



ngo group for the crc

STATE PARTY EXAMINATION OF SWAZILAND'S INITIAL REPORT

43RD SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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Swaziland ratified the Convention on the Rights of the Child (CRC) on 7 September 1995. On 18 September 2006, the Committee on the Rights of the Child (the Committee) examined Swaziland's Initial Periodic Report.

Opening Comments

Ms. Nomathemba Diamini, Principal Secretary of the Ministry of Health and Social Welfare, headed the delegation. She presented the report, which was the result of joint efforts between the government, NGOs, community-based organisations, UN agencies and children. Ms. Diamini said HIV/AIDS was the main challenge faced by the State party with a devastating effect on children. In 2002, priority was given to the preparation of the project on Social Protection of Vulnerable Children (SPVCO). A new Constitution had been adopted in 2005, which included a Bill of Rights, guaranteeing individual rights and freedoms. A Human Rights Commission would soon be established to ensure the human rights of all citizens, including children. The new Constitution also provided for free education up until the end of primary level. The State party had embarked on a wide reform of its law in order to comply with the Constitution and various international laws. The government had also developed a children's policy which would be adopted by the end of the year. The government had adopted a National Plan of Action (NPA) for Orphans and Vulnerable Children (OVCs) for 2006 to 2010. Communities themselves had launched various initiatives to support these children and the Ministry of Health and Social Welfare had devised a child survival package to reduce morbidity and mortality amongst children. There was a need to improve information systems and reporting mechanisms to be able to meet all the needs of all children.

The country rapporteur, Ms. Ortiz, thanked the delegation for the self-critical standpoint adopted by the State party. The Committee regretted the delay in the submission of the report but it was aware of all the efforts put into its drafting. Unfortunately, as the drafting of the report started in 1997, much of the data was out-dated. The Committee underlined the efforts made to present traditional aspects of the State party. It recognised the progress that had recently been achieved but noted that the State party had serious problems to confront, amongst which the biggest was probably HIV/AIDS. The tradition culture which promoted values such as polygamy and early marriage made it difficult to promote children's rights, especially for girls.

General Measures of Implementation

The Committee wanted to know if the Child Coordinating Unit was responsible for the coordination of the implementation of the CRC. The delegation replied that the Unit would be an umbrella body overseeing all activities and organisations related to children and would coordinate all activities related to children and mobilise resources. It was also responsible for the implementation of the CRC and for the reporting process. Its aim would be to try to avoid duplicating activities amongst partners. 10,000,000 were set-aside for this Unit. It was formally under the Ministry of Health but had a semi-autonomous status. It was not yet operating because of delays in setting up a team. It should hopefully be operational by 1 January 2007. The Committee welcomed the idea of creating such a Unit but noted the ambitious programme.

The Committee asked about the lack of data and wondered whether the State party had sought international cooperation. The delegation answered that a lot of assistance had been received from international partners. There was a capacity building problem but it was being addressed as the lack of data was preventing informed decisions from being taken

Definition of the Child

The Committee noted that the State party lacked a clear definition of the child. The delegation replied that this issue would be incorporated in the issue paper on the Children's Bill. It was aware that the current traditional definition did not comply with the CRC definition. The Bill was currently being circulated amongst all stakeholder and there was a tacit agreement on the fact that anybody under 18 was a child.

Legislation

The Committee asked why there were so many bills that had not yet become law. The delegation answered that the State party wanted to be sure that all bills complied with the new Constitution which was taking some time. The government was trying to review all legislation affecting children to ensure that they complied with the CRC. The Committee asked about the status of the CRC. The delegation explained that, when ratified, a Convention did not automatically become part of the body of laws but rather a national law had then to be developed.

The Committee asked how the dual legal system was functioning. The delegation explained that chiefs were responsible for people's welfare at the community level. They had been sensitised to the NPA so that there was no conflict and chiefs reported on progress made with regards to children's issues. Otherwise, in case of a court procedure, if someone did not agree with the decision taken by a customary court, he/she could appeal to a higher common-law court.

Civil Rights and Freedoms

The Committee enquired about the procedure determining children's names and nationality. It seemed that in some cases a child's name could be changed which posed a problem in terms of preservation of identity. The delegation responded that efforts were made to coordinate with all parties to address issues around name and nationality. The Committee underlined the low birth registration rate (i.e. only 27%) and noted that there was a need to increase local awareness about the

importance of birth registration. The delegation clarified that the 27% did not refer to nationwide coverage but only to a pilot-census based on 33,000 children. In 2005, a national campaign on birth registration was launched. One of its outcomes was to give birth certificates to children without one. Leaflets were developed in local language and distributed all over the country to sensitise people on this issue. National workshops with local chiefs were also organised. People from the Ministry of Justice travelled throughout the country to register children. Caregivers were allowed to register children if these children had no natural parents, provided that they had all the legal documents. The Committee congratulated the State party on the measures taken to deal with this issue.

Family Environment & Alternative Care

The Committee enquired about the measures put in place to assist child-headed households. The delegation presented the Women Regiment system where women were assigned to households they visited every day to check if the children were well. These women acted as mothers who oversaw schoolwork and made sure the children could access health services when needed. There were also programmes to teach children how to grow food. The community helped in teaching children, the Ministry of Agriculture gave supplies of vegetables, and the Global Fund supported infrastructures in the house. There was also a Small Animal Production Project and psychosocial support was given through the Caregiver Association.

The Committee asked about the situation of inter-country adoption. The delegation said the government had registered all institutions dealing with children and all adoptions had to go through the Social Welfare Department where a proper screening of people wanting to adopt Swazi children was done. Only one or two cases were registered each year however.

Orphans and Vulnerable Children

The Committee enquired about the situation of orphans and vulnerable children. The delegation replied that a National Plan of Action and a Social Plan for OVCs had been established. Recently, a Social Protection Plan was also set up for elderly people as it was recognised that many elderly people were in charge of young people who had lost their parents because of AIDS. The Ministry also allocated subventions and grants to institutions dealing with OVCs.

The Committee turned its concern to children in institutions and asked why figures for 2005 were rising while placements in foster families were decreasing. The delegation answered that the degree of vulnerability was now so high that children were abandoned every day. As the extended family shrank and the remaining family members were always poorer, children had to be placed in institutions.

Basic Health and Welfare

The Committee did not understand how the State party could have such a high poverty rate while the Gross Domestic Product (GDP) was high. The delegation explained that major contributors to the country's wealth were foreign-owned companies who often obtained tax holidays. In addition, the fiscal policy was weak

The Committee asked for more information about the state's health system. The delegation said policies mainly focused on primary health. The government was planning to establish a health insurance scheme by the end of this year. Rural clinics were of high quality but they were short of staff as the health sector was particularly hit by HIV epidemic. The Committee asked why the immunisation rate was decreasing. The delegation replied that the state encountered human and financial resources problems but was nevertheless putting strategies in place to make sure that something was done at the district-level. Very successful campaigns had been conducted in schools (e.g. on measles). The government showed a strong commitment to breast-feeding reflected in a campaign to sensitise women which had been launched by the Queen Mother. The Committee asked whether the State party intended to adopt the International Code for Breast-Milk. The delegation

answered that it was in the process of being done. Last August, a programme was launched on HIV and breast-feeding which had received a lot of support.

The Committee enquired about access to clean water and sanitation. The delegation said that toilets were mandatory in schools and neighbourhood care points. Rural health motivators visited households to talk about sanitation. International partners provided school children with clean water and communities were taught how to purify water collected from rivers.

HIV/AIDS

The Committee was concerned about the very high HIV-infection rate. It asked what was being done in terms of prevention and assistance to infected people. The delegation said that, since HIV/AIDS had been declared a national plague, much help had been received from the Global Fund, the US government and the EU. The government had also increased funds to assist infected people. The delegation confirmed that Anti-Retroviral Treatments (ART) were given for free to all infected children. Voluntary counselling and testing were available and a lot of support was given to HIV children and their families. There was now one coordinating body headed by the Prime Minister and a patient management system was in place.

Education, Leisure and Cultural Activities

The Committee highlighted the positive developments made in this area but was concerned about the fact that only 20% of children finished primary school. It asked whether the State party intended to make primary school compulsory and what was being done to improve girl's enrolment rates. The delegation answered that disparities in the enrolment of girls was due to HIV. The first child to be taken out of school to support sick parents and young siblings was the girl. As for compulsory education, UNICEF's "Education for All" had helped bring many children back to school. As many teachers were dying of AIDS, volunteer teachers were hired to assist children and make sure they remained in school. Children who dropped out of school still had a chance to learn vocational skills in rural communities. The Committee was surprised to read that Siswati was forbidden in schools and asked for clarification. The delegation explained that students could fail at the end of the year if they did not get a good enough grade in English. So the local language was indeed prohibited so that students could focus on English.

The Committee enquired about child's right to play as no information had been provided. The delegation replied that compulsory playtime was set-aside in the school curricula. At the community-level, facilities were put in place and the right to play was given priority by many families.

Juvenile Justice

The Committee enquired about the responsibility of children when they committed an offence as it seemed that parents could be sentenced on their behalf. The delegation explained that, under common law, parents were not punishable on behalf of their children but, under traditional law, parents were held responsible. The traditional sentence was to pay for a cow. Current practice was to take children to court and either the parents paid a fine or children were sentenced to a number of days in custody if the parents could not afford to pay the fine. The Committee expressed its concern over children who were imprisoned with their mothers. The delegation responded that, due to the poverty level, it was increasingly difficult to find relatives who could take care of children. The Ministry of Justice was aware of the difficult situation in jails. It worked with NGOs in order to provide for the needs of these children. When children were of school-going age, they were taken to the SOS Children's Village in order to receive an education. Arrangements were made so that the child could go every weekend to the prison to see its mother.

Corporal Punishment

The Committee was concerned that corporal punishment was still being practised in the home and in schools. It asked how widely spread it was and if there was any intention to train parents and teachers in non-violent forms of discipline. The delegation answered that corporal punishment was indeed still practised. Research had been conducted and its results, showing the negative consequences on children, had been widely circulated. NGOs organised workshops on positive discipline methods to teach parents alternatives. Teachers however refused to change their habits until the law was changed and not only was it allowed in schools but the use of corporal punishment was regulated in the guidelines from the Ministry.

Violence and Child Labour

The Committee found confusing the various age limits in relation to work. And asked whether a child under 15 could work or not. The delegation answered that the employment age was set to 15 years old when a child was allowed to work for four hours a day after school. As most of the population lived below poverty level, this opportunity should be safeguarded.

The Committee asked if the government intended to make the existing Hotline 24/7 in order to deal with cases of child abuse. It asked for more details on how information received through this phone-line were being dealt with. The delegation explained that the Department of Counselling at the Ministry of Education was responsible for dealing with cases reported to this Hotline. Cases of abuse were reported to the police and cases of neglect were referred to the Department of Social Welfare. Other community structures also existed, such as child protectors, community-based committees (with some members chosen by children), care-points (safety-nets for children), young child protectors, and child-to-child systems (at schools). Parents could also go to the chief to report cases of abuse. In the majority of police stations, there were Children Protection Units where special officers were assigned.

The Committee enquired about the process by which the perpetrator of child abuse was being sanctioned. The delegation explained that abuses were reported to the Community Child Protector, then to the Police, and then to social workers. Perpetrators were then brought to court. In 2002, the very high number of abuses registered led to the formation of a network of child protectors which proposed that a Children's Bill be drafted. A domestic violence section had been established within the court. The Children's Court was being decentralised, as the majority of abuses did not happen in cities but there was a need to train more prosecutors.

Child Participation

The Committee wanted to know more about opportunities for children to be heard. The Committee was concerned about the resistance towards this idea in the country. It seemed that children were accused of being not Swazi children when they insisted too much on their rights. The delegation said there were plenty of opportunities for children to express their views (e.g. traditional forum, songs and dances, radio and TV programmes, student councils). The establishment of a Children Parliament was still in the pipeline. It would hopefully be operational before the end of next year or by the 2008 elections. At the grass-root level, in all chiefdoms, there were social centres where problems were discussed and provided an opportunity for the chief to listen to children's problems. If the chief could not help, he would then call on assistance at regional meetings.

Concluding Remarks

The country rapporteur, Ms. Ortiz, very much appreciated the delegation's honesty. Much work was undertaken in the State party but the path was still very long and the government did not show any haste. The Children's Bill and the Bill on Sexual Abuse urgently needed to be passed, other pending legislation needed to be considered more quickly and coordination could not wait. Ms. Ortiz suggested that the Parliament set up a Committee to work on children's issues in order to accelerate

the process. It was extremely important for people to understand why all these changes were being made so that they did not reject children's human rights. There appeared to be no strong political will shown by the many proposals but few concrete actions. While the Committee truly applauded all the efforts made, there still was a lack of preventive measures, especially concerning girls.

Ms. Diamini expressed the delegation's appreciation and noted that there was a need to create awareness about children's rights in order to gain support throughout the Kingdom. The discussion allowed for gaps to be identified and to see where work needed to be undertaken. It was the beginning of a process. The very fact that the State party had adopted a new Constitution showed there was a greater understanding of human rights in the country. The government was fully committed to the rights of the children. Ms. Diamini took the firm commitment to set up the Children Coordinating Unit before the end of the year.