



Child Rights References in the Universal Periodic Review

Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Lesotho - 8th Session - 2010

5th May, 2.30pm to 5.30pm

National Report

32. The Department of Gender under the Ministry of Gender and Youth, Sports and Recreation, is tasked to advocate, promote and nurture gender equality. The Department has achieved the following inter alia: an outreach center for abused women and children which provides a short term refuge for abused women and children by providing basic medical, counseling and psychiatric services; advocacy programmes so as to curb gender based violence and with the support of Millennium Challenge Account-Lesotho, advocates for reform of existing laws to remove discrimination and for the enactment of laws to end gender based violence.
33. Child and Gender Protection Unit (CGPU) was established in 2002 as a specialized unit within the Lesotho Mounted Police Service (LMPS) under the Ministry of Home Affairs to respond to the persisting acts of violence against women and children. The Unit provides user-friendly reporting environment that ensures confidentiality. It responds and investigates promptly all cases involving vulnerable groups including children as well as victims of gender-based violence.
34. The Unit is operating nationwide. CGPU raises awareness through media, public gatherings, congregations and school visits on the rights and responsibilities of children and women and safeguards their rights.
35. The Unit is keeping a profile of children in need of care countrywide. Through the assistance of UNICEF, the Unit is currently developing database which will help generate quality reports. In an attempt to provide user-friendly reporting environment, the Unit has been assisted by the Global Fund with prefabricated mobile offices, where available office space compromises victims' confidentiality.
48. National Youth Policy aims at promoting the dignity and self esteem of all youth; nurturing their physical, intellectual and moral being. It calls for government to take all measures necessary to accelerate their full participation in the socio-economic, cultural and political spheres of life. The Government is striving to create means of livelihood for youth and safeguarding their right to work including those with special needs. Youth enterprise development programme is ongoing. Other programmes aiming at the socio-economic empowerment of the youth are afoot.
62. Lesotho has enacted laws that protect and promote disability rights and these include Buildings Control Act 1995 which specifies designs of new buildings suitable and accessible to people with disabilities. Sexual Offences Act stipulates that it is a criminal offence to commit a sexual act in relation to or in the presence of a disabled person as defined in the Act²⁵. The Children's Protection and Welfare Bill provides that no person should treat a disabled child in an undignified or discriminatory manner.
64. The best interests of the child remain one of the top priorities in Government's policies and programmes. Lesotho has drafted Children's Protection and Welfare Bill that consolidates all issues affecting children into a single piece of legislation. The Bill entrenches the guiding principles of interpretation as enshrined in CRC which give context to children's rights. It covers children's rights at the individual, family, community and country level. It also addresses the rights of children in need of special care and protection, children with disabilities, child trafficking, children in conflict with the law and children infected with and affected by HIV and AIDS.
65. The Government has adopted a number of policies that enhance protection and promotion of the rights of children and youth. These include the National Social Welfare Policy 2004 which undertakes to protect children in all areas of life; National Policy on Orphaned and Vulnerable Children 2005 which aims at ensuring full care and support for orphaned and vulnerable children.
66. Gender and Development Policy specifically mentions the need for access to equal rights and opportunities for both girl and boy child. The National Reproductive Health Policy, which takes cognizance of the fact that young persons are at greater risk of contracting

HIV and AIDS than other groups in the society, calls on the authorities to strengthen and enforce laws to protect this group against physical and sexual abuse and to increase access to information and services. However, the number of orphans has risen sharply and the Department of Social Welfare is unable to meet all their needs.

67. The Government, working together with the European Commission and United Nations Children's and Educational Fund (UNICEF) has introduced child support grant to support orphaned and vulnerable children. The grant has been distributed in 3 districts as a pilot and will be rolled out in the other 7 remaining districts in due course.

68. To facilitate reporting, a child helpline, which operates for 24 hours was established in 2009. The child helpline is housed under Lesotho Save The Children whose staff makes referrals of all the cases reported to relevant service providers. The degree of connectivity nationwide is the key to the success of this endeavour.

69. Child labour such as commercial exploitation of children, excessive use of children as domestic workers and exploitation of herd boys are concerns are being decisively addressed. Lesotho has a draft National Action Programme towards the elimination of child labour. This document describes the strategy to be followed to address the types of work that might be detrimental to the health and development of children.

92. Literacy rate was estimated to be 84.4 per cent in 2003. According to 2006 statistics Lesotho has about 1455 primary schools with an enrollment of 424,855 pupils roughly evenly split between males and females, with 10418 teachers of whom 6141 were qualified. There are about 240 secondary schools with 94,545 students and 3673 teacher of whom 2651 are fully qualified. Females are in majority at this level. There were 2597 students in various post secondary institutions. At the university level there were 6726 students, 52 per cent of them male and 48 per cent female²⁷. Additional students at secondary, post secondary and university level study abroad. Lesotho subscribes to the African Charter on the Rights and Welfare of the Child thus, views education as a right to every child. This has been witnessed by the introduction of Free Primary Education (FPE) in 2000. In addressing poverty crisis that hinders effective and efficient schooling, FPE package includes government sponsored schools feeding programme that caters for pupils nutritional needs.

93. To ensure the success of FPE programme, the Government is engaged in a project of constructing more schools at both primary and secondary levels. Japan has contributed greatly to construction of schools in Lesotho. The main teaching training institution, Lesotho College of Education has also expanded its intake capacity to respond to the increasing number of enrolments in schools.

94. The Government has further put in place bursary schemes for orphaned children, especially double orphans as well as those who are destitute at secondary level. The Government has also introduced the Textbook Rental Scheme which makes access to instructional material less costly. The bursary scheme for tertiary level is administered by the National Manpower Development Secretariat for secondary school graduates in various areas of study both locally and in the SADC region.

95. The Ministry of Education has introduced, on a pilot basis, human rights education in ten schools.

96. Curriculum and Assessment Policy provides that mother tongue be used as a medium of instruction up to class 3, while English is taught as a subject at this and other levels. This is in recognition of the existence of minority groups in languages. The policy further states that sign language shall form part of the new language policy.

97. Education Amendment Bill makes free primary education compulsory and makes it an offence for any parent to keep a school going child at home.

98. The Ministry of Education aspires for an inclusive education that caters for the needs of all learners irrespective of their physical abilities and disabilities, gender and race. In this regard, Lesotho College of Education has introduced Special Education in its curriculum. Among the challenges that the Ministry faces is to provide adequate infrastructure, equipment and supplies for utilization at school level. The biggest challenge is still to avail infrastructure, equipment and supplies that will address the specific needs of pupils with diverse disabilities in schools. Low capacity of the economy is the constraint.

106. "Education For All" assessment indicated that Lesotho is in a unique position in Sub-Saharan Africa for having higher enrolment and completion rates for girls than boys in schools.

116. Lesotho has been assessed as having the third highest HIV and AIDS prevalence rate of 23.32 a result, most children have been left as orphans and have increasingly become caregivers to sick parents, younger siblings and other relatives. There is also an increase in child mortality as well as maternal mortality as a result of the pandemic.

Compilation of UN information

1. In 2001, the Committee on the Rights of the Child (CRC) encouraged Lesotho to consider acceding to the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.⁸

4. In 2001, CRC expressed concern that domestic legislation did not fully reflect the principles and provisions of the Convention on the Rights of the Child. It noted that customary law continued to be applied in many situations and is sometimes in contradiction with the Convention. CRC recommended that Lesotho ensure that ongoing customary law practices are in conformity with the Convention. It also recommended that Lesotho continue efforts to adopt new, or to amend, legislative instruments; undertake a review of all of its legislation; and consider the enactment of a comprehensive child rights statute, to ensure the full conformity of domestic legislation with the Convention.¹² In 2009, the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) noted that the adoption of the Children's Protection and Welfare Bill was still ongoing, and expressed the hope that the Bill would shortly be adopted.¹³

7. CRC recommended that consideration be given to providing a mechanism through which children can make complaints of abuses of their rights.¹⁹ CRC further recommended the establishment of governmental mechanisms for the coordination of the implementation of the Convention and that attention be given to strengthening coordination with, and between, NGOs working towards the Convention's implementation.²⁰

8. In 2001, CRC noted the development of numerous policies and strategies, including the "Vision 2020 initiative", addressing, inter alia, the rights of children with disabilities, anti-poverty, the rights of youth, HIV/AIDS, early childhood care and development, and a draft reproductive health strategy.²¹ A 2007 United Nations Population Fund (UNFPA) report highlighted that Lesotho had developed a long-term national development plan, "Vision 2020", while adding that only the education-related Millennium Development Goal (MDG) target was likely to be achieved by 2015.²² CRC was concerned at the absence of a national strategy to ensure respect for the rights of children with disabilities and urged Lesotho to develop a comprehensive national programme.²³

18. In 2001, CRC noted with concern the lack of clarity in the definition of the child, arising from the fact that on the one hand the child was defined as a person under 18 years of age, while on the other hand the age of majority still remained 21. CRC was similarly concerned by the different minimum legal ages for marriage, the absence of a defined minimum age of sexual consent for boys, and the extremely low minimum age of criminal responsibility – currently seven years. CRC recommended that Lesotho review, and amend as appropriate, existing legislation to harmonize the age of majority and the overall definition of the child.⁴³

24. In 2001, CRC was extremely concerned at incidents of violence, including beatings, committed against children by law enforcement officials and the lack of investigation or criminal justice response to such incidents. It recommended that Lesotho establish an effective child-friendly complaint and investigation system to address acts of violence committed by law enforcement or other officials against children, and ensure that the perpetrators of such acts do not enjoy impunity. CRC further urged Lesotho to strengthen awareness of children's rights issues within the criminal justice system.⁴⁹

25. A 2007 UNICEF report indicated that the reported incidence of sexual abuse of children was high, and that 179 of the 789 cases reported by the Child and Gender Protection Unit of the police between January and June 2006 concerned children. The UNICEF report highlighted the commitment of Lesotho to address child protection issues, including through extensive public sensitization regarding the Sexual Offences Act (2003) and the establishment of child protection teams in all districts.⁵⁰ In 2001, CRC recommended that cases of domestic violence, ill-treatment, sexual and other abuse within the family be properly investigated, and that sanctions be applied to perpetrators.⁵¹

26. In 1999, the HR Committee expressed its grave concern at the fact that the practice of female genital mutilation appeared to continue to exist in parts of Lesotho.⁵² CRC expressed similar concern in 2001.⁵³ The HR Committee called for the eradication of that practice and recommended that it be made punishable under law.⁵⁴

27. While noting the statement by the delegation that corporal punishment had been abolished, the HR Committee noted with concern the indication in the report of Lesotho that corporal punishment was still used, provided that a medical doctor was present.⁵⁵ Similarly, CRC expressed concern in 2001 that the practice continued to be widespread and recommended that Lesotho take measures to effectively implement legislation prohibiting corporal punishment in schools and in care and juvenile justice institutions, and consider prohibiting corporal punishment in the family.⁵⁶

28. In 2008, the ILO Committee of Experts noted that, according to the UNICEF Lesotho Child Labour Survey – Analytical Report in 2004, herding was considered the worst form of child labour because it often prevented the boys involved from attending school, involves long hours and night work, and exposed the children to extreme weather conditions in isolated areas.⁵⁷ In 2001, CRC also noted with concern the high and increasing number of children, especially boys, employed as animal herders, as well the number of children working in potentially dangerous conditions. CRC recommended, inter alia, that Lesotho ensure that sufficient resources were allocated to the effective enforcement of labour laws and the protection of children from economic exploitation.⁵⁸ In 2009, the ILO Committee of Experts encouraged Lesotho to take the necessary measures to protect children from hazardous work in the informal sector, including through the strengthening of the labour inspection system in this sector.⁵⁹ It also encouraged Lesotho to take effective and time-bound measures to protect girls engaged in domestic work from the worst forms of child labour.⁶⁰

30. CRC expressed concern that young girls in particular are vulnerable to sexual exploitation, and that the number of incidents of such exploitation were increasing. CRC recommended that Lesotho implement appropriate policies and measures, including care and rehabilitation, to prevent and combat the sexual exploitation of children, especially girls. It recommended that Lesotho reinforce its legislative framework to protect children fully from all forms of sexual abuse or exploitation, including within the family.⁶²

34. While CRC noted that a juvenile justice system had been established, it recommended that Lesotho take additional steps to undertake a comprehensive reform of the juvenile justice system in the spirit of the Convention and of other United Nations standards in this field.⁶⁶

35. In 2001, CRC expressed concern at low levels of birth registration and, in particular, that some registration procedures were inaccessible, cumbersome and expensive. It recommended that all necessary measures be taken to ensure that all children are registered at birth.⁶⁷

36. CRC noted with concern the reported increase in family breakdown related to a combination of factors, including HIV/AIDS, household poverty, and increasing unemployment. It expressed concern at the growing number of child-headed households. CRC recommended that Lesotho clarify, strengthen and ensure implementation of its policies and legislation in relation to family breakdown, and that Lesotho strengthen support to child-headed households, particularly in the light of the spread of HIV/AIDS.⁶⁸

37. With respect to the situation of children deprived of a family environment, CRC recommended that Lesotho develop additional

programmes to strengthen its alternative care facilities, in particular an adequate and well-supported foster care system. CRC strongly recommended that Lesotho end the practice of using the Juvenile Training Centres to detain children as a form of alternative care.⁶⁹

38. CRC noted that Lesotho has legislation to regulate domestic adoptions, but that there is de jure discrimination against prospective African parents, and that the procedures were often slow and cumbersome. CRC recommended that Lesotho introduce effective and non-discriminatory regulatory and monitoring procedures with respect to both domestic and intercountry adoptions.⁷⁰

54. In 2009, the ILO Committee of Experts expressed the firm hope that the Bill introducing free and compulsory education will soon be adopted.⁹¹ A 2009 United Nations Statistics Division source indicated that the net enrolment ratio in primary education was 72.6 per cent in 2006.⁹²

55. In 2008, the ILO Committee of Experts observed that primary education had not yet been made compulsory and that, according to the concluding observations of CRC of 2001 (CRC/C/15/Add.147, para. 51), many children, in particular herders, children living in poverty, and children living in remote rural communities continued not to have access to education.⁹³ CRC also noted with concern the lack of trained teachers, the poor educational infrastructure and lack of equipment, the extent of overcrowding, the high pupil-teacher ratios, the high drop-out, illiteracy and repetition rates, the lack of basic training materials and shortages of text books and other materials.⁹⁴

60. In 2001, CRC acknowledged that the economic and social difficulties facing Lesotho and the human rights situation in general had had, and were continuing to have, a negative impact on the situation of children and were impeding the full implementation of the Convention. In particular, CRC noted the impact of the increasing level of poverty, very high unemployment and the emigration of professionals on children. CRC further noted that the impact of HIV/AIDS also adversely affected the full implementation of the Convention.¹⁰³

63. CRC joined with Lesotho in expressing the need for additional technical assistance and international cooperation.¹⁰⁶ It recommended that Lesotho seek technical assistance from relevant United Nations entities regarding: children with disabilities;¹⁰⁷ juvenile justice and police training;¹⁰⁸ child health improvement;¹⁰⁹ and education.¹¹⁰

Stakeholder Compilation

3. LCN reported that the Children's Protection and Welfare Bill (2004), which consolidates and reforms the laws relating to the protection and welfare of children, has been tabled in parliament since 2004 but has not yet been enacted.⁸ LCN recommended that Lesotho enact specific child legislation that protects the rights of children.⁹

7. WV recommended that Lesotho submit its overdue reports with regard to the Convention on the Rights of the Child and its two Optional Protocols.¹² LCN recommended that Lesotho report on the implementation of international agreements related to torture.¹³

10. LCN indicated that the 1974 Marriage Act sets up the minimum age for marriage at sixteen, which encourages early marriage of girls.²⁰

11. LCN added that children in rural Lesotho suffer neglect and discrimination by society and government.²¹

12. WV recommended that Lesotho revise all laws and make necessary changes, including through public campaigns, to assure equal treatment of all children without discrimination on the grounds of colour, sex, ethnic or social origin or disability.²²

19. Global Initiative to End all Corporal Punishment (GIEACPC) reported that corporal punishment is lawful in the home, in schools and in the penal system as a sentence for crimes and in alternative care. In July 2008, a Child Protection and Welfare Bill was under consideration, which would prohibit judicial corporal punishment but not all corporal punishment by parents. The Education Bill (2009) would prohibit corporal punishment in schools.³⁷ GIEACPC strongly recommend that Lesotho introduce legislation as a matter of urgency to prohibit all corporal punishment of children in the home and all other settings.³⁸ LCN reported similar information.³⁹

20. LCN reported that child exploitation and abuse occur in the country with 2 out of 3 children exposed to human rights violations.⁴⁰ LCN reported that sexual offences are criminalised by law in Lesotho but that such cases seem to be escalating. Some of these cases are not reported to the police due to fear of victimisation by society.⁴¹

21. LCN reported that available data show that the hosting of the 2010 World Cup soccer championship has escalated trafficking of children for sexual exploitation from Lesotho.⁴² WV made similar comments.⁴³

22. WV stated that, although the law prohibits the employment of children under the age of 15, and places restrictions on the employment of children under 18, child labour remains a serious concern. Child labour laws do not cover the informal and agricultural sectors. In addition, poverty and the HIV/AIDS epidemic have resulted in an increased rate of child labour. ⁴⁴ WV indicated that boys tend to work as shepherds and girls as domestic workers. WV described the difficult working conditions of shepherd boys and explained that they are considered to be a feature of local culture and a pre-requisite to manhood.⁴⁵

24. LCN recommended that Lesotho consider establishing a children's court to address cases involving children.⁴⁷

31. WV reported that poverty is a major factor in most Basotho children's lives and the greatest threat to the full realisation of their rights, as 58 per cent of Lesotho's population live below the poverty line.⁶⁰

32. LCN reported that there are an estimated 180,000 orphans in Lesotho, most of whose parents died of AIDS. Poverty, HIV/AIDS and food insecurity are interlinked and form the biggest threats to child safety in Lesotho.⁶¹ WV also underlined this situation.⁶² WV

reported that Lesotho has now adopted its own programme of action to scale up the response against HIV/AIDS. However, despite high-level support, the response has been slow and the ministerial capacity is lacking to implement the programme of action.⁶³

33. WV indicated that access to basic health services remains difficult for many poor and rural people due to the location of these services and costs involved in accessing them. Maternal and child mortality rates are high.⁶⁴ WV recommended that Lesotho, in conjunction with development partners, provide basic health services to all sectors of the population, including those living in remote areas. Child survival, health and nutrition must feature prominently in national and district level health policies.⁶⁵

34. LCN referred to the 2009 Education Bill, which provides for compulsory primary education and clarifies the roles and responsibilities of persons and institutions involved in education.⁶⁶ LCN also indicated that Lesotho established a system that provides for free primary education; however 20 per cent of rural children do not attend school as a result of early marriage, child labour or the HIV/AIDS pandemic.⁶⁷ WV added that poverty is another factor, with families unable to afford the fees for uniforms, books and school materials, and children are needed to help support their families.⁶⁸

35. WV reported that more girls than boys attend primary school in rural areas, as boys work as shepherd boys from a very young age. Although there is a programme of non- formal education targeting these children, it might not be reaching all parts of the country and benefiting all shepherd boys.⁶⁹ WV recommended that Lesotho take measures to redress the imbalance between boys' and girls' enrolment and attendance at primary school, work to increase shepherd boys' access to education, and reverse this traditional practice of child labour.⁷⁰

38. WV reported that HIV/AIDS is considered the single most important threat to development in Lesotho. Almost one quarter of the adult population and 12,000 children under the age of 14 are living with HIV. 110,000 children have been orphaned by the HIV/AIDS epidemic.⁷⁴

Final Report and Conclusion - To Follow