

**Country session: Eswatini**

**Date of session: 15<sup>th</sup> September (88th session)**

**Context**

Eswatini was the first country with a delegation present in Geneva for the review since the COVID-19 pandemic.

The review took place after many months of postponement due to the COVID-19 pandemic, as originally scheduled in May 2020.

The Committee acknowledged that the COVID-19 pandemic has slowed the process of legislation.

**Background information**

[OHCHR press release](#)

**Webcast:** [first part](#) and [second part](#)

[Audio file](#)

**Reporting**

**Reporting methodology**

**Standard reporting procedure**

Simplified reporting procedure

Concluding Observations with urgent measures

**State report**

| Common core document |  |
|----------------------|--|
| Not submitted        |  |

| <a href="#">CRC</a>   |                                    |
|-----------------------|------------------------------------|
| No. of report         | 2 <sup>nd</sup> to 4 <sup>th</sup> |
| Due date              | 05 April 2011                      |
| Submission            | 19 December 2017                   |
| <a href="#">Annex</a> | 19 December 2017                   |

| <a href="#">Written replies</a> |               |
|---------------------------------|---------------|
| Submission                      | 20 March 2020 |
| Due date                        | 4 March 2020  |

**Public reports from children’s rights defenders**

| <u><a href="#">Alternative reports and additional information</a></u> |   |
|---|---|
| <b>NGOs</b>   | <ul style="list-style-type: none"> <li>• Africa Albinism Alliance, Albinism Society of Eswatini and Swaziland Association of Persons with Albinism</li> <li>• Rock of Hope</li> <li>• The Coordinating Assembly of Non-Governmental Organisations (CANGO), Youth Sustainable Development Centre (YSDC), the Southern African Human Rights Defenders Network (SAHRDN), the Institute on Statelessness and Inclusion (ISI), and the Global Campaign for Equal Nationality Rights</li> <li>• Global Initiative to End All Corporal Punishment of Children</li> </ul> |

**State delegation**

The delegation of Eswatini was small and not very diversified, comprised of representatives of the Eswatini Government, including its Deputy Prime Minister, Principal Secretary, Acting Director, Principal Crown Counsel, Coordinator, Senior Planner, and Protocol Office. The session relied heavily on the head of the delegation, the Deputy Prime Minister of Eswatini. The Task Force coordinator even regretted that many specialists were not part of the delegation. However, the Committee noted the high-level presence of the Deputy Prime Minister.

**Committee’s Task Force members**

| Name & Last Name                         | Country         |
|--|-----------------|
| <b>Benyam Dawit Mezmur (coordinator)</b> | <b>Ethiopia</b> |
| Clarence Nelson                          | Samoa           |
| José Rodrigues Reyes                     | Venezuela       |
| Ann Skelton                              | South Africa    |
| Philip Jaffé                             | Switzerland     |
| Zara Ratou                               | Chad            |

## Dialogue description

### i. Character of the dialogue

The dialogue was dynamic and interactive, and both the Committee and the State delegation were appreciative of the possibility to have a face-to-face dialogue. The head of the delegation addressed most of the answers, however the answers provided were rather political. The Committee emphasized that the presence of a high-level deputy at least allows for commitments.

### ii. General assessment made by the Committee

The Committee acknowledged that the COVID-19 pandemic has slowed the process of legislation. According to the Committee, there were matters that needed further attention, including like the process of drafting laws.

### iii. Main issues discussed:

## General Measures of Implementation

- **Legislation/Coordination/Allocation of resources:** After the delegation presented all the difficulties it faces in terms of legislation, coordination and budget due to the Covid-19 pandemic, as well as economic recession and global warming, the Committee discussed Eswatini's plan to address these major difficulties. The delegation stressed that its national department for children had sufficient human resources and that the National Plan of Action for Children was being implemented. The Eswatini delegation also recalled that despite the current health crises, there has been no change in the budget allocated to children. In addition, a unit oversees coordinating all contributions from development partners.

## General Principles

- **Respect for the views of the child:** The Committee asked the delegation to specify the measures taken to ensure children's participation. The delegation of Eswatini explained that children were encouraged to participate in youth groups in schools. In addition, a consultant was hired to develop a strategy on this subject. The delegation stressed the importance of linking this participation to a specific social context.

## Civil Rights and Freedoms

- **Birth Registrations:** The Committee was interested to know if there were any financial barriers to registering children, following up on the delegation's mention of out-of-hospital births. The Committee also wanted to know the rate of birth certificates obtained, because it is one thing to be registered but it is another to obtain a birth certificate. Eswatini acknowledged that there are many birth certificates waiting to be collected. The State is therefore actively raising awareness on the importance of such documents.
- **Child Marriage:** The Committee underlined that some progress has been made with the minimum age for marriage. However, there are still outstanding issues. The delegation acknowledged that the

Marriage Act was old (from 1964) and that several aspects of this law are linked to the Constitution. This is the reason for the difficulties in implementing the Children's Protection and Welfare Act (from 2012), because these two laws contradict each other. The delegation did point out that marriage to a minor is considered as rape.

- **Violence against children:** The Committee asked the State which measures were taken to eradicate violence against children and to put it at the highest national priority. The Committee expressed concerns for girls who never received help following sexual violence. The delegation reported that the Sexual Offences and Domestic Violence Act was enacted in 2018. This law has been heavily promoted, making it very popular in Eswatini, even in rural areas. Failure to comply with the law can result in a life sentence. In addition, the delegation introduced the role of mother figures who can contact the local authorities on the behalf of children, if a child victim of abuse complains, and that a phone helpline has been set up. Finally, concerning corporal punishment, an educational policy (not yet a law) dating from 2018 prohibits it. The Ministry of Education had developed guidelines to discourage corporal punishment both in schools and homes. The State delegation stressed that a change of mentality will have to take place as many children are silent on this subject.

#### Basic Health and Welfare

- **Children with disabilities:** The Committee was concerned about the progress of the law concerning children with disabilities, which does not contain an enabling clause. The Committee also considered the subject of grants for children with disabilities. The delegation responded that this is an issue that still needs to be discussed. The delegation also mentioned that in the past, children with disabilities were hidden. Today, more than 27,000 children are declared as living with a disability. The delegation emphasized that the disability grant to families facilitates the registration of these children. Autism was also included on the list of disabilities. The delegation is aware that violence against children with disabilities is often gender-based and that girls are more directly affected. Finally, Eswatini noted that the State has developed Braille learning services for children with a focus on disseminating AIDS/HIV prevention materials in Braille.
- **Child mortality:** Although the Eswatini government has denounced ritual executions, the Committee wanted to know specifically what the government was doing to protect children with albinism. The delegation responded that there was only one case of ritual execution since 2008. The Kingdom of Eswatini also pointed out that an albinism day is held in the Prime Minister's office.

#### Recommendations of the Committee

In its [Concluding Observations](#), the Committee drew the State party's attention to the recommendations concerning the following areas:

- **General Measures of implementation:**
  - **Legislation:** The Committee recommends that the State party provide adequate resources to the Law Reform Unit and take all measures necessary for implementing its legislation,

including the Children's Protection and Welfare Act of 2012, in compliance with the Convention.

- **Comprehensive policy and strategy:** The Committee recommends that the State party adopts the National Master Development Plan for Children, update the National Children's Policy and the National Plan of Action for Children and ensure that they are supported by sufficient human, technical and financial resources.
- **Coordination:** The Committee recommends that the State party strengthen the coordination capacity of the National Children Services Department and put in place a monitoring and accountability framework and ensure necessary human, technical and financial resources for its effective operation.
- **Allocation of resources:** The Committee asks that the State party substantially increase the allocations to social protection, health and education, define budgetary lines for all children, establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention and co-ordinate and harmonize all development aid to better support interventions related to children's rights. Finally, Eswatini needs to continue to take measures to combat the mismanagement of funds.
- **Data collection:** The Committee recommends that the State party expeditiously improve and disaggregate its data collection system covering all areas of the Convention and ensure that the data and indicators are shared and used.
- **Independent monitoring:** The Committee recommends that the State party strengthen the Commission on Human Rights and Public Administration by allocating necessary resources for its functioning, including consideration of establishing a dedicated unit or Commissioner responsible for children's rights within the Commission; guarantee its independence with provision of adequate funding, mandate and immunities; and provide and promote a child-friendly complaint mechanism within the Commission.
- **Dissemination awareness-raising and training:** The Committee recommends that the State party strengthen the capacity-building programmes about children's rights among professionals working with and for children and ensure that regular assessment and evaluation of these programmes and activities is carried out.
- **Cooperation with civil society:** The Committee recommends that the State party establish a structured platform for regular and effective coordination and cooperation of all relevant stakeholders working in the field of children's rights.
- **Children's rights and the business sector:** The Committee recommends that the State party establish and implement regulations and ensure effective monitoring of such legislation and regulations and appropriately sanction and provide remedies when violations occur.

- **Definition of the Child:** The Committee urges the State party to revise its legislation, including by amending the Marriage Act (1964) and adopting the Marriage Bill, in order to ensure that the minimum age of marriage is established at 18 for both girls and boys.

- **General principles:**

- **Non-discrimination:** The Committee recommends that the State party expedite the adoption of the Marriage Bill and the regulations for the Persons with Disabilities Act and strengthen

its efforts to eliminate discrimination and stigmatisation against groups of children in marginalised and disadvantaged situations.

- **Best interests of the child:** The Committee recommends that the State strengthen its efforts to ensure that this right is appropriately integrated and consistently interpreted and applied.
- **Respect for the views of the child:** The Committee recommends that the State party establish a platform for children’s structured participation and consider re-establishing the Children’s Parliament Forums and promote meaningful and empowered participation of all children within the family, communities and schools and include children in decision-making in all matters related to them.

- **Civil rights and freedoms:**

- **Birth registration:** The Committee urges the State party to harmonize civil registration laws with the Children’s Protection and Welfare Act, and to increase public awareness and incentives about the importance and process of birth registration.
- **Right to a nationality:** the Committee recommends that the State party urgently finalize the reform of the legislation on nationality, including the adoption of the Citizenship Bill and the National Action Plan on Eradicating Statelessness (2018).

- **Violence against children:**

- **Corporal punishment:** The Committee urges the State party to consider narrowing the legal interpretation of moderate chastisement so that it excludes corporal punishment, explicitly prohibit corporal punishment in law in all settings and promote positive, nonviolent and participatory forms of child-rearing and discipline.
- **Violence abuse and neglect:** The Committee urges the State party to allocate adequate human, technical and financial resources to the High-Level Task Force on Violence and Multi-Sectoral Technical Task Team on Violence to enable them to implement their mandates. The State party also needs to investigate the reported killing and injuries of children that occurred during the public demonstrations which started on 29 June 2021 and to establish a national database on all cases of violence against children.
- **Sexual exploitation and abuse:** The Committee urges the State party to establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation and conduct awareness-raising activities to combat the stigmatization of child victims of sexual exploitation and abuse.
- **Harmful practice:** The Committee urges the State party to take effective measures to fully eliminate child marriage and polygamy involving girls as spouses.

- **Family environment and alternative care:**

- **Family environment:** The Committee recommends that the State party invest in and incentivize family care.
- **Children deprived of a family environment:** The Committee urges the State party to urgently establish a comprehensive, rights-based and accountable system of alternative care for children that integrates the traditional care provided by the extended family with a particular focus on the best interests of the child.
- **Adoption:** The Committee recommends that the State party raise awareness about the adoption procedures and regulations and promote and encourage domestic adoption.

- **Children with disabilities:** The Committee urges the State party to adopt a human rights-based approach to disability and set up a comprehensive strategy for the inclusion of children with disabilities.
  
- **Basic health and welfare:**
  - **Health and health services:** The Committee recommends that the State party urgently strengthen its efforts to further reduce infant and child mortality.
  - **Adolescent health**
  - **HIV/AIDS**
  - **Environmental health and impact of climate change of the rights of the child**
  - **Standard of living;**
  
- **Education leisure and cultural activities;**
  
- **Special protection measures:**
  - **Asylum-seeking, refugee and migrant children:** the Committee recommends that the State party enhance access to services for asylum-seeking, refugee and migrant children.
  - **Economic exploitation, including child labour:** The Committee recommends that the State party effectively enforce the Employment Act and explicitly prohibit the employment of children in harmful or hazardous work.
  - **Sale, trafficking and abduction;**
  - **Administration of child justice:** The Committee urges the State party to prohibit overcrowding and ill-treatment of children in correctional facilities and ensure that children are not confined together with adults; and amend the prison Act to prohibit the placing of children in solitary confinement.

## Sustainable Development Goals

Throughout its Concluding Observations the Committee referred to the following targets:

- 10.3 to recommend the State to eliminate discrimination and stigmatisation against groups of children in marginalised and disadvantaged situation
- 16.9 regarding legal identity and free birth registrations
- 16.2 to urge the State to end abuse, exploitation, trafficking and all forms of violence against children
- 5.3 to urge the State party to eliminate child marriage
- 3.1 to reducing maternal mortality
- 3.4, 3.5, 5.6 regarding adolescent health
- 3.3 regarding HIV/AIDS
- 13.5 to promote the sustainable management of natural resources and increase children's awareness of climate change
- 1.3 to recommend the State to develop social assistance and social protection strategy



- 4.a, 4.b regarding the remain in school for pregnant girls and adolescent mothers and the enrolment in secondary education

### Next State report

| CRC           |                                    |
|---------------|------------------------------------|
| No. of report | 5 <sup>th</sup> et 6 <sup>th</sup> |
| Due date      | 5 November 2026                    |

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