

Country factsheet for the Committee on the Rights of the Child

ESWATINI

REPORT N°	Second, Third and Fourth Periodic Report
PRE-SESSION/SESSION	<ul style="list-style-type: none"> ▪ Pre-session: 84th (September-October 2019). ▪ Session: 84th (May 2020).
LEGAL FRAMEWORK	<p>International and regional legal and policy framework:</p> <ul style="list-style-type: none"> ▪ Convention on the Rights of the Child : ratified by Swaziland in 1995; ▪ Optional Protocols on the Involvement of Children in Armed Conflict, and the Sale of Children, Child Prostitution, and Child Pornography: 2012; ▪ African Charter on the Rights and Welfare of the Child: ratified by Swaziland in 2012; ▪ 1993 Hague Convention on Intercountry Adoptions: 2013; ▪ Southern African Development Community (SADC)'s Protocol on Gender and Development; ▪ SADC's Strategic Framework and Programme of Action for Comprehensive Care and Support for Orphans, Vulnerable Children and Youth; ▪ Maseru Declaration on HIV and AIDS; ▪ SADC Minimum Package of services for orphans and other vulnerable children and youth. <p>Domestic legislation and policies:</p> <ul style="list-style-type: none"> ▪ Children's Protection and Welfare Act, 2012; ▪ Free Primary Education Act, 2010; ▪ Sexual Offences and Domestic Violence Act 2018; ▪ National Children's Policy, 2010; ▪ National Gender Policy, 2010; ▪ National Plan of Action for Children 2011-2015 (expired).
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<p>Main reasons for family separation:</p> <p>Poverty: Inequality and unemployment are the primary development challenges, which have remained stubborn and difficult to address, and over 38% of Eswatini people live in extreme poverty, a majority of those being children (World Bank, 2018).</p> <p>Drought: Food insecurity remains the root cause of numerous child protection issues and remains the key driver for transactional sex and harmful behaviour among youth, affecting girls more than boys. More girls remain vulnerable to sexual abuse and exploitation, defilement, teenage pregnancy and abortion. The drought has also had a devastating effect on parenting. Parents have become perpetrators of violence against their own children, in some instances. Gender-based violence is on the rise, mainly perpetrated by men. Participants often indicated that children lacked a balanced diet (UNFPA Evidence Brief, 2017). Results of the annual assessment by the Swaziland Vulnerability Assessment Committee (Swazi VAC) indicate that 116,000 people (10 percent of the population) faced a food deficit during the 2012/2013 lean season. This is a 30 percent increase on the 2011/12 figure of 89,000.</p> <p>Profile and number of children without parental care:</p> <p>According to the Multiple Indicator Cluster Survey of 2014, about 33.2% of children age 0-17 were living with neither biological parent. The prevalence of children with one or both parents dead was 20.4% of the total population in 2014. In 2012, the number of orphans and vulnerable children (OVC) was estimated at 181,000. The high prevalence of HIV/AIDS has contributed to increase the number of children losing their parents due to AIDS and to the high prevalence of children living with chronically ill parents (MICS 2014). Children in</p>

	<p>rural areas are more likely to be orphaned and vulnerable compared to their urban counterparts (73% and 62%, respectively.)</p> <p>Family support:</p> <p>The <i>Children’s Protection and Welfare Act 2012</i> provides for children to be brought up by their biological parents and guardians in the best way possible. The Act places upon parents and guardians such functions as protecting the child from neglect, violence, discrimination, abuse, exploitation and exposure to physical and moral hazards and oppression. Furthermore, the National Children’s Policy placed functions on the state to ensure that all children irrespective of their background, race, ethnicity, religion are supported by the state. The Act further mandates the Department of Social Welfare to be a responsible department on issues of children in the country, placing such functions as providing efficient information to parents and guardians regarding service provision for children.</p>
<p>ALTERNATIVE CARE OPTIONS</p>	<p>Kinship care/informal care:</p> <p>The Department of Social Welfare (DSW) has adopted the concept of kinship care, purposing to reduce the number of children living in residential facilities. The system is currently at an infant stage as the country and has produced draft guidelines on kinship care. It is expected that when the <i>Social Protection Bill</i> passes into Act, kinship care will then be implemented. The idea is that residential care facilities will become obsolete as more children are placed within families, with some level of welfare support from the government for the caregivers (<i>Guidelines for Kinship care and Foster care, 2018</i>).</p> <p>Foster care:</p> <p>There is no data on children who are in foster care. The <i>Children’s Act (2012)</i> provides for foster care, but there is no system that is regulated by the government to implement foster care.</p> <p>Residential care:</p> <p>At present, the government recognised officially for residential care the SOS Children’s Villages and other privately run children’s homes. In most cases, children are referred by the Department of Social Welfare through social workers. Most orphanages that exist in the country are run by private owners, who more often than not, do not meet the standards that are set by the Department of Social Welfare. It is also difficult to enforce the standards in the private orphanages because the Department of Social Welfare is not as involved in the regulation of these homes, as they should be.</p>
<p>ADOPTION</p>	<p>Adoptions are provided for from Section 55 of the <i>Children’s Protection and Welfare Act</i>. The Act details who may be adopted, persons who may adopt, establishment of an adoption committee, establishment of a register on prospective adoptive parents and adoptable children, consent of parents and application for adoption, and knowledge of adoption by child. It also establishes the duties of the Department of Social Welfare. Section 65-74 provides for intercountry adoptions and the procedures to be followed in such cases, and the responsibilities of the respective departments responsible for children’s affairs in the country of birth of the adopted child and that of the adoptive parents.</p> <p>This being said, it is important to note that intercountry adoption has currently been suspended pending the finalisation of regulations to operationalize the Act.</p>
<p>RECOMMENDATIONS</p>	<ul style="list-style-type: none"> ▪ Make the budget child-friendly, <i>i.e.</i> increased budgetary allocation for child rights; ▪ Implement all policies relating to prevention of violence against children; ▪ Strengthen social welfare services and initiatives to create opportunities for vulnerable families and lower-income households to be able to provide essential services (health, education, protection) for their children; ▪ Increased promotion of inclusivity of children on the move, IDPs and refugees in the provision and accessibility of services; ▪ Strengthen families and promote local adoption;

- Further develop or strengthen kinship and other family-based care;
- Ensure primary and secondary legislation is compliant with international principles and standards relating to intercountry adoption.