaties. The GoS has addressed Concluding observation 8 calling for the adoption of key children's rights policies and laws. It has adopted and enacted into law the National Children's Policy (2009) and the CPWA. A number of sectors have been revised to comply with the overarching national policy and law. The holistic systematic nature of the reform process substantially improved the country's compliance with its responsibilities to children, as evidenced by Swaziland's improved ranking between 2008 and 2013 on the African Child Policy Forum's Child Friendliness Index from number 51 to number 21.⁴

9. The Sexual Offences and Domestic Violence Bill (SODV) and the Persons with Disabilities (PWD) Bill of 2015, are currently being finalised in Parliament. In addition, the regulations to the CPWA are yet to be finalised and adopted. A number of sectors are engaged in an on-going process of review of their laws, as well as developing procedures to ensure their compliance with the National Children's Policy and CPWA.

1.3 Measures to promote positive and discourage customs inconsistent with CRC

10. Swaziland has a dual legal system with two distinct court systems: traditional courts (known as Swazi National Courts) and common law courts. The court system includes the Supreme Court, a High Court, and specialised Courts, Subordinate and Swazi courts or tribunals exercising a judicial function.⁵

11. Traditionally, the family plays a key role in the resolution of disputes and is important for mediating and settling conflicts.⁶

12. The GoS has sought to align of customary law and international child rights through the Constitutional and legislative regulation of customary law. It has done this by embedding and making protective and positive customary laws part of the child rights statutory framework. Both the Constitution and the CPWA recognise the validity of customary law, subject however to the laws being consistent with the Constitution.⁷ The CPWA recognises and protects the rights of children to refuse harmful cultural and religious practices.⁸

¹ Act 01 of 2005, section 238 (4).

² Act 06 of 2012.

³ Examples of criminal matters: *Masinga v Director of Public Prosecutions and Others*, High Court Case no 21/07 [2011] SZHC 58 Judgment Date: 29 April 2011; *R V Mndzebele*, Case No: 213/2007 [2009] SZHC 247 Judgment Date: 25 Nov 2009, Civil matters: *Swaziland National Ex-Miners Workers Association and Another V the Minister of Education and Others*, Case No: 335/09 [2009] SZHC 104 Judgment date: 16 March 2009, Matters on appeal: *Masinga v Rex*, Supreme Court Case no: 09/2011 [2012] SZHC 60 Judgment Date: 30 November 2012.

⁴ African Child Policy Forum. 2013. *The African Report on Child Wellbeing*. Addis Abbaba.

⁵ International Commission of Jurists. <http://www.icj.org/cijlcountryprofiles/swaziland/swaziland-introduction/swaziland-court-structure/>.

⁶ Child Rights International Network (CRIN). 2015. Access to justice for children in Swaziland. crin.org/sites/default/files/swazialnd_access_to_justice_-_updated_sep_2015.pdf.

⁷ Section 252.

⁸ Section 15.

13. Positive customary practices that protect children rights are, promoted, recognised, respected through the CPWA.⁹ Similarly, the CPWA embeds traditional dispute resolution mechanisms into the child justice system. The CPWA recognises and formalises Umphakatsi Child Justice Committees, comprised of the Chief and community members in rural areas, which are responsible for all restorative justice processes involving children in conflict with the law. The Act promotes the use of restorative justice for child offenders including family group conference and victim-offender mediation which are based on traditional structures.

1.4 National strategy and planning for children

14. The most systemic challenge the GoS has experienced in furthering compliance with CRC is the delay due to adequate resources to support the design and implementation of sectoral policies, National Children Governance strategies, National laws and regulations aligned to the Constitution and the CPWA. This has weakened the full adoption of the provisions of the CPWA, supporting regulations and the delayed the realization of effective holistic National coordination mechanisms to support the roll out of country-wide, multi-sectoral National Master Children Development Plans (NMCDP).

15. A comprehensive National Plan of Action for Children (NPA) for the period 2011–2015 was developed to support government-wide planning and evaluation as measured against national child rights priorities. It replaced and strengthened the previous plan of action of 2006–2011 which only catered for orphans and other children made vulnerable by HIV and AIDS. The revised NPA thus tries to address the concerns raised by the Committee in concluding observations 11 and 12.

16. The NMCDP will be a government led long term strategic development plan.

17. A defunct National Children's Coordination Unit (NCCU) was established within the DPMO's office. It was a representative body made up of members from responsible ministries and civil society. The coordination structure and function has since been strengthened and systematised into government operations through the establishment of National Children Services Department (NCS) within the DPMO to replace the NCCU. In so doing, the GoS has responded to concluding observations 9 and 10 calling for the strengthening of the child rights coordination structure. However, there is dire need to strengthen governance systems, Research inclined skills, coordinated planning and delivery of meaningful solutions that are alive on resiliency, and sustainability. The high end skill-set and experience requirements demanded herein, especially on the need to constantly research, in line with the complex dynamic multi-sectorial social challenges, demand competent staff.

18. The functions of the NCS will amongst others include:

(a) To coordinate all stakeholders on children issues and constantly research best practices influencing multi-sectoral interventions for children;

(b) Coordinate the development of a National Master Children Development Plan (NMCDP), its advocacy, and ensure adequate resource mobilization to support capacity for all children stakeholders;

(c) Revising the NPA and developing regulations and supporting the coordinated alignment of sectorial policies and laws with the CPWA and CRC;

(d) Monitoring of progress in the implementation of the CPWA, as well as the CRC and ACRWC, and coordinating the development of regular State party reports;

(e) Follow-up on concluding observations published by the CRC and ACRWC committees and ensure that the needs and rights of all children are adequately met;

(f) Facilitating cooperation and collaboration between government and civil society in the implementation and monitoring of the State's responsibilities;

⁹ Section 32–36.

(g) Monitor and evaluate standards, integrity and continuous development of all children programs delivered by all national children stakeholders, ensuring that all multi-stakeholders share data on a national multi-sectoral reporting platform.

19. The national child rights policies and coordination mechanisms make provision for the systematic representation and participation of civil society organisations in the planning, implementation and monitoring of children's rights. Thus, concluding observations 21 and 22 encouraging the systematic engagement of civil society in promoting children's rights have been addressed.

20. The imbalance in knowledge and training exposure between CSO and Government staff culminates into performance challenges. For seamless development, due engagement of Government staff in new innovative experiences and training, especially as practiced by UNCEF STAFF, as a key partner, is imperative to influencing innovative thinking by government policy makers.

21. GoS acknowledges the imperative nature of the need to develop all professional staff working with/for children including those in rural areas especially NGO, as stewards for advancing the spirit of the Convention to all stakeholders. Resources are still required for Governance; Advocacy; Holistic Stakeholders Technical Capacity; Resource Mobilization; National Research; National Standards Development for Programs; M&E; Development of & review of the Legal landscape (including for NGO registration and engagement on children issues), etc. A SADC defined minimum package of Services approach (MPS) and guidelines needs governance/ investment strategy to effect its implementation. It entrenches values in partnerships, collaboration and delivering as one to share holistic resources. The NCSD needs support to spearhead and stimulate the implementation of these principles.

1.5 Budget allocations for implementation of the CRC

22. Current budgeting processes seek to integrate child rights programming. The budget expenditure on sectors providing services and benefits to children is used for determining the levels of the country's commitments to children, as used by the African Child Policy Forum's Child Wellbeing Index, but it is a start, more needs to be done to organize and stimulate the sharing of policies, plans, and implementation data from all stakeholders.

23. The GoS's continued commitment to children's rights and its positive response to concluding observations 15 and 16 to increase budgetary allocations for children is evidenced by the trends in the sustained increase in the budgets of the ministries responsible for programmes realising and protecting children's rights. Gos believes the MPS approach has a capacity to unlock local resources, skills and competencies to deal with this challenge.

24. The past decade was marked by a number of economic challenges, including high levels of poverty, declining revenues from the Southern African Customs Union, high inequality, severe drought, depreciating currency and concomitant increase in commodity prices, and decreasing export earnings due to sluggish local and international economy. These resulted in a decrease in Gross Domestic Product growth rates which were adjusted down from 2.5 to 1.7 percent in 2015.¹⁰ Despite these pressures, the GoS has managed to increase its budgets to, for example, from E 1.1 billion in 2012/13 to E 1.8 billion in 2015/16¹¹ and from E 2.1 billion in 2012/13 to 2.9 billion in 2015/16 in the health and Education sectors respectively. Government's investments in social assistance programmes has grown substantially in the past decade to reach 2.2 percent of GDP in 2010/11 which is higher than the 1–2 percent average of most developing countries.

25. ¹²It is observed that despite these efforts, social ills such as poverty, emergence of high HIV/AIDS risks in teenage and mature men groups, school drop-out rates, and violence are on the rise. In fact poverty rates amongst OVC, has risen to 71% (MICS, 2014).

¹⁰ Minister of Finance. 2016. Budget Speech. gov.sz/images/doc2016.pdf.

¹¹ Ministry of Finance provided data for the development of this report. 2016.

¹² The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

Technical assistance in ensuring that all children stakeholders inculcate a culture of collaborative partnership remains wanting.

26. In 2013, Swaziland was singled out in the African Report on Child Wellbeing for its sustained investments of public resources in children's programmes and was ranked 9th in the Index of Provision of Basic Needs to children.

27. In addition to sustaining increased budgetary allocations, the GoS has undertaken a number of measures to improve the efficiency and effectiveness in the use of public funds as follows:

- Staff inspections, wage bill monitoring and management;
- Roll out a government-wide Performance Management System;
- Implement the Payroll and Skills Audit recommendations;
- Implement the new Public Finance Management Law;
- Implement an Integrated Financial Management Information System;
- Strengthen budget oversight;
- Allocate more resources to the Anti-Corruption Commission;
- Strengthen the justice system.¹³

1.6 Development Aid

28. To assist in the implementation of the CRC, the GoS receives technical and financial support from a number of development partners, including the UN family, the European Union, USAID, the World Bank, World Vision, Save the Children, and others. This remains inadequate in view of the magnitude of the challenges, and can be best utilized if all national Aid is co-ordinated, harmonised to support interventions informed by a National Children Development Plan.

1.7 Human Rights Institution

29. The GoS established an independent Commission on Human Rights and Public Administration in 2009, with the secretariat put in 2015. Its responsibilities included strengthening the institutional capacity to deliver on its extensive mandate, which includes human rights, public administration and integrity.

30. In addition to its responsibilities for monitoring compliance with international human rights, it is mandated by the Constitution to receive complaints and address all violations of children's rights. The GoS has, through this measure, addressed concluding observations 13 and 14 calling for an independent body to deal with complaints against children. The Commission receives approximately two complaints regarding children per annum due to lack of capacity and resources. Plans to introduce one national free child line for reporting children issues (in line with International telecommunication Union (ITU), guidelines, have been initiated by NCSD, with the support of Police, Ministry of Education, CSO, SCCOM and the corporate sector. The modalities & suitable technological solutions and budget of the same remain a substantial challenge.

31. The Commission also plays an advocacy and monitoring role, and to this end, children's issues are mainstreamed across its operations. For example:

- (a) Children's rights are integrated in other on-going programmes;
- (b) The promotion and protection of children's rights are integrated into the annual/quarterly work plan;

¹³ Minister of Finance. 2016. Budget Speech. gov.sz/images/doc2016.pdf.

(c) Training on children's rights is conducted as part of the Commission's training on Human Rights.

1.8 Dissemination of the CRC

32. The GoS has developed and distributed information, education and communication (IEC) materials, such as posters and radio broadcasts in both official languages, on the rights, principles and provision of the CRC, in so doing has addressed concluding observations 19 and 20. For example, simplified versions of the CPWA have been developed and distributed in collaboration with civil society, but these remain limited. There is need to be spread to the wider stakeholders dealing with children issues including rural areas.

33. The receipt of information and the advancement of the rights of children, by all role players, including civil society have been strengthened through the organised participation of civil society in the NCCU, and in moving forward, through the coordination institutions to be established by the NCSD. In response to concluding observations 21 and 22, there has been consistent inclusion of civil society organisations in the various planning, drafting and validation workshops that have been held in the development of core child rights laws, such as the CPWA, and in preparation of this report.

34. The distribution, integration of information and training of government staff on the treaties and children's rights has gained impetus since the adoption of the CPWA. Government ministries and departments responsible for the implementation of the CPWA have engaged in systematic preparation and training of their staff to ensure implementation. This has served to drive systematic training on the treaties as required in terms of concluding observation 20. The following personnel have been trained on the CPWA:

- Magistrates;
- Prosecutors;
- Intermediaries;
- Social Workers;
- Police Officers;
- Teachers;
- Health personnel: but there is need to spread the provisions of the convention holistically, constantly, and more deliberately to reach the masses and infuse its principles to the masses.

35. Further details on specific sectorial training and dissemination initiatives are documented under the specific sections of this report.

1.9 Regulation of business activities

36. The GoS has introduced the Swaziland Standards Author (SWASA) in 2007 to regulate business activities to limit the potential harm some business practices may cause to children. Notable are the various laws and programmes in place governing child labour practices. These are reported on in detail in Part 9 of the report. The GoS enacted the Environmental Management Act, 2002 and the Air Pollution Control Regulations, 2010 that regulate and monitor the quality of air and prohibit the emission of harmful toxins by commercial and industrial entities. But these initiatives are all largely in their infancy. Comprehensive, effective investment to translate these into truly protective programs is a major challenge.

Part 2

Definition of the child

2.1 The age of majority

37. The GoS has, as called for by the Committee's concluding observation 24, adopted a clear definition of a child consistent with article 1 of the CRC to be any person below the age 18.

38. In 2015, the child population was less than half a million (487,662) making up 44 percent of the country's population. The child population has declined over the past decade, largely as a result of the impact of HIV and AIDS. Given the successful ARV programme in the country, child population will increase in the years to come.¹⁴ Most children (83 percent) live in rural areas. (See annexure A for further details). It is noted that the population of young people is generally decreasing in both rural and urban settings (2007–2015). This is at a faster rate at 3.5% compared to .5% in rural and urban settings, respectively. This signifies the challenge for greater supportive and protective interventions in the former, with emphasis on the girl child. At 2.3%, female's population seems to be shrinking faster, signalling to the need to target the girl child more due to her relatively higher vulnerability.

39. There is acute need to have timely targeted research to identify the root cause of the dynamic children challenges if the kingdom is to gain from preventative than curative/reactive interventions. The international community is invited to continue providing technical assistance in this regard.

2.2 The age of marriage

40. The minimum age in law is 16 for females and for males 18 years. Efforts are being made to fix the age to 18 years for both genders through the Marriages Bill as urged by the Committee in concluding observations number 23 and 24. The legal framework protecting children against marriage has been strengthened through a number of measures, notably the passing of the CPWA.¹⁵ Child marriages are outlawed in terms of the new child protection framework. The inability of the country to widen Advocacy on the provisions of the CPWA, on a consistent basis to stimulate a discussions and reflection on these issues and hence redefine values of the masses on these issues remains a challenge.

Part 3

General principles

3.1 Non-discrimination

41. The Go's has addressed the Committee's concluding observations 25, 26 and 27 requiring the revision of laws to ensure equal enjoyment of rights by all children, by enacting the CPWA and drafting the SODV Bill and Marriages Bill amongst others.

42. But more investment is needed to implement comprehensive programs across all sectors that will actually deliver value to persons with disabilities, OVC, and for marginalized groups.

43. Socio-economic circumstances produce vulnerable/orphaned Children in Swaziland. Poverty, inequality, muted economic growth and development, high HIV-prevalence and poor access to basic services intersect to create groups of vulnerable children who do not enjoy equal access to services and opportunities necessary to secure rights to equality, survival and full development.

¹⁴ Swaziland Statistical Office (CSO) and UNICEF. 2013. Swaziland Child Poverty Study.

¹⁵ Section 15.

44. Children living in poverty: Poverty levels declined from 69 to 63 per cent between 2001 and 2010. Inequality increased as evidenced by the decline in the Gini coefficient per equivalent household consumption from 51.1 percent in 2001 to 49.5 percent in 2010. Child poverty levels also fell from 74 to 70 percent in the same time period (dropping in numbers from 366,631 to 341,334), but remain higher than poverty levels among the general population, currently estimated at 71 percent in (MCIS) 2014. 53 percent of children were poor in 2010, are the majority of people living in extreme poverty at (57 percent).¹⁶ There is dire need to invest on the very poor segment of the population. Poverty often co-occurs with other forms of vulnerability to increase the depth and negative impact on children

45. Orphans and child-headed households: More than one tenth of the child population are either single or double orphans – due high levels of HIV prevalence in the country. In 2013, more than a quarter (26%) of people aged 15–49 years were HIV positive.¹⁷ Single orphans are, on average, poorer than other children. In addition, children living in child-only households, or household headed by elderly are poorer than those with non-elderly adults and children. There are very few of the former types of households, with only 2.9 percent of children living in households with elderly caregivers and 0.5 percent in child-only households.¹⁸

46. Children in rural areas: Children in rural and peri-urban areas face greater risk of poverty and vulnerability. 91 percent of the country's poor children and 96 percent of its extremely poor live in these areas. Poor access to social services such as clean water, sanitation and electricity aggravate children poverty, well-being and development. 88 percent of orphans live in rural areas.¹⁹

47. Children with disabilities: People with disabilities, including all vulnerable children, bear a disproportionate burden of poverty and inequality. Poverty, poor housing, basic services, access to information, community assets compound the vulnerability of children with disabilities. 84 percent of People with Disabilities are economically inactive and experience routine social isolation and exclusion.²⁰ The National Disability Plan of Action, 2015–2020, recognises that poverty is both a cause and consequence of disability. Children born into poverty have higher risks of developmental delays and disabilities because of poor nutrition, lack of access to health care and education.

48. The CPWA outlaws all forms of discrimination consistent with CRC. The adoption of the Act addresses concluding observation 26 (a) calling for the revision of legislation to ensure full non-discrimination. The GoS recognises that outlawing discrimination is insufficient address the de facto societal discrimination among vulnerable children noted in concluding observation 25.

49. Swaziland has recognised the vulnerability of children and has invested substantially in targeted educational, advocacy and social security safety net policies, strategies and programmes addressing the needs and risks faced by children made vulnerable by poverty, gender, geography, as well as disability and HIV and AIDS.

50. Challenges: More investment and effort should be directed towards rural infrastructural developments i.e. water and sanitation, feeding, etc., at community levels upwards. The application of the NCP, Minimum Package of Services (MPS), conditional cash transfer initiatives, coupled with Public Private Partnership (PPP), may stimulate sustainable partnerships in rural and peri-urban communities.

51. The provision of many social services to most vulnerable groups of children, have been prioritised thus addressing concluding observations 26 (b)–(d) calling for measures targeting social services for children in most vulnerable groups:

(a) Approximately 2.2 percent of the country's GDP has been invested in social protection programmes for children and their families living in poverty. These include; a

¹⁶ Swaziland Statistical Office (CSO) and UNICEF. 2013. Swaziland Child Poverty Study.

¹⁷ (Swaziland Statistical Office (CSO) and UNICEF Swaziland, 2013).

¹⁸ Swaziland Statistical Office (CSO) and UNICEF. 2013. Swaziland Child Poverty Study.

¹⁹ Swaziland Statistical Office (CSO) and UNICEF. 2013. Swaziland Child Poverty Study.

²⁰ Government of Swaziland. 2011. Swaziland Disability Profile, 2011.

range of cash transfers, in-kind transfers and community-based and social care services, and the remainder are focussed on supporting education costs for orphans and vulnerable children;²¹

(b) Educational support is provided to children through Inclusive Education, Free Primary Education (FPE), initiation of a national Early Childhood Care and Development (ECCD) policy (2017), a school nutrition programme;

(c) Children with disabilities are provided with social security, educational and health support measures;

(d) Access to education for the girl child is supported by various NGOs run programs, such as SWAAGA's girl's empowerment implemented within schools.

52. The Go's strengthened the reach and effectiveness of social protection programmes for all vulnerable children in the country. The process started with a Child Poverty Study supported by UNICEF aimed at charting an evidence-based, social protection programmes for children to reduce their levels of vulnerability.²² A national information management system which will identify and record the details of all OVC on a centralised database, thus providing coherent information base and a management tool for the delivery of services to children in need. The longer-term intention is to roll the system out for all children as the basis for planning and delivery of a universal system of social assistance, described in part 7 of the report.

3.2 The Best Interests of the Child

53. The best interests of the child is profiled as a guiding principle of the CPWA²³ addressing concluding observation number 28 and has increased levels of awareness and application of the principle in programmes and interventions. This means all subsequent sectoral policies, programmes, decisions development to further the aims to ensure that the Act advance the best interests of the child. Various training programmes for government ministries, departments and officials on the Act have included training on the above. In so doing, the GoS has addressed concluding observation 29 calling raising awareness of the meaning and practical application of the best interests of the child. Various innovations, such as the education sector's Care and Support for Teaching and Learning (CSTL) Programme, seek to give effect to the principle through the development of educational programmes that place the child at the centre of all interventions.

54. Given that these rights depend on age-appropriate support throughout the life of the child, the needed measures should cut across the full spectrum of services and programmes provided by the various sectors. These include:

(a) Health systems strengthening to improve the survival and healthy development of young children, adolescents through sexual and reproductive health services (SRHs). This includes behavior change and educational campaigns to prevent risky behaviors such as substance abuse and early sexual debut;

(b) Early childhood care and development services, including parenting support and early education programs;

(c) Addressing the risks of additionally vulnerable groups of children to survive and develop, such as children with a disability and children living in poverty;

(d) A study on the early identification of disabilities was conducted in 2017.

²¹ Swaziland Statistical Office (CSO) and UNICEF. 2013. Swaziland Child Poverty Study.

²² Swaziland Statistical Office (CSO) and UNICEF. 2013. Swaziland Child Poverty Study.

²³ Section 3 (1).

3.3 The right to life, survival and development

55. Capital punishment is not applied to children in Swaziland and no child is subjected to extra judicial killings.

56. There is little evidence that child suicide and infanticide are a significant problem in the country. Social services and outreach programmes by GoS and NGOs provide various forms of psycho-social support for parents and young people. Infanticide is dealt with criminally.

3.4 Respect for the views of the child

57. CPWA expressly recognizes the right of children to be heard and to participate in matters affecting them.²⁴ This addresses concluding observations 30 and 31. The traditional values and practices such as Liguma & Lisango, family dialogue institutions encouraged the active engagement of separate members of the family across all life issues.

Part 4 Civil rights and freedoms

4.1. Birth registration, name and nationality and preservation of identity

58. Children's rights to a name and nationality are protected by the Constitution²⁵ and CPWA.²⁶ The GoS has not made any changes to the law, as required in terms of concluding observation numbers 32 and 33 to ensure that children can derive their nationality, not only from their father, but also their mothers unless the child is born outside of marriage and is not adopted or claimed by the father. The issue will however will be reviewed during the drafting the imminent new bill on citizenship.

59. The Ministry of Home Affairs has, with the support of partners, initiated systemic innovations and programmes to improve the rate of birth registration in the country. In 2006/7, the births of less than 30 percent of children under the age of 5 years were registered. As a result of the programmes this increased to 53.5 percent in 2014.²⁷ (See annex A for further data on birth registration rates).

60. Swaziland has attempted to confront the challenges associated with registration of children in geographically marginalised areas through the initiating the decentralisation of its services. In so doing, the State party attempts to address concluding observations 34 and 35 calling for stronger measures to ensure all children born within the territory are registered. In 2006/7, less than 20 percent of young children in rural areas had a birth certificate. Decentralisation started in 2005 with the support of UNICEF. This was escalated to schools and hospitals. The hospital registration initiative also seeks to address cost barriers.

61. Despite these innovations, the rate of registration is still not at optimal levels due to:

(a) A number of parents who do not have identity documents which are required for the registration of children's births. Further, caregivers often do not see the value in getting identity documents and birth certificates;

(b) Some Parents prefer to obtain a South African citizenship and cannot then register their children as Swazi citizens because the law prohibits dual citizenship;

(c) Customary naming practices which require family consultation or naming ceremonies before they can name and register the child's birth;

²⁴ Section 3 (1).

²⁵ Section 43.

²⁶ Section 5–6.

²⁷ Swaziland Demographic and Health Survey, 2006/7 and MICS 2010 and 2014.

(d) Single mothers, without the presence and written authorisation of the father, are demotivated to register the birth only under the mother's name;

(e) High levels of OVC challenge the obtainable registration processes.

62. In mitigation, the Ministry of Home Affairs together with CSOs and development partners has developed an advocacy and communications plan. It uses multiple media platforms to raise awareness, advocate the value of identification documents, birth certificates, children's rights, parental responsibilities, the availability of mobile and outreach services.

63. Two underlying challenges limit the efficacy of the various initiatives are the persistent lack of resources and the non-alignment of the current civil registration laws and procedures with the CPWA. The Country needs a systematic review and alignment of a new Births, Marriages and Deaths Act and procedures with the CPWA.

4.2 Freedom of expression and the right to seek, receive and impart information

64. The CPWA guarantees the right of children to hold and express their views freely and have their opinions taken into account in any matter affecting them. This right is given effect through various processes and platforms availed by all children stakeholders. Platforms include:

(a) Peer groups and school-based clubs with a focus on AIDS, the environment, and other issues;

(b) Junior child protectors;

(c) Student representative structures at secondary schools such as the prefect system and the student representative councils;

(d) Education programmes such as the School Health and Population Education;

(e) Global Entrepreneurship Week in schools;

(f) Young Heroes programme supported by the National Emergency Response Council on HIV/AIDS (NERCHA) and partners;

(g) Clinic Teen Clubs supported by the Ministries of Health, Education, Youth and development partners are hosted at clinics and provide peer support and access to information;

(h) Girl Empowerment Clubs run by Swaziland Action Group Against Abuse (SWAGAA);

(i) Scouts and Girl Guides;

(j) Super Buddies Children's Clubs.

65. The GoS and its partners have also established formalised processes for engagement with children to inform the development of policies, laws and programmes that impact on their rights. For example:

(a) The annual national Children's Parliament. Representatives of children are invited to a youth parliament within the House of Assembly to debate issues faced by children and youth;

(b) Within all national dialogues, there are provisions for youth and children to engage on issues affecting them. For example, children were consulted across the country during the development of the CPWA.

66. The GoS further recognizes and advances the rights of all children to access information to make informed to advance their health, development and well-being. Particular attention is paid to making information accessible to children through the use of child-friendly formats and different media platforms. For example:

(a) Swaziland has a child-to-child radio programme – Ses’khona Magazines such as Super Buddies are conceptualized and developed by children, with the support of MoET, media and development partners;

(b) Information, Education and Communication (IEC) materials are often printed and placed in strategic places like clinics, hospitals and police stations enabling the general public and children to access information about their rights;

(c) Child commemoration events, community dialogues and the media are harnessed to convey information on services and proceedings of value to children and their families.

67. Libraries and computer laboratories facilitate access to information in communities and schools. Across the country, 337 schools have computer laboratories and 286 have libraries. These are supplemented with 4 regional libraries.²⁸

68. Various interventions have sought to improve access to information for children with disabilities. For example:

- Schools provide information to children with disabilities and their families on services and support;
- There are specialised as well as inclusive schools;
- Regional and international commemorative days celebrating the rights of people with disabilities are used to raise awareness;
- The national television broadcaster has a sign language interpreter for all its bulletins; and
- Certain key national documents have been transcribed to braille.

69. Key challenges the country faces in advancing the rights of children to freely express themselves and access information include limited resources to sustain the programmes and commonly held traditional views which limit children’s engagement in adult decisions, household and policy level decision making. The GoS engages in on-going advocacy to change these perceptions. Lack of effective use of IT/Technology for access information in public schools is another weakness that impedes the access to information to children.

70. CPWA²⁹ regulates children’s criminal and court proceedings to create protective, enabling and supportive spaces conducive to their informed participation. In the case of children in conflict with the law, the CPWA prescribes a number of procedures to ensure that the child is informed, in a manner he or she can understand, of the procedures to go through, reason for the procedures, as well as his or her rights. Further a social worker interviews the child to ensure his or her views are taken into account.

71. Challenge: A National, Regional and Community level children information exchange platform needs to be developed, where children can self-organise share ideas and use as Launchpad for children discussions. Comprehensive multi-stakeholder Technical assistance is required in this respect.

4.3 Freedom of thought, conscience, religion, association and peaceful assembly

72. The Constitution and the CPWA recognise and protect the rights of all, including children to freedom of religion, association and peaceful assembly.

²⁸ MoET. 2014. Annual Education Census Report.

²⁹ Section 37.

4.4 Protection of privacy and protection of image

73. The CPWA³⁰ protects the privacy of children. Re requires all legal proceedings in Children's Court to be held in camera. It prohibits and criminalises publication of any information or identity of a child involved in court proceedings contemplated under the Act.

4.5 Protection from harmful material

74. In terms of the Crimes Act³¹ and the Obscene Publications Act,³² it is a criminal offence to publish harmful information that is sexual in nature or designed to promote violence. The Swaziland Communication Commission (SCCOM) has been formed and tasked with monitoring all publications, and putting measures to protect children, including leading children stakeholders in the provisioning of a free international child line. The Sexual Offences and Domestic Violence Bill (SODV) also criminalise pornography of children and involving them in any marketing or trade as sexual workers or material.

Part 5 Violence against children

5.1 Abuse and neglect

75. A national study on violence against children was undertaken in 2007 to identify gaps and inform policy development. The study revealed significant progress in strengthening the child protection framework. But still there is more work to be done. A National Study on the Drivers of Violence Against Children in Swaziland (NSDVACS) of 2016, confirms that the degradation of positive norms and values, are largely due to the erosion of the family unit, as a fundamental environment of care and development of all its members. Effective children programs must be aimed at strengthening the family unit. This is a major multi-dimensional challenge for the kingdom.

76. The 2007 study confirmed that children in Swaziland, especially girls, are at a heightened risk of abuse. It showed that violence, abuse and neglect of children is a complicated and multi-faceted problem requiring prevention, behavior change, social and family support, therapeutic, health and legal services for children.

77. The State party responded to the report findings with a comprehensive multi-sectoral suite of interventions which sought to strengthen the enabling legal framework, secure the delivery of a package of preventative, supportive, and therapeutic services. The accumulative outcome of the system's strengthening initiative has attempted to address concluding observation number 44 calling for a comprehensive policy for the prevention and combat of child abuse and neglect in the family.

78. Pursuant to the study the legal framework has been strengthened for children's protection against abuse and neglect, such as, the adoption of the National Children Policy 2009, the Education Sector Policy of 2011 and CPWA. The still to be adopted SODV Bill will further entrenches the protection of children. In 2010, a review of implementations was undertaken.³³

79. The DPMO engaged in advocacy and administrative restructuring to consolidate the country's efforts to combat violence against children. The DPMO incorporated the Gender and Family Unit, The Department of Social Welfare and NCCU, previously housed in different ministries, to improve the status and power, and consolidate the work of three entities.

³⁰ Section 137 and 144.

³¹ Act – of 1889.

³² Act – of ----.

³³ UNICEF Swaziland. 2013. Swaziland's response to violence against children 2012.

80. A National Surveillance System on violence was also established for the purposes of consolidating data on cases of violence. The results yield a holistic picture of violence against children, disaggregated by age, type of offence and regional prevalence, as described in the statistical annexure to this report. Coordination of the multi-sectoral responses has been secured through a number of structures, including committees, stakeholder groups and task forces. For example, the National Abuse Network for Surveillance; the National Referral Mechanism and Guidelines Group; and the Interagency Task Force on Human Trafficking.

81. A strong community-based platform of child protection services has allowed for country-wide initiatives responding to the vulnerability of orphans and other children affected by HIV and AIDS. A cadre of capacitated community-based workers delivering programmes including child protection services has been built up over the years. Notable in this regard are the cadre of community volunteer workers known as Lihlombe Lekukhalela (LLs) and the Neighbourhood Care Points (NCPs). The LLs or Child Protectors have become a formal part of the Ministry of Tinkhundla Administration and Development's "Safety Nets for Child Protection" programme. The NCPs are placed at the centre of chiefdoms to track and provide services to OVCs. There are about 800 functional centers nationally; out of a total estimated 1500 centers originally built. This illustrates the substantial degradation of the services from the original envisaged in their conceptual design.³⁴ Urban-based "peer focal points" have been established in all 12 towns. There are gross challenges facing the support, coordination and sustainability of NCPs that now threatens their effective use as vehicles for discharging the above needed programs at community levels.

82. Advocacy and public information campaigns around violence against children have been developed and rolled out with the support of UNICEF and its partners. They target a number of the leading drivers of child violence and lack of access to child protection services, raise awareness on prevention and referrals in cases of abuse. For example:

(a) Print media is used by various departments and NGOs, including the RSP, to raise awareness of what constitutes abuse and its management. The country's newspapers support the fight against child abuse by reporting on cases and transgressions. The Swaziland Chapter of the Media Institute of South Africa provides training to the media to enable child-rights sensitive reporting. The Institute also tracks violence-related media;³⁵

(b) Rights commemorations: The GoS, working through the NCCU and its partners, has used international and regional commemorative days, such as the Day of the African Child, to maximize the reach and impact of its communications as well as mobilize community support. The NCSD has followed suit in 2017.

83. Challenges: GoS needs a holistic social protection solution, led by DPMO that will contain a comprehensive package of social safety nets for all its citizens especially its children. The NCSD, DSW, Disability, Gender and Disaster departments form the core social service services that should operate in partnership and seamless collaboration to deliver services as one. This initiative has been attempted with the support of the European Union. The NGO sector (Bantwana) has funded the DWS case Management System, while the World Bank piloted a Cash Transfer project (up to 2018) for the most vulnerable children in the four regions. One Stop Center initiative attempted to provide victims sexual abuse (with PEPFAR funding), access to justice. They are glaring gaps in the provision of special care, counseling programs and social integration. The challenge posed by the lack of a free legal aid, and free call line for children for children inhibits their effective protection. GoS needs grave assistance on how She can define an effective Social protection solution together with private sector and children stakeholders.

³⁴ UNICEF Swaziland, 2013.

³⁵ UNICEF Swaziland. 2013. Swaziland's response to violence against children 2012.

5.2 Prevention measures, including measures to prohibit and eliminate harmful practices

84. The 2007 study on violence against children recommended the implementation of evidence-based prevention strategies, adapting the best practices in neighboring African countries. Swaziland has implemented a number of the recommended interventions, including the National study on the drivers of violence (2016) and in so doing, responded to concluding observation 45(a) which calls for systematized prevention measures, including public education campaigns. These initiatives can only have effect when resources are available to implement child neglect, abuse, access to justices, health care, education etc., and demanding collaborative effort. This is a major challenge.

85. In terms of the CPWA, a child may refuse to participate in any harmful customary practice. In addition, various advocacy and behaviour change initiatives are run by NGOs and the MoET to prevent practices that influence negatively on children's rights. These include the use of corporal punishment, child labour and early child marriages.

86. The GoS has legislated prevention interventions grounded in the customary practice of communal care for children. The CPWA imposes a duty on family, community members and leaders, health care, educational and other professionals that engage with children, to report all cases of suspected abuse and neglect to the police or social workers. The Girls and Women Protection Act ³⁶ makes it a criminal offence to engage in sexual relations with a girl below 16 years of age irrespective of her consent or otherwise.

87. There are a number of toll free lines for reporting child abuse, one run by MoET and a trafficking hotline. The GoS intends strengthening its response to concluding observation 45(b) and (e) which calls for improved and accessible reporting mechanisms, by consolidating the reporting lines into one national hotline for the prevention and reporting of child abuse an initiative that will be led by SCCOM and NCSD. Government needs technical assistance on this plan.

88. A number of community mobilisation, advocacy and behaviour-change programmes have been developed and implemented with the support of government. SWAGAA runs Girls Empowerment Clubs which have moved girls from victims to active agents of prevention and change in schools. The Male Involvement Projects under the Swaziland Men Engage Network establishes boys clubs in schools and trains traditional leaders.

89. A significant challenge with prevention programmes is their limited reach, as most are run by NGOs. The government is needs to invest in a harmonised multi-sectorial research on children issues to inform targeting and justification for investing on children interventions. The MoET has, mainstreamed the provision of prevention interventions into the school system, through integration of messaging in the school curriculum, and through advocacy and behaviour-change programmes at schools nationally.

5.3 Sexual exploitation and sexual abuse

90. In addition to the suite of services provided for the prevention and treatment of abuse victims, which includes victims of sexual abuse, the GoS has criminalised sexual abuse and offenders are prosecuted under the common law, the CPWA, or the Girls and Women Protection Act, depending on the facts of the case.

91. The GoS has developed a range of measures to protect children against sexual exploitation. These include prevention and protection of children against child pornography as covered in the SODV bill.

92. The Golden Girls initiative is a mentorship program that identifies women in leadership positions to provide mentorship to girls in schools through interventions such as job shadowing, advocacy for advancing gender-specific sustainable development goals (SDGs) and gender equality.

³⁶ Act – of 1920.

5.4 Protection against torture, inhuman or degrading treatment and corporal punishment

93. The Constitution and various laws and policies of Swaziland protect children against torture, cruel or degrading treatment, including corporal punishment. Section 29(2) of the Constitution still permits “moderate chastisement” in relation to corporal punishment, which means that concluding observation number 36 has not been complied with. However, various measures have been taken in furtherance of concluding observation number 37 which calls for the legal prohibition of corporal punishment particularly in schools. The measures in question moderate the use of corporal punishment and promote the use of positive parenting and discipline. Section 14 of CPWA provides that a child should be disciplined in accordance with his age, physical, psychological, emotional, and mental condition, and that no discipline is justifiable if the child is incapable of understanding the purpose of the discipline. In addition, the Education Sector Policy of 2011 protects children against the use of corporal punishment.

94. The laws have been supplemented with various advocacy and parenting support programmes to address community acceptance of the use of corporal punishment and lack of knowledge of children’s rights. Through the stronger laws and advocacy initiatives, the GoS has sought to address concluding observations 36 which calls for interventions to address non-acceptance of corporal punishment in the family, in schools and other settings.

95. The MoET promotes the use of positive discipline in schools. A number of teachers have been trained in alternatives to corporal punishment.

96. The MoET has further advanced protection and promotion of positive discipline through the adoption and implementation of the SADC Care and Support for Teaching and Learning initiatives through Inqaba Programme which aims to make all schools centres of comprehensive care and support for vulnerable children, and promote positive discipline.

5.5 Physical and psychological recovery and social integration of victims

97. Gos has with the support of UNICEF and PEPFAR, piloted a One Stop Centre for victims of sexual abuse in Mbabane, and is in the process of rolling out centres in three more regions. Hospital located centres, provide access to multiple services, including laying charge to police, psycho-social, health care and justice system.

98. Government collaborated with the University of KwaZulu-Natal in the development and narrowing down the skills gap of DPMO social workers, caregivers and professional service providers for children victims of abuse. This intervention addresses concluding observation 45(d) calling for the provision of recovery and social integration services to victims of abuse. There is need to extend counselling to all stakeholders working with children especially schools, health sectors amongst others.

99. The Royal Swaziland Police (RSP) have established a Domestic Violence and Children Protection unit (DCS) specialising in the investigation of child abuse, strengthening family protection nationally, in collaboration with DPMO.

100. In addition, specialised Sexual Offence Units have been established within the MJCA which are responsible for the prosecution of abuse and neglect against children, collaborating with DCS.

101. Since the adoption of the CPWA, training has been provided to the full range of professionals in the justice system, including magistrates, prosecutors, police and social workers. They have received basic training on the application of the Act, as well as the provisions of relevant treaties, Optional Protocol, including the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. Prosecutors have been trained on the leading of evidence through child witnesses. This intervention seeks to address concluding observation 45 (c).

102. The provision of training is an ongoing process and will be repeated, once the regulations to the CPWA have been adopted.

103. Various manuals have been developed to provide hands-on support for implementation. For example, the MJCA has developed the Prosecutor's Guide on the Children's Protection and Welfare Act. A similar guide has been developed for the police. The booklets provide practical guidance for dealing with children in the justice system, including child victims. With the support of a number of NGOs, a summarised version of the CPWA was produced to ensure wide-spread understanding of its content.

104. Access to justice for victims has been improved through the introduction of the Children's Courts in terms of the CPWA. Every Magistrate's Court will be a Children's Court offering specialised support by trained personnel. In terms of the CPWA, children have a right to legal representation. The country does not yet offer Legal Aid, but will be doing so when it adopts the Legal Aid Bill, and will in so doing more fully address concluding observation 45(f) calling for the establishment of free national legal aid for victims of abuse.

Part 6

Family environment and alternative care

6.1 Family environment and parental responsibilities

105. The GoS has developed and adopted a comprehensive child protection policy and law – the Children Policy of 2009 and the CPWA, 2012 give effect to the state's responsibilities to secure children's family environments, safe and alternative care when they are deprived of their parental care. The development of child protection and social security network in the country described in part 5 of the report, in the remainder of this part 6, and in part 7 of the report, aim to secure improved levels of psychosocial and financial support to families and children at the local level. Government needs support for investment in family strengthening programs nationally, due to the disintegrated family as central environment for social wellbeing, care and development. In so doing, the GoS has responded to concluding observations 39, 40 and 41(b) calling for the development of a comprehensive support for vulnerable families. Much is desired to holistically support families.

106. The CPWA recognises the right of children to parental care.³⁷ The Act further recognises that GOS has a responsibility to support parents to fulfil their duties, and provide a judicially-based framework of alternative care aligned to the CRC. Through these measures, the GOS has responded to concluding observation 41 (a) requiring the development of a comprehensive policy addressing the needs of children without parental care.

6.2 Assistance to parents and provision of childcare services

107. The CPWA recognizes that the Government is responsible for supporting parents where necessary to enable them care for their children. It obligates the Department of Social Welfare to:

- (a) Provide or help provide, information for parents and other members of the community about the development of children and their needs; and
- (b) Provide or support, preventative and support services to strengthen or support families and to reduce the incidence of harm to children (section 22).

108. The support provided to parents has been strengthened in the past decade and includes the following:

- (a) Material and psychosocial support: The GoS provides various forms of material and psychosocial support to parents and caregivers who are unable to meet the

³⁷ CPWA section 8 and section 18 (2).

needs of their children because of poverty and related vulnerabilities as detailed in Part 7 of the report;

(b) Parenting education and support: A Parenting Manual is currently being supported by Khulisa Umntfwana, an organisation which empowers parents with skills on how best they can raise their children properly whilst being sensitive to their cultural background. More needs to be done;

(c) Childhood care and education services: The GoS provides support for the provision of quality early childhood care and education services to support the early development of children, as well as provide safe care in parent's temporary absence.

109. The government recognises the importance of early childhood care and development for the protection of the rights, survival and development of the child. It further recognises that a limited number of children have access to quality early childhood development (ECCD) programmes. These children come from the marginalised areas. In addition, the GoS is concerned about the number of young children left in the care of other young children and has initiated the formulation of an ECCD policy (2017). The implementation of the same remains a challenge.

110. In 2014, 30 per cent of children between 3–6 years attended an ECCD centre, and 40 percent of parents of children in the same age group regularly engaged in activities promotive of children's cognitive development.³⁸ Only 2 percent of fathers, compared to 16 percent of mothers engaged in developmentally promotive play with their young children in 2014. In the same year, 16, 5% of children under the age of 5 years were left in the care of young children under the age of 10 years.

111. The GoS is encouraging parents to enrol their young children in ECCD programmes.

112. GOS It has, inter alia:

(a) Formalised ECCE and recognises it as part of the basic education system through its integration in the Education Sector and Training Policy and Plan (since 2009). This has been supported by a growing budget allocation to support pre-primary education. In 2000/2001, the pre-primary budget was E 438 515.00, accounting for 1% of the recurrent budget. This increased dramatically to over E3 million in 2010 (E3 070 096.00, and further to E3 182 856.00 in 2012/13 accounting for 0.2 % of the recurrent budget;³⁹

(b) Expanded the availability of ECCE programmes to reach the marginalised children through:

(i) The provision of initial training and support to a total of 1500 initially built, Neighbourhood Care Points (NCPs), across the country, which are providing services to children under the age of 8 years, including early childhood education; Only about 800 NCPs are currently functional, due to capacity issues; and

(ii) The extension of ECCE services to residential care facilities.

(c) Developed national ECCD standards – the Swaziland Early Learning and Development Standards and a formal ECD syllabus to be used as guides by ECCD centres across the country;

(d) Developed a Teacher's Handbook for ECCE;

(e) Promoted the establishment of gardens in pre-schools and referral linkages between pre-schools and the health system;

(f) Promoted the engagement of parents, local government and traditional leaders in community sensitization about the importance of ECD.

113. These various measures have made a positive impact. Access to ECCE services increased from 20% in 2009 to 30 per cent in 2014.⁴⁰ However, there is still work to be

³⁸ Swaziland Multiple Indicator Cluster Survey (MICS5) 2014.

³⁹ MoET. 2016. Education budget analysis 2000–2014.

⁴⁰ Swaziland Multiple Indicator Cluster Survey (MICS5) 2014, 2014.

done and the GoS has turned its attention to addressing the following challenges in the next development cycle:

- (a) Universal application of the Swaziland Early Learning and Development Standards (SELDS and expansion of coverage.
- (b) There are still a substantial number of ECCE practitioners that are not qualified, and the problem is rooted in the lack of qualified lecturers to train practitioners.
- (c) Limited regulatory and registration mechanisms mean little control over the mushrooming of ECCE centres, and this contributes to inequities in the spread of available services.
- (d) The GoS is faced with limited funds and transport to monitor ECE centres.
- (e) NCPs need support as a tool for delivering services children services at community levels.

6.3 Separation from parents, periodic review, and family reunification

114. The GoS has responded to the concerns raised in Concluding Observation 41 regarding the previous lack of a comprehensive legal and regulatory framework to protect children separated from their parents.

115. GoS through CPWA addresses the needs of children without parental care, which is aligned, to the CRC. The Act makes provision for removal of a child who does not have a parent to provide care, or whose parent is unwilling to provide care, to alternative care. However, the Act prescribes this only as a measure of last resort. Any such removal is subject to the return of the child to the family if possible. The Act further recognises the value of traditional or informal forms of alternative care, such as kinships care, and provides statutory protection of a family's choice to care for children through these mechanisms rather than formal residential care. The Act is intended to prevent the application of informal or traditional practices that are more protective of the child's rights, except where these arrangements are not in the best interests of the child.

116. The Act recognises various vulnerable groups of children in need of care and protection. Children at risk of abuse or neglect or exploitation, an orphaned or abandoned child, and a child affected by HIV and AIDS may be found, by a court of law, to be in need of care and protection (section 23), and once so found, may be placed in an alternative care arrangement or facility, including foster or residential care. The Act however seeks to promote the retention of the child in the family with the provision of appropriate parenting, material and psychosocial support, as well as appropriate monitoring of the child's situation. In so doing, it has addressed the concerns raised in concluding observation 41(d) that the child protection system promotes and support family-type forms of alternative care in order to reduce the use of residential care. Where children are removed, the overseeing social worker is duty-bound to work towards reunification of the child and family.

117. The GoS has sought to ensure better quality care in residential facilities through the adoption and implementation of Alternative Care Guidelines that will, in the longer term, be converted as appropriate into regulations under the CPWA. Thus GoS has complied with the concluding observations on alternative care, notably 41(g) requiring compliance with the outcomes of the Committees day of general discussion on children without parental care (2005) in the development of its policies and activities.

118. Once children are placed in alternative care, on-going monitoring and assessments of the quality of care. Social Workers monitor and file reports on the conditions and progress made by children removed from their parents. The limited number of social workers limits coverage.

119. In addition GoS has established a confidential complaint mechanism through the collaboration of DSW and NCSD Departments. Guardians of children placed in residential care facilities, as well as children themselves, are advised of their right to lodge a complaint

with the department in the event they are not satisfied with the RCCF concerned. In so doing, the GoS has addressed concluding observation 41(f).

6.4 Recovery of maintenance for the child

120. The CPWA recognises that parents are equally responsible for raising their children. This responsibility translates into a duty on both parents to pay maintenance to the custodial parent. Where a parent fails to pay maintenance, the Act makes provision for the Children's Court to investigate and order the defaulting parent to pay. The court can ensure compliance through a variety of means including incarceration, attachment of property and garnishee orders.

6.5 Adoption

121. The CPWA⁴¹ establishes a closely-regulated adoption system in the country and secures protection of children adopted through inter-country proceedings. In so doing, the GoS has addressed the Committees concluding observation number 43. As a result, there have been no inter-country adoptions over the past five years.

122. CPWA⁴² establishes an adoption Committee and the Register on Prospective Adoptive Parents and Adoptable Children to increase the supply of suitable and vetted adoptive parents and ensure safe placements that are in the best interests of the child. The Act further provides for the registration and regulation of all adoptive agencies. However, the implementation of this mechanism is on hold until such time as appropriate regulation is promulgated under the Act.

123. Whilst progress has been made at a legislative level, the GoS recognises that more has to be done to comply with practices. Currently it faces a number of challenges, including:

- (a) A shortage of social workers and strengthening capacity of existing to monitor compliance and engage in on-going and routine support for the adopted families;
- (b) Delays in drafting of regulations under the CPWA to give operational effect to the law on adoptions due to limited resources;
- (c) Lack of resources to actualise the structures/processes required to effect CPWA.

6.6 Illicit transfer, non-return, abduction and trafficking

124. To prevent the illicit transfer of children, Gos has regulated inter-country adoptions and trafficking laws, programmes and institutions.

125. Swaziland faces a considerable prevalence of trafficking of children, especially girls, mainly because of the high numbers of orphans and the effects of HIV and AIDS. Swazi girls, especially orphans are at risk of sex trafficking and domestic servitude.

126. It has strengthened the legal protection provided by two key laws; the provisions in the CPWA which domesticates The Hague Convention, and the People Trafficking and People Smuggling (Prohibition) Act, 2009. It protects children against illicit transfer and trafficking. Our legislation prescribes penalties of up to 20 years for trafficking of adults, and higher penalty of 25 years for trafficking children.

127. A child that is a victim of illicit transfer or trafficking is considered to be a child in need of care and protection in terms of the CPWA and is as such entitled to the full suite of child protection services.

⁴¹ Section 65.

⁴² CPWA Section 55.

128. Given the trans-national nature of the problem, the GoS has joined hands with other Member States of the SADC to develop victim identification guidelines as well as a national referral mechanism.

129. The institutional, protective and prosecution machinery supporting the implementation of the trafficking laws has been strengthened through the establishment of a Protection of People Trafficking and People Smuggling Secretariat within the Prime Minister's Office.

130. The secretariat has provided training to the police and labour inspectorate on the governing laws and procedures. The Government has also built a strong working relationship with the Republic of Mozambique and of South Africa.

131. The Secretariat has conducted advocacy and communications campaigns to prevent trafficking. In addition, the Secretariat has a border campaign which involves raising awareness of the issues along the borders.

132. A Protection Officers Portfolio has been established within the Secretariat and is responsible for coordination of victim care, protection and assistance.

133. Resource constraints, both within government and NGOs providing prevention and protections services have limited the levels of implementation of trafficking laws, investigations and prosecutions under the trafficking laws (the number of prosecutions dropped from 9 to 2 between 2014 and 2015), and the provision of support.⁴³

6.7 Protection of children with incarcerated parents

134. There are social workers in all the correctional services, who take care of children with incarcerated parents.

135. Only children who are born whilst the mother is in custody are kept in the facility for a maximum period of 24 months. The parents are provided with support for their children in the form of diapers and baby milk. Thereafter the child is removed even if the mother has not completed her custodial sentence. Social workers assess the situation at home, and where there is a suitable relative, the child is placed in the home. In cases where there is no close relative the child is taken into alternative care.

Part 7 Disability, basic health and welfare

7.1 Children with disabilities

136. The GoS has, in response to the concerns raised by the Committee in concluding observations 48 and 49 about the levels of discrimination against children with disabilities and their lack of access to services, adopted a number of policies and laws, strategies and programmes. strengthen the enabling framework and provide government-wide guidance for sectoral planning, budgeting and evaluations, mainstream the recognition, realisation of and protection of all rights of children with disabilities.

137. Swaziland ratified the Convention on the Rights of Persons with Disabilities in 2012 and has domesticated it through, inter alia, the following policies and laws:

- (a) National Disability Policy, 2013;
- (b) Swaziland National Disability Plan of Action (NDPA) 2015–2020;
- (c) Disability Bill, 2015;
- (d) Children Protection and Welfare Act, 2012;

⁴³ US Department of State. 2016. Trafficking in Persons Report 2016. state.gov/j/tip/rls/tiprpt/2016/index.htm.

(e) The National Early Identification and intervention strategy, 2016.

138. The National Disability Policy, Plan of Action and the Disability Bill collectively seek to mainstream disability in all stages of planning, implementation and monitoring of all Gos's sectoral policies, laws and programmes. They seek to promote inclusive planning based on a social, rather than a medical model of disability which will result in, not only the recognition and protection of children's fundamental rights, but ensure they are empowered to exercise their rights and enjoy equal participation in the communities.

139. The National Early Identification and intervention strategy, 2016 aims to ensure that children are identified in order to access required services for optimisation of development and access to services.

140. The goals of the country's National Disability Policy are to be implemented through NDPA. It was developed through a consultative process which included Persons with Disabilities, NGOs government and development partners. Its purpose is to secure implementation, at all sectoral levels, of concrete programmes for realisation of the national legal responsibilities, goals and objectives for people with disabilities. A focus of the Plan is to improve access for Persons with Disabilities to all public and community services and facilities.

141. The NDPA is grounded in the recognition that the realisation of responsibilities to people with disabilities depends on the adoption of multi-sectoral initiatives that address the multiple intersecting factors that make children with disabilities additionally vulnerable. It recognises that effective protection of their rights requires more than the adoption of policies and laws, but the reorientation of society and its members to ensure meaningful inclusivity and reasonable accommodation. As such, the plan is organised across 7 thematic areas, including:

(a) Advocacy and awareness-raising: With the aim of raising awareness and combating stigma, prejudices and harmful practices;

(b) Social protection: To ensure the provision of adequate material support to caregivers of children with disabilities to secure an adequate standard of living;

(c) Education and Training: To ensure equal access to meaningful, age appropriate education at all levels, from early childhood through to higher education;

(d) Health: To ensure universal access to public health services;

(e) Skills development and the labour market: To ensure equal participation in the economy;

(f) Infrastructure and the environment: To remove all infrastructural, environmental, physical, social and cultural barriers to full participation in community life.

142. Concrete measures taken to operationalize the plan include the following:

(a) Coordination machinery has been established to support government-wide mainstreaming. A National Disability Unit has been established within DSW in the Deputy Prime Ministers Office. It coordinates all disability programmes in the country. This is an important in view of the fact that many of the services for children with disabilities are provided through NGO programmes. It is thus critical that the programmes in question further national disability priorities and responsibilities. Challenges have limited its ability to coordinate and oversee the implementation of the plan including lack of resources, too few qualified permanent staff;

(b) The Unit will be strengthened, in terms of its mandate and capacity, once the Persons with Disabilities Bill, 2015 is passed. The Bill is "in the final stages of endorsement by Parliament". It will establish a stronger coordination body with statutory authority to be named the National Disability Advisory Council Persons with Disabilities (NDAC). It will enjoy representation from government and non-government role players in the sector as well as organisation for people living with disabilities;

(c) In addition to its coordination role, the Disability Unit will deliver disability outreach services which it provides in collaboration with a number of partners. The Unit

will advocate, train, and be responsible for implementing the disability policy, which will be strengthened once the Disability Bill is adopted;

(d) Monitoring the impact of disability programmes is challenged by lack of resources and technical expertise. It has therefore made provision, in terms of the Disability Bill, for a clear monitoring and impact evaluation role of the NDAC;

(e) In addition, the Bill makes provision for the establishment of an Office of the Registrar which will be responsible for registering all Persons with disabilities; voluntary organisations and institutions.

143. The overarching objective of the Disability Policy and Plan is to achieve “disability equality” through mainstreaming of disability. Mainstreaming is mandatory in terms of the Policy and “requires that all central and local Government Authorities, consider the disability dimension in all policy development and take measures to ensure that Persons with Disabilities have equal access to all public services and facilities”.⁴⁴

144. A number of sectoral policies and programmes protect and promote the realisation of the rights of children with disabilities.

(a) Children with disabilities are entitled to all basic public health care services which are described in more detail in this report under the sub-heading of health care services below. In addition, they are entitled to an assessment of their needs by social workers and medical practitioners to determine the disability and its severity. Based on the assessment, children should be provided with health care services such as occupational and speech therapy and medication and assistive devices such as creams, zinc and castor oil, sunglasses, hats and reading glasses free of charge. However, access to the services is limited by resource and coverage constraints;

(b) With the adoption of the Disability Bill, caregivers of children with disabilities will be supported with social assistance grant (E 240);

(c) The Municipal Councils and the Ministry of Works are required to ensure that all new public building plans accommodate people with disabilities by conforming to principles of universal design. Municipal councils are duty-bound to ensure equality of access to community facilities, in compliance, audio traffic lights; have been installed in some locations, barriers on footpaths have been removed to enable wheelchair access and bevelled curbs have been built.

145. Despite these measures, many children with disabilities continue to experience high levels of deprivation and inequality because of the limited scope and coverage of the programmes, limited human and financial resources, inadequate assistive and adaptive technology, inadequate access to early childhood education and development and schooling, and an inadequate regulatory framework.

146. The GoS recognises these inadequacies and has, through the NDPA prioritised the following measures, and seeks to achieve, inter alia, the following outcomes within the framework of the plan, to address these gaps:

(a) Strengthen the inclusive regulatory, resourcing and implementation framework to secure equality of access to early, primary, secondary and further education, health care, public housing, transport and public services and facilities;

(b) National laws are reviewed and supported with education and advocacy to ensure that all levels of society – from family through to government departments understand, and can respond appropriately to the rights and needs of persons with disabilities;

(c) Social assistance for people with disabilities is strengthened to provide people with disabilities not in employment with a “disability support allowance”;

(d) The majority of children with disabilities access schooling and enjoy an inclusive and enabling learning environment and experience;

⁴⁴ National Disability Plan of Action, page 24.

(e) Strengthen the quality assurance of services provided to people with disabilities through registration and regulation of services as measured against clear quality standards.

GoS still has to expand investment in structures to support the full protection, empowerment and development of persons with disabilities.

7.2 Survival and child development

147. The GoS recognises and protects the right of children to survive and develop to their full potential through, inter alia, its maternal and child health, and early childhood development (ECD) policies and programmes.

148. As noted in part one of the report, investments in the health sector has increased consistently to reach E 1.8 billion in the 2015/16 financial year. The GoS has thus addressed concluding observations 51 and 52 which calls for increased financial resources to support the provisioning of basic health services and nutritional support.

149. As a result of increased investments and the roll out of child developmental and health programmes targeting the leading causes of child mortality and morbidity, the GoS succeeded in substantially improving the survival rates of children in the country. Infant mortality rates dropped from 79 to 67 per 1,000 live births between 2010 and 2014, and the under-five mortality rate dropped from 104 to 67 per 1,000 live births in the same period of time.⁴⁵

150. Programmes such as the ART programme have achieved a coverage rate of 83 percent has cut the adult death rate, subsequently reducing levels of orphaning. Consequently, the historical orphan bulge is decreasing annually as children age out and fewer new orphans are added to the group.

151. The five leading causes of child mortality in Swaziland are:

- (a) HIV and AIDS at 49 per cent of child deaths;
- (b) Pneumonia at 12 per cent;
- (c) Preterm birth complications (9 per cent);
- (d) Diarrhoea (8 per cent);
- (e) Other infections (7 per cent).⁴⁶

152. Underlying these direct causes are a variety of interrelated social, economic and related factors that contribute to ill health and mortality, including poverty, lack of access to essential services, lack of education. Immunization, Malnutrition, ECCD, and mother to child transmission (PMTCT) protective measures as detailed in 174 below. Child dumping and referral to alternative care centres and Residential Child care Facilities (RCCF), are some of the measures taken to address the challenges. Investment of a holistic collaborative approach is needed to address these key challenges.

7.3 Health services

153. Over the past decade, the GoS has developed, implemented and scaled up a range of policies and programmes to address the leading causes of child mortality and morbidity, and other key public health concerns impacting on the rights of children to survive and develop to their full potential and to health care services. The design and delivery of health programmes and services is governed by a multi-faceted regulatory framework which emphasises promotive and preventative primary health care services, but also provides for secondary and tertiary general and specialist health care services.

154. Key policies include:

⁴⁵ Swaziland Multiple Indicator Cluster Survey 2014.

⁴⁶ Swaziland Multiple Indicator Cluster Survey 2014.

- (a) Swaziland National Health Policy;
- (b) Children Policy;
- (c) Standard Treatment and Guidelines;
- (d) Sexual and Reproductive Health Policy;
- (e) Swaziland Nutrition Draft Policy.

155. Health promotion and prevention services for children include the following primary health care services:

- (a) Antenatal and post-natal programme:

There is a free and strong antenatal care programme in hospitals and clinics in the country. Antenatal care is almost universally available in Swaziland, with 98% of pregnant women attending these services at least once. The rate of childbirths attended by skilled personnel in the country is also high, with 82% of women delivering in health facilities. PMTCT services are integrated within maternal, new-born and child health services to ensure that they identify and care for as many HIV-positive women and children as possible. Based on WHO's 2010 guidelines on the use of antiretroviral for treating pregnant women and preventing HIV infection in infants, the country has made more effective drug regimens available that reduce the risk of mother-to-child transmission to less than 5%. In addition, all HIV-exposed infants are tested at six weeks of age.

- (b) Expanded Programme on Immunisation (EPI):

Children are provided with an expanded programme of immunisations which covers the full range of preventable childhood illnesses. In 2014, 75 per cent of children were receiving the full schedule of vaccinations provided through the EPI programme. At this stage the vaccine for cervical cancer is not yet included, but the plan is to introduce it in 2017, subject to the availability of funds.⁴⁷

- (c) Integrated Management of Childhood Illnesses (IMCI):

This programme is responsible for training health care workers to be child-friendly and capacitate them to deal with common child diseases. The programme responds to two disease categories- respiratory diseases and diarrhoeal diseases.

- (d) Special Health Days:

Child health days are selected annually and booster efforts are implemented to accelerate immunisation coverage. These are followed up by integrated campaigns every three years to reduce the pool of susceptible children. The integrated campaigns make use of media and awareness raising campaigns and provide integrated services such as immunisation and deworming.

- (e) HIV and AIDS:

The GoS has introduced a successful PMTCT and ART programme which has significantly reduced the transmission of HIV from mothers to their infants to less than 5 per cent, and increased the life expectancy of people infected with HIV.

- (f) Treatment of diseases such as Malaria:

The GoS has made significant progress in the eradication of malaria. It achieved a 74% reduction between 2000 and 2012 with a 42% decline from 2011 to 2012.

- (g) Food and nutritional support:

MOH is the lead ministry for the promotion of the nutritional wellbeing of the general population, including children. Stunting prevalence among children has decreased. Moderate and Severe stunting, from 29 to 25.5 per cent, and the latter from 10 to 7.2 per cent between 2007 and 2014. Despite these decreases, the rates remain of grave concern to

⁴⁷ Interview, Ministry of Health, EPI Manager. Mbabane.

country and various measures, notably those promoting breastfeeding, have been implemented to reverse the situation.

156. The country has a Nutrition Council and programmes are governed by a number of core policies. These include National guidelines for Infant and Young Child Feeding; National guidelines for the Integrated Management of Acute Malnutrition; and National guidelines on Nutrition and HIV for service providers.

157. Vulnerable children, need effective, comprehensive, decentralized, coordinated, sustainable and enabling environment for the provision of food and nutrition services. The key intervention areas are:

- (a) Infant and Young Child Feeding;
- (b) Integrated Community based Growth Monitoring and promotion;
- (c) Integrated Management of Acute Malnutrition in Children and Adults;
- (d) Nutrition & HIV;
- (e) NCP as main medium for child care at community levels.

158. Prevention and Control of Micronutrients deficiencies; and Nutrition Surveillance.

159. There is a strong focus on improving breastfeeding rates in the country. Funds allocated to the EPI programme are shared with the Nutrition Council which receives additional support from UNICEF to advance its mandate. The Nutrition Council is responsible for the implementation of the mother and baby-friendly hospital initiative in support of early initiation and continued breastfeeding, monitoring children's growth in health facilities and community. It also provides supplementary diet packs for children between 2 and 23 months suffering from acute malnutrition.

160. Six hospitals and four health centres have been designated baby friendly. There has been an increase in the proportion of infant under six months who are exclusively breastfed (from 44 to 64 percent between 2010 and 2014) and who receive breast milk as their primary form of nutrition (from 59 to 70 percent in the same time period).⁴⁸

161. The GoS runs a school feeding programme in all government schools. Various programmes, such as the Distribution of Food (World Food Programme) and the Water Harvesting and Sanitation Programme supported by UNICEF prevent and treat disease and malnutrition through the provision of food and water and sanitation services. These programmes are neither comprehensive nor sustainable. Investment on Innovative initial solutions grounded on the development of domestic capacity to support the same, on a sustainable basis, is critical for effective sustainable feeding of children. Working together with its partners, the GoS has made progress in improving access to water and sanitation services. Household access to improved drinking water increased from 69.8 to 72 percent, and to sanitation from 11 to 17 percent between 2007 and 2014.⁴⁹

162. Together, this cluster of nutrition and related interventions have addressed concluding observations 52 (b) and (c) calling for measures to secure children's adequate nutrition and hygiene.

163. A number of interventions have been implemented to ensure that services reach especially marginalised communities and these include:

(a) Outreach services: The MOH provides outreach services through community-based mobile services. The services are provided by mobile / itinerant staff through established infrastructure in communities on a monthly basis. A full suite of promotive and preventative services are offered through the mobile facility;⁵⁰

(b) School health programme: School health services, including deworming and nutritional support are provided for children aged 6 years and older.

⁴⁸ Swaziland Multiple Indicator Cluster Survey 2014, Key Findings.

⁴⁹ Swaziland Multiple Indicator Cluster Survey 2014, Key Findings.

⁵⁰ Interview: Ministry of Health, EPI manager. Mbabane.

164. Various mental health services are provided, including occupational and other forms of therapy and psychiatric tertiary services. A number of non-communicable disease programmes are coordinated through the non-communicable disease programme within the MOH.

165. The GoS is engaged in systems strengthening initiatives. A notable intervention has been the strengthening of its information management system Client Management Information System linked to the Home Affairs' data base.

7.4 Reproductive health and HIV and AIDS services for adolescents

166. Adolescents in Swaziland face a number of sexual and reproductive (SRH)-related health risks and challenges. Early sexual debut is common, as is inter-generational sex, often with multiple partners, as well as risky sexual and other behaviours, such as low rates of condom use and substance abuse. For example, 50 percent of girls have had their first sexual engagement by the age of 17 years and 7 percent by the age of fifteen years.⁵¹ Factors such as poverty and educational exclusion aggravate the risks faced by adolescents of risky behaviours, and this in turn has driven the high HIV prevalence, especially among young girls in the country.

167. The issue of SRH and reductions in HIV prevalence among young people has called for a multi-faceted and comprehensive solution addressing the various drivers of risky behaviours and poor outcomes for young people.

168. The GoS has responded to the complexity and interrelated nature of the problem through the development of dual comprehensive sexual and reproductive health and HIV and AIDS policies and programmes, and has in so doing, responded to concluding observation 54.

169. The developed SRH policy dictates that every clinic and hospital should provide a family planning programme for the general population. Access to comprehensive family planning information and services remains one of the SRH challenges in Swaziland. The contraceptive prevalence is 65%,⁵² and the unmet need for family planning is 13% among married women, while it is 65.8% among pregnant women living with HIV.⁵³

170. A National Strategic Framework 2009–2014 (NSF) for responses to HIV and AIDS has been developed under the guidance of the NERCHA. The Framework aims to improve and expand effective prevention, treatment and care to all Swazis including adolescent children and the youth. This framework pushes for greater reliance on evidence informed planning and the mainstreaming of strategies for social and behaviour change as catalysts for more effective prevention. In so doing, the GoS has responded to concluding observations 54(a)–(d).

171. Prevention is critical to Swaziland's ability to gain control of the epidemic. Prevention within the NSF is positioned to "reduce incidence rates to levels at which the epidemic starts declining." The NSF also seeks to increase life expectancy and increase the capacity of vulnerable households to cope with the impact of HIV.

172. The results sought for prevention through this plan are to:

- (a) Reduce HIV incidence among females aged 15–19 from 10.1% to 8% in 2014;
- (b) Reduce HIV incidence among males aged 15–19 from 1.9% to 1.5% in 2014.

173. The Life Skills Curriculum in secondary and high schools provides SRH information and youth clubs have been established in most public schools. At primary level HIV education has been integrated in the education curriculum alongside other education campaigns. Knowledge among adolescents of HIV and AIDS is high – with 99.8 percent of

⁵¹ Nsemukila G. 2014. A report card of adolescents in Swaziland.

⁵² MICS, 2010.

⁵³ 12th Sero-surveillance, 2010.

girls, and 98.6 of boys aged 15–19 having knowledge of HIV and AIDS by 2007. Moreover, 86 per cent of young people knew, in 2007, that condom use can prevent HIV and AIDS. Invalid source specified.

174. Despite the high levels of knowledge, the level of condom use among young people is low. The reasons given by the young people themselves include the lack of access to non-discriminatory and adolescent-friendly health services.⁵⁴

175. In response Youth friendly clinics have been established to make health care more accessible to adolescents. Since the initial roll out in 2003, staff has been trained. The goal is to train 80 percent of all health facility staff. Achieving this target remains a challenge because of high staff turnover. Through the youth friendly facility initiative and the Teen clubs (describe below), the GOS has addressed concluding observations 54(b) and (c) and 55, and 56.

176. In addition to the training of staff, Teen Clubs that are attached to health care facilities have been established. The objectives include improving accessibility to health care facilities, increasing knowledge of risky and changing behaviours.

177. The Clubs are managed by a collaborative Technical Working Group (TWG) drawn from the MOH, MOET and MOSYC. The TWG and the clubs focus on using these spaces in a coordinated manner to deliver comprehensive services that promote overall health and wellbeing of adolescents, including the sexual and reproductive health and well-being.

178. The Teen Clubs serve to inform adolescents and promote their access to treatment, information and sexual and reproductive health services in line with the provisions of the CPWA which protects the rights of children to access sexual and reproductive health services without parental consent from the age of 12 years.

7.5 Protection of children from substance abuse

179. Section 16 of CPWA guarantees the right of all children to be protected from the use of harmful drugs and alcohol use and abuse and from being involved in the production, trafficking or distribution of these substances. The Swaziland Liquor Act further prohibits the sale of alcohol to persons less than 18 years.

180. Various educational and behaviour-change initiatives are run by the GoS in partnership with development partners and NGOs which raise awareness and seek to prevent the use and abuse of harmful substances by youth. For example, peer education and advocacy is provided through the Association of Students against Drug Abuse and Trafficking (SADAT), Clinic Teen Clubs and education is integrated into the school curriculum. At high school level, a standalone Life Skills curriculum has been introduced which covers a range of behavioural issues, including substance abuse. The Illicit Medicines and Related Substance Act of 2016, updates the provisions of the Opium & Habit Forming Drug Act of 1922 and Pharmacy Act of 1929, with special focus on protection of children from abuse of medical substances. The formation Swaziland standards Authority (SWASA) in 2007 will strengthen regulation of industrial production processes. This will provide public/children protection on harmful chemicals.

7.6 Social security and standard of living

181. The GoS has developed and implemented a number of cash and in-kind transfers, social care services, labour programmes and community-based programmes to support vulnerable families in meeting their responsibilities to their children. The programmes are provided by the (DWS) within the DPMO, NERCHA, MoET, (MoH) and the (NDMA). With the support of EU, a holistic social protection solution for the country is being developed in DPMO. This should provide comprehensive social safety nets, for all members of the society, especially Children, OVC, Youth, unemployed and the elderly. In so doing, the GoS has addressed concluding observations 57 and 58 (a).

⁵⁴ Nsemukila G. 2014. A report card of adolescents in Swaziland.

182. The GoS, acting through these structures, at a cost of US\$82.4 million in 2010/11, provided a range of social assistance programmes which benefited children and their caregivers. These include:

- (a) Cash Transfers:
- Old Age Grant (OAG): introduced in 2005 to support the growing population of older persons responsible for the care of the orphans;⁵⁵
 - Public Assistance;
 - Other DSW Grants;
 - Young Heroes Programme (YHP): a cash grant for double orphans is supported by NERCHA. In December 2011 there were 887 beneficiaries in 497 households.⁵⁶
- (b) In-kind transfers
- OVC Education Grant covers a portion of school fees: The OVC grant was introduced in 2003 and in 2012 covered approximately 118,000 children.⁵⁷ In 2015/16, the number of beneficiaries had dropped to 53,564.⁵⁸ As a result of FPE.
 - School feeding: The MoET provides a universal school feeding programme which consists of mealie meal, oil and pulses.
 - NCPs: Since 2001, NCPs have been established to provide food to pre-school children. In 2011, there were approximately 438 NCPs operating in the country. These grew to about 1500, but due to support and leadership challenges, only about 800 are estimated to be barely functional countrywide. The initiative is funded by development partners such as the World Food Programme, UNICEF and World Vision.⁵⁹ For effective coordination and sustainability, GoS, needs resources to provide primary support and leadership.
 - Food distribution: Food insecure households can access food aid in the form of maize meal, cooking oil and pulses.⁶⁰
 - Supplementary food support: Malnourished persons on ART, TB and PMTCT programmes are provided with additional high protein and energy food by the MOH.
 - Health fee waivers: Extreme poverty and the elderly people receive free medical care at public health facilities by MoH.
 - Phalala Fund: Patients requiring specialised medical care that is not available in Swaziland may receive specialised medical treatment and care abroad through the fund run by the MoH.
 - Agricultural Input subsidies: Agricultural support is provided to subsistence farmers by MoA.
 - Public Assistance: Until the recent conversion of the programme, material support has been provided, in the form of food, clothing and other supplies, to extremely poor households and person with disabilities.

⁵⁵ The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

⁵⁶ Swaziland Statistical Office (CSO) and UNICEF Swaziland. 2013. Child poverty study.

⁵⁷ The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

⁵⁸ Inception report: Technical assistance for the development of a social protection system in Swaziland, July 2016.

⁵⁹ Swaziland Statistical Office (CSO) and UNICEF Swaziland. 2013. Child poverty study.

⁶⁰ Inception report: Technical assistance for the development of a social protection system in Swaziland, July 2016.

183. Government's investments in social assistance programmes has grown substantially in the past decade to reach 2.2 percent of GDP in 2010/11 which is higher than the 1–2 percent average of most developing countries.⁶¹

184. Despite the size of investments and variety of social assistance programmes, a substantial number of poor and vulnerable children have remained unprotected. This is because of policy gaps. For example, there are no programmes of assistance for out of school children.

185. Whilst the OAG constitutes the largest social protection programme in Swaziland, the impact on reducing poverty and improving the livelihoods of children is limited for a number of reasons.⁶²

186. The OVC education grant has challenges with tracking students and inconsistencies in policy with some children having to pay a portion of fees and others do not. It only reaches about 40 percent of poor children, covering only a portion of official fees. It does not cover out-of-pocket expenses, hence, education costs remain a key access barrier.⁶³

187. The cost of administration of the social security programmes is higher than in other countries, and the efficiencies low because of multiple disbursement mechanisms which minimise the economies of scale. In addition, the design, targeting mechanisms and unsustainable programmatic, rather than recurrent funding models supporting social protection in Swaziland minimise the coverage and impact on the lives of vulnerable children and their families.⁶⁴

188. The key recommendation emerging from the study was that the GoS should consolidate its many fragmented social protection programmes into a comprehensive and efficient, publicly funded programme of social assistance which prioritises vulnerable children. The GoS has taken the recommendations seriously and is in the process, with the technical and financial support of the European Union, of laying the evidentiary and administrative foundations for developing and rolling out a consolidated programme of social assistance aligned with the ILO Social Protection Floor as well as the AU Social Policy Framework for Africa. An inception report has been developed for the initiation of an inclusive and consultative process to develop a programme which will:

- (a) Guarantee universal coverage of all persons requiring social assistance;
- (b) Secure coordination across all the various ministries, departments and agencies currently providing assistance; and
- (c) Secure efficiency in the use of social assistance resources to deliver effective programmes of support that provides material assistance to all in need.⁶⁵

Part 8

Education, leisure and cultural activities

8.1 The right to education, including vocational training and guidance

189. Education is recognised as both a right and development imperative by the GoS. The Constitution,⁶⁶ CPWA and various education policies, strategies and programmes recognise, respect and promote the right of all children to education. Moreover, education is recognised by the country's (PRSAP), as being at the heart of national development.

⁶¹ The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

⁶² The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

⁶³ The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

⁶⁴ The World Bank. 2012. Swaziland: Using Public Transfers to Reduce Extreme Poverty.

⁶⁵ Inception report: Technical assistance for the development of a social protection system in Swaziland, July 2016.

⁶⁶ Section 29 of the Constitution of Swaziland 001/2005.

190. Education measures taken by the GoS serve to advance the optimal and holistic development of the child throughout his or her life cycle. Measures are in place to support access to, and the quality of education for all children from the early childhood education, through to tertiary levels, the former is at policy formulation level.

191. The GoS has consistently prioritised and sought, in the face of often difficult financial circumstances, to increase its investments in the education sector. In the 2015/16 financial year, the education sector received 22 percent of the total budget.

192. Educational investments have been put towards various innovations and interventions aimed at giving effect to the 4A's of education as described and prescribed by the UN Committee on Economic, Social and Cultural Rights.⁶⁷ The Availability of FPE, Accessibility of scholarships to high school graduates, Acceptability of TVET, and the Adaptability through Introduction of ECD/Science and technology Parks are a demonstration of the entrenchment of the UN 4As best practice principles in the in the kingdom's education system.

8.2 The availability and access to education

193. In 2009, (MoET), with the support of the World Bank and the European Union undertook a comprehensive Education Sector Review. The purpose of the review was to lay the foundations for an evidence-based restructuring of the education system so as to ensure it is able to support the country's national education and development responsibilities and objectives – notably improved access and quality to support accelerated growth and reduced poverty. The review led to the development of two key documents which provide a revised strategic and visionary framework for the provision of education in accordance with the Government's legal and developmental responsibilities.

194. These are:

- The Education Sector Strategic Plan (ESSP) of 2010.
- The Education and Training Sector Policy of 2011.

195. The education sector has, since the adoption of these documents, implemented a number of reforms with the objective of providing an equitable and inclusive education system that affords all Swazi citizens access to quality early childhood education, free quality primary education, followed by opportunities of life-long education and training.

196. The government has developed an action plan to facilitate the implementation of the ESSP and the sector policy – the National Education and Training Improvement Programme (NETIP). The reforms have sought to improve the availability of, and access to pre-primary, primary and secondary schools. The availability of education has improved through various systems' strengthening initiatives, including the strengthening of the enabling policy environment, institutional capacity and monitoring and evaluation functions at the central level, and implementation capacity at a school and regional level.

197. Policy innovations have been supported by sustained increases in financial resources invested in education. Swaziland has invested about 6 percent of its GDP in education and on average, 17 percent of the government budget has, over the past five years, been dedicated to education, with the proportion increasing to 22 per cent in the 2015/16 financial year.⁶⁸

198. Swaziland has succeeded in universalising primary education, largely driven by the introduction of the (FPE) Programme through the FPE Act. The Act and programme were in response to the constitutional imperative, as well as the evidence that the costs of education were the leading barrier to participation in education for children in the country. The FPE programme was rolled out progressively, starting in 2010 in Grades 1 and 2. The FPE Act adjusted the entry-age for school to range from 6–9 years to allow for older

⁶⁷ UN Committee on Economic, Social and Cultural Rights General comment 13.

⁶⁸ The Swaziland Education for all Review Report, 2000–2015.

children who could not afford fees to enrol at school. In so doing, the GoS has addressed concluding observation 60 (c).

199. The FPE programme was supported with the provision of FPE grants and other materials such as exercise and text books. By 2015/16, the net enrolment ratio (NER) at primary school level had increased to 96 percent and the completion rate increased from about 60 percent in 2006 to 85 percent in 2014.⁶⁹ To meet the growing demand and equalise access in rural areas, the Government prioritised the construction of schools in rural areas in order to cut distances travelled to school.

200. The increased enrolments at primary level served to drive increases at secondary level to reach 33 percent in 2015/16. However, enrolments in senior secondary levels remain low, with less than 20 percent of children starting school moving on to complete this phase of high school.⁷⁰

201. Improving accessibility has not been limited to schools. The GoS has focussed on expanding availability and access, as well as quality at early childhood education and at technical and vocational levels.

202. The GoS recognises early education as central to human development and integrated it into the formal basic education system through the Education and Training Sector (EDSEC) policy in 2011. The EDSEC policy goal is to expand equitable access to early learning through public provisioning of the service which has remained largely privately provided, and to ensure that all 3–6 year olds attend an early learning programme.

203. The GoS adopted the Technical and Vocational Education and Training and Skills Development (TVETSD) policy in 2010 and the Higher Education Act in 2012 to improve the availability of, and access to post-school education. In so doing, it has addressed concluding observation 60(d).

204. The implementation of the TVETSD policy has been slow because of the lack of an institutional vehicle to drive it. There are few institutions that provide training at this level. In addition, it is hampered by limited coordination and is lacking a quality assurance framework. There are currently 70 TVET institutions. The lack of institutional support makes it difficult to collect and analyse data and there is a weak alignment between the TVET system and labour market requirements. The GoS will be addressing these issues systemically through the newly established of a National Qualifications Department (2017) and by putting in place a National Qualifications Framework, but technical and resources challenges are still a major issue for government.

205. In addition to the FPE Policy and OVC Education Grant, the GoS has adopted additional policies and laws aimed at improving the accessibility of education through the inclusion of marginalised children, and in so doing, has further addressed concluding observation 60 (a) and (c).⁷¹ These include:

(a) The Special Education Policy Statement of 2009 and implementation of the Special Education Needs programme which seek to mainstream inclusion across the education sector. There are special and inclusive schools for children with disability. Within the MOET there is a Special Needs Unit dedicated to the promotion of inclusive education;

(b) The adoption of the SADC Care and Support for Teaching and Learning policy framework;

(c) Various initiatives to improve access and the retention of girls have been implemented with a view to eliminating gender disparities in primary and secondary education. The laws of Swaziland prohibit discrimination against girls. Schools' admission policies and practices respect the law and do not exclude girls. They are nonetheless at greater risk of exclusion and dropping out because of practical circumstances such as poverty, risk of physical and sexual violence on route to school and within schools. Other

⁶⁹ Annual Education Census (AEC) Report, 2014.

⁷⁰ Annual Education Census (AEC) Report, 2014.

⁷¹ Annual Education Census (AEC) Report, 2014.

social issues such as pregnancy and early marriages and high HIV and AIDS prevalence amongst girls serve to exclude them from school;⁷²

(d) The HIV/AIDS Policy in Education;

(e) The National school feeding programme;

(f) The non-formal education programme which makes education available to children that have not enrolled at the prescribed age and is too old to start Grade 1.⁷³

206. There are nonetheless on-going challenges in terms the availability of, and access to education. These include:

(a) Limited and inequitable access to early childhood education and secondary education. This is aggravated by the lack of a comprehensive ECD policy;

(b) Whilst gender parity has been achieved in enrolments, discrepancies continue to favour boys in rural areas, fewer girls and disabled persons participate in tertiary and vocational training, and fewer girls take subject such as maths and science;⁷⁴

(c) Inadequate infrastructure, especially furniture, with rural schools particularly poorly resourced.⁷⁵ Poor learning environments in rural schools have led to a high level of migration to urban schools where overcrowding is now a common problem;⁷⁶

(d) Shortage of qualified primary school teachers, and skilled teachers in key subjects such as maths and science;⁷⁷

(e) Schools are still not adequately equipped to identify and support orphaned and vulnerable children (OVC) and children with special education needs, and there is still uncertainty as to the definition of these terms;⁷⁸

(f) Despite the FPE programme, schools continue to charge “top-up” fees which tend to push vulnerable children out of the system;⁷⁹

(g) High repetition rates which lead to resource inefficiencies. In 2012, there were about 40 000 learners repeating primary school classes, representing about 16 per cent of the total enrolment;⁸⁰

(h) Lack of effective employment of Technology as a tool to reduce costs and improve accessibility of education.

207. Measures that will be taken to address these challenges include a joint project between the Education Information Management System (EMIS) and SADC to improve the collection and analysis of data for OVCs and children with special education needs. The collected data will be used to identify and provide appropriate support to children.

208. Further practical measures include infrastructure expansion plans. Proposals for the construction of additional secondary schools, through external grant need support. The Ministry continues to execute support programmes including for Orphaned and Vulnerable Children at secondary and higher education levels.

209. For example, a project for the construction of 12 fully-fledged secondary schools by the Government of Japan, through the Japanese International Cooperation Agency (JICA) has been approved. This is an initiative by the MoET through the Planning Unit, to try and address the huge gaps in enrolment and availability of space between primary and secondary education. It is a program aimed at assisting the GoS meets the ever rising

⁷² (The Swaziland Education for all Review Report, 2000–2015, 2015.

⁷³ N17.

⁷⁴ The Swaziland Education for all Review Report, 2000–2015.

⁷⁵ Annual Education Census (AEC) Report, 2014.

⁷⁶ The Swaziland Education for all Review Report, 2000–2015.

⁷⁷ The Swaziland Education for all Review Report, 2000–2015.

⁷⁸ Annual Education Census (AEC) Report, 2014.

⁷⁹ The Swaziland Education for all Review Report, 2000–2015.

⁸⁰ The Swaziland Education for all Review Report, 2000–2015.

demand for secondary education space, taking into account other interventions such as the FPE programme.

8.3 The aims (and quality) of education

210. The GoS recognises that the delivery of quality and relevant education is key. The MoET has therefore invested substantially in programmes aimed at improving the quality and relevance of education.⁸¹ Measures taken have been designed to address the quality of teachers; infrastructure and teaching and learning resource materials; technology and electronic teaching and learning modalities; the curriculum; quality management and improvements systems; as well as the quality of leadership and planning for efficient use of resources at schools to meet local needs. Notably, the measures adopted have sought to remedy inequities in educational opportunities and outcomes for marginalised groups of children. Through these comprehensive measures, the GoS has attempted to address concluding observation 60 (b) which called for measures to improve the quality of education in Swaziland, particularly by training teachers, improving the curriculum and better equipping schools with learning materials. The introduction of FPE has increased the teacher student ratio, resulting in ineffective discharge of instruction. Corrective measures including the use of technology to support learning, additional infrastructure, provision of education indirect costs, etc. are main challenges.

211. The GoS continues to provide schools with qualified teachers and to mount in-service courses to keep teachers up to date to meet the latest approaches in teaching. Recognizing the increasing demand for primary school teachers, the Ministry has increased enrolments at Ngwane Teachers College (a primary school teachers' college) to sizeable proportions. Furthermore, the Ministry has introduced a Primary Teachers' Diploma (PTD) at William Pitcher Teachers College in order to expedite the training of teachers at primary school level.

212. The Ministry has also continued with the provision of learning materials (textbooks and stationery at primary schools), infrastructure, furniture and equipment to schools. These interventions include the following:

(a) The provision of schools infrastructure such as classrooms, computer laboratories and science laboratories;

(b) The Ministry continues to provide electricity to schools in the rural areas with the view to improve pupils' learning outcomes and education relevance through the introduction of amongst others computer studies, and technical and vocational subjects;

(c) Box libraries are provided by the Support to Education and Training (SET) programme to all primary schools in the country.

213. The GoS has taken a structural approach to improving the provision of education and the efficient use of resources through public finance management, planning and management strengthening programmes implemented with the support of development partners. For example, the Schools Accounting Regulations and Procedures and the Schools Committee Constitution have been reviewed to strengthen planning and accountability at implementation level.

214. The GoS faces a number of on-going challenges in improving the quality of education.

(a) The education and training sector faced budget constraints following the global economic crisis of 2008/9. Whilst the prioritisation of education has led to the GoS maintaining its increases in the education budget, the increase have not been as large as required to drive educational transformations, and is placed under ever-increasing pressure as enrolments continue to increase;⁸²

⁸¹ General Comment 1 (2001).

⁸² The Swaziland Education for all Review Report, 2000–2015.

(b) Despite the progress, the provision of quality ECCE, which is central to ensuring sustained quality education outcomes, remains a challenge. It is beset by systemic challenges, including lack of technical expertise in government, lack of trained teachers, inadequate resources, poor infrastructure, and the lack of coordination of ECD initiatives because there is no ECD policy in place yet. Some aspects fall under other ministries, such as health and coordination is difficult. Cost is a key barrier and food is not available at many centres. There is no formal system for the identification and provision of support for learners with disabilities.

215. The GoS is cognisant of these challenges and has a clear plan of action to remedy the problems, including:

- Plans for the development of a national integrated ECD policy and supporting administrative infrastructure to facilitate coordination, registration and quality control of services.
- The development of an ECD syllabus.
- A focus on birth registration which is key to accessing the education grant.
- Continued training of teachers.
- Planned Introduction of a Grade zero class in every public school from 2017 which will become part of the state-funded education programme. This will be accompanied by stronger systems to identify and support young learners with disabilities.

Part 9

Special protection measures

9.1 Children outside their country of origin

216. The GoS recognises, protects and promotes the rights of children from other countries in Swaziland, including children seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration.

217. Legislative protection is afforded through a combination of the Immigration Act, the CPWA, the People Trafficking and People Smuggling Act, and the Guidelines on Alternative Care 2010.

218. The Government has established a halfway house in the Manzini region, over and above the children's homes found in all four regions of the country. Displaced children receive care and protection through the support of social workers, the police and the courts and are, in terms of the CPWA, placed in these homes pending their reunification with their parents.

9.2 Children in street situations

219. Children living on the street are regarded as being in need of care and protection. It is the responsibility of the Social Welfare Department to investigate their circumstances and refer them into the formal child protection system. Data is not readily available, but experience shows that children living on the streets are not a particularly common occurrence in the country.

9.3 Children in situations of exploitation

220. The MLSS has enacted a number of laws, policies and programmes to protect children from exploitative labour practices. The legislative framework is made up of the

Constitution;⁸³ the Employment Act of 1980, the CPWA and the People Trafficking and People Smuggling Act. They accumulatively prescribe a minimum working age of 15 years and protect children against harmful forms of labour. A Child Labour Programme of Action has been developed. It is a multi-sectoral policy document which provides a common framework for the prevention of child labour and provision of support to children involved in child labour.

221. There is a dedicated child labour unit with competent employees within the Ministry, and in 2015 three investigators were allocated to implement child labour programmes. The Ministry has further appointed a task team on child labour and is considering a proposal to employ regional child labour officers to investigate and report to the national child labour unit. Child labour is considerable in the agriculture and transport sectors in the country. There is need to strengthen and invest in widening inspectorate, innovative income generation and advocacy interventions to support communities.

9.4 Children in conflict with the law, child victims and witnesses of crimes and juvenile justice

222. The GoS has significantly strengthened the legal protection of children in the justice system, whether they are in conflict with the law or are involved as victims or child witnesses. In so doing it has addressed concluding observation 67 which centred on the Committee's concern about the lack of a legally compliant and functioning juvenile justice system. The juvenile justice system has been substantially strengthened through the adoption of CPWA Act as stipulated in concluding observation 68.

223. The CPWA increases the age of criminal responsibility to 12 years. Where there is any doubt about the age of the child, the Act requires that an age-assessment be conducted by a social worker, supported by professionals such as medical officers.⁸⁴

224. No child below the prescribed age of criminal capacity may be arrested or detained. However, once they come into contact with the system and are found to lack capacity, they receive a range of supportive services, including counselling or therapeutic services.

225. In the case of a child that is arrested or detained, Police officers arresting the child are required to follow a number of protective procedures.⁸⁵ The Act further stipulates that the detention of a child is subject to prescribed conditions.⁸⁶

226. No child may be held for longer than 48 hours before appearing before a magistrate for a preliminary inquiry. A preliminary inquiry must be held by a magistrate to determine if a social worker has conducted a social assessment, if the matter can be diverted, to refer to a prosecutor for charges to be instituted, or to transfer the matter to the Children's Court.

227. Part XIV of the CPWA deals with restorative justice and diversion embeds and regulates a number of traditional justice remedies and procedures into the statutory child justice system. These provide an opportunity for parental and community involvement in dealing with children in conflict with the law in a manner that is protective of children's right; their diversion from the formal justice system; the provision of therapeutic services, and mechanisms for children to take responsibility for their action and make amends to their victims.⁸⁷

228. Specialised Children's Courts have been established in terms of the Act to create a safe, enabling and supportive space for children's participation in the justice system, whether as offenders, victims or witnesses. But these are limited to pilot initiatives as seen by the creation of a One Stop Centre where victims of sexual violence access justice from collaborating stakeholder from MOJCA, MOH, DPMO. There are structural, coordination and technical challenges engulfing this initiative.

⁸³ Section 29.

⁸⁴ CPWA ACT 2012 SECTION 79 1–4.

⁸⁵ CPWA section 93 and section 94.

⁸⁶ CPWA section 103.

⁸⁷ CPWA section 120–129.

229. Every Magistrate's court is a Children's Court and has the jurisdiction to hear and determine criminal, child protection and civil matters in accordance with the CPWA. The Chief Justice is required to designate magistrates to preside over Children's Court proceedings, and the courts shall, as far as possible, be staffed by specially trained personnel. A court other than a Children's Court is only authorised to try cases involving children where the child is accused of murder or an unlawful sexual act or where the sentence exceeds the jurisdiction of the Children's Court. Swaziland needs assistance in establishing children courts are not yet have children's courts.

230. In terms of the CPWA and the Criminal Procedure and Evidence Act, the procedures required to be followed in the Children's Court and the rules governing children's evidence in all matters are different, specifically so as to enable children's full participation, protection and respect for their well-being and dignity.⁸⁸

231. A range of practical measures have been taken to implement the CPWA.

(a) Guidelines: In addition, various manuals have been developed to provide hands-on support for implementation. For example, the Ministry of Justice and Constitutional Affairs has developed the Prosecutor's Guide on the Children's Protection and Welfare Act. A similar guide has been developed for the police. The booklets provide practical guidance for processing children in conflict with the law in compliance with the prescribed laws. They are a particularly important transitional tool given that the guideline or regulations to the Act have not yet been developed;⁸⁹

(b) Equipment and infrastructure: CCTV cameras have been installed in a number of court rooms and specialised interview rooms have been built for child victims and witnesses;

(c) Physical and psychological recovery and social reintegration: In addition to the diversion and restorative justice services provided in terms of the CPWA, the Department of Correctional Services provides a number of rehabilitation programmes for children and youth in conflict with the law. If children are sentenced to correctional facilities, they are provided with education and reform programmes to prepare them for reintegration into their families and communities.

232. Implementation of the measures prescribed by the CPWA has been limited by a number of factors, including the following:⁹⁰

(a) Insufficient resources, including financial, infrastructure and human resources;

(b) Inadequate child-appropriate facilities to house children in conflict with the law. There is currently only one appropriate facility in Malkerns and it does not have enough space to accommodate children, especially in the pre-trial period, thus many children remain in the custody of the police after their arrest, and before they are tried. The Act does make provision for diversion which will alleviate the problem. However, the implementation of the Act has been delayed by the promulgation of supporting regulations;

(c) There are not enough child-friendly court rooms. There is only one child-friendly court in the High Court and it is not always available, as it is also used for adult trials;

(d) There is no dedicated pool of intermediaries. They are drawn from a pool of nurses and social workers who are already stretched with their routine responsibilities and who do not have specialist qualifications.

233. Children's access to justice and protection of the laws aligned to the CRC, ACRWC and the Constitution is also, at times, limited by a number of additional factors, including the following:

⁸⁸ CPWA section 137, CPEA 1938 section 223 bis.

⁸⁹ Interview, DPPs – Sexual Offences Unit.

⁹⁰ Interview, DPPs – Sexual Offences Unit.

(a) Lack of physical access to courts, especially for people living in rural areas where there are no common law courts, and only traditional courts;

(b) Language is often a barrier and is compounded by lack of access to interpreters;

(c) The decision of to transfer jurisdiction over all rape cases from magistrate's to High Courts, motivated by the need for greater legal rigour and the imposition of harsher sentences, has consequences that prejudice children. The distances and delays involved have made the justice system more inaccessible, and the lack of child-friendly court facilities in the High Court limits the participation of children in proceedings;

(d) There is no statutory legal aid system and most people cannot afford lawyers. The Legal Aid Bill is in development and makes provision for state-paid legal representation of children in conflict with the law and the draft regulations to the CPWA allow for the use of pro-bono legal services for children.⁹¹

Conclusion

234. This report was responding to a total of Seventy Two (72) CRC Concluding Observations (CO), Six being general comments and Sixty Five (65) principal areas of concern and recommendations requiring specific measures of interventions. Given that the framing of the CO is such that a commentary observation precedes a detailed conclusive recommendation in each area of concern, in essence, half of the CO (or about 33), are actual substantial areas of concern.

235. All concerns have been covered in this report.

236. The government of Swaziland has taken charge in leading the efforts of various stakeholders in an attempt to address the raised concerns. GoS is committed to creating an enabling environment by enacting laws, formulating policies, creating institutions, providing financial support, and systems, amongst others to support the rights and needs of its children. While making these efforts, government realizes that no one institution can fully address the challenges faced by children not just for Swaziland, but world-over, hence the need to strengthen our domestic and international partnerships with all non-state actors.

237. While recognising that the measures undertaken may not necessarily be conclusive in their ability to address the multitude of challenges facing children in the Kingdom, this report attempts to reflect the country's experience and efforts made to address these challenges within the abilities and the context of prevailing circumstances in the period.

238. The kingdom of Swaziland acknowledges that there remain numerous challenges in each of the reported areas of concern. It is our hope that we will be advised accordingly, on areas where due additional measures & efforts are required and possible support to effect the same.

239. This report is a consolidated report drawn from the instructions set in concluding observation number Seventy Two (72), inviting the State party to covering the 2nd, 3rd, 4th report by the 5th of April 2011. The fourth report was due on the 5th of December 2012 (that is 18 months later). The fifth report was due on the 5th of December (that is for the last five years), hence this report covers children measures and programs being implemented by the State Party up to December 2017. Hence this is report covers the 2nd, 3rd, 4th and fifth consolidated reports, for the period 2006 to 2017.

⁹¹ Interview, DPPs – Sexual Offences Unit.