



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Second periodic reports of States parties due in 1999

Lesotho*


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List of abbreviations and acronyms

AHC	Adolescent Health Corner
AIDS	Acquired immuno-deficiency syndrome
ART	Anti-retroviral treatment
BIPAI	Baylor College of Medicine International Paediatric HIV/AIDS Initiative
BOS	Bureau of Statistics
CDC	Centres for Disease Control
CGPU	Child and Gender Protection Unit
CPWA	Children's Protection and Welfare Act
CRC	Convention on the Rights of the Child
DCPT	District Child Protection Team
DFID	Department for International Development
DHS	Demographic and Health Survey
DNA	Deoxyribonucleic acid
MOSD	Ministry of Social Development
EmOC	Emergency Obstetrical Care
EU	European Union
FAO	Food and Agriculture Organization
FIDA	Federation of Independent Women Lawyers in Lesotho
FPE	Free Primary Education
GBEM	Girls and Boys Education Movement
GDP	Gross domestic product
GOL	Government of Lesotho
HIV	Human immuno-deficiency virus
HPSU	Health Planning and Statistics Unit
ICHR	Inter-sectoral Committee on Human Rights
IECCD	Integrated Early Childhood Care and Development
ILO	International Labour Organization
IMCI	Integrated Management of Childhood Illnesses
IMAAI	Integrated Management of Adult and Adolescent Illnesses
IMAM	Integrated Management of Acute Malnutrition
JICA	Japanese International Cooperation Agency
JTC	Juvenile Training Centre
LANFE	Lesotho Association for Non-Formal Education
LCGP	Lesotho Child Grants Programme
LCA	Lesotho Communications Authority
LCN	Lesotho Council of NGOs
LCS	Lesotho Correctional Service

LDTC	Lesotho Distance Teaching Centre
LMPS	Lesotho Mounted Police Services
LS	Lesotho
LSC	Lesotho Save the Child
MDG	Millennium Development Goal
MISA	Media Institute for Southern Africa
MOET	Ministry of Education and Training.
MOFDP	Ministry of Finance and Development Planning
MOGYSR	Ministry of Gender, Youth, Sports and Recreation.
MOHA	Ministry of Home Affairs
MOSD	Ministry of Health and Social Welfare
MOJHRCS	Ministry of Justice, Human Rights and Correctional Service
MOLE	Ministry of Labour and Employment
MOLGC	Ministry of Local Government and Chieftainship
MOTEC	Ministry of Tourism, Environment and Culture
NCDC	National Curriculum Development Centre
NFE	Non-Formal Education
NGO	Non-Governmental Organization
NOCC	National OVC Co-ordinating Committee
OVC	Orphans and vulnerable children
PCR	Polymerase chain reaction
PEPFAR	President's Emergency Fund for AIDS Relief
PMTCT	Prevention of mother-to-child transmission of HIV
PSS	Psychosocial Support
RSA	Republic of South Africa
SADC	Southern African Development Community
SACU	Southern African Customs Union
SRH	Sexual and Reproductive Health
TB	Tuberculosis
TVET	Technical and Vocational Education and Training
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNGASS	United Nations General Assembly Special Session
UNICEF	United Nations Children's Fund
US	United States
USAID	United States Agency for International Development
WB	World Bank
WFP	World Food Programme
WHO	World Health Organization

Introduction

1. This is Lesotho's first Periodic Report on the implementation of the Convention on the Rights of a Child (CRC) since the 1998 Initial Report.

(a) Purpose of the report

2. This report reflects the current state of children and the country's ability to protect and promote their fundamental rights and freedoms.

(b) Report preparation process

3. The preparation of the report was guided by a task team supported by five working groups aligned to the nine clusters of rights in the CRC. Contributions were received from government ministries, civil society organizations (CSOs) and the GOL's development partners through consultative workshops held in 2012 and 2014. The draft report was subsequently in May 2014 and again during the first half of 2016.

(c) Links to previous report and comments

4. This report covers a significant period of time from 1998 to December 2014. As a requirement, the GOL has addressed the Concluding Observations received from the UN Committee on the Rights of the Child in 2001.¹

(d) Distribution and feedback

5. The report has been widely circulated to different audiences concerned about children's rights and feedback has been obtained from them to validate its contents.

I. General measures of implementation

(i) General measures to review and bring domestic legislation and practice into conformity with the CRC and the optional protocols

6. The GOL signed and ratified the CRC in 1990 and 1992 respectively. Following the 2001 Committee's Concluding Observations (Section D, para. 9-10), the GOL accelerated the pace of domesticating the CRC into its laws, regulations, policies, strategies and plans and realized many milestones.

7. The Constitution of Lesotho (1993) (herein after referred to as "the Constitution", at Article 32 obliges the State to adopt laws and policies relevant to children and young persons such that:

- (a) They are guaranteed protection and assistance without any discrimination;
- (b) They are protected from economic and social exploitation;
- (c) Employment that is harmful to their morals, health, life, or normal development is punishable by law; and,
- (d) Paid employment that does not abide with age limits set for them is prohibited and punishable by law.

8. Guided by these obligations, the GOL has within the reporting period gathered research-based evidence to inform new legislation, policies and strategies.

9. The Child Protection and Welfare Act, (CPWA) is the first and most comprehensive framework that embeds the spirit and letter of the CRC.

10. *The Anti-Trafficking in Persons (Anti-Tip) Act 2010* is another highly applauded development demonstrating the GOL's commitments under the Optional Protocol bringing

¹ Committee on the Rights of the Child. 2001. Concluding Observations of the Committee on the Rights of the Child, Lesotho, U.N. Doc. CRC/C/15/Add. 147 (2001).

the country in alignment with regional and international trends intended to eliminate this global scourge.

Factors and difficulties

11. The GOL acknowledges the Committee's concerns regarding the slow pace of implementing the statutes and other measures that are now in place and realizes that this is often due to insufficient allocation of human and financial resources.

12. The sensitization of stakeholders on the Anti-Tip Act is also outstanding. Furthermore, surveillance systems for early identification of actual or potential situations of trafficking in children and for minimizing any likely harm on victims need strengthening and expansion.

(ii) The adoption, implementation and evaluation of a comprehensive national strategy and corresponding plan or plans of action for children

13. The enactment of the CPWA spurred a comprehensive review of all legislation and policies in different Government sectors as demonstrated in the Common Core Document. With assistance from the Global Fund, in 2014, UNICEF engaged stakeholders, including children's representatives, in a mapping exercise and assessment of child protection systems to identify gaps. This culminated into the development of the 2014 *National Multi-sectoral Child Protection Strategy*. The CPWA was also costed for its phased implementation. These two documents will be used to lobby for child-friendly budgets.

14. Not all new frameworks have undergone evaluation to establish their compliance with the CRC or their specific impacts on the welfare of children.

15. The 2009 review of plans guiding the GOL's response to the OVC crisis² found that both the National OVC Action Plan 2006 and the OVC Strategic Plan 2006-2010 are relatively unknown to stakeholders and, therefore, they have not influenced programming and service delivery. The report of the review proposed ten issues for action:

- (a) Revision of all strategic documents guiding the GOL's response to the OVC situation;
- (b) Enhancement of the legal and policy framework guiding the national response;
- (c) Improved management and coordination of OVC programmes;
- (d) More effective utilization of resources targeted for OVC programmes;
- (e) Mobilization of additional resources;
- (f) Improved access to essential services;
- (g) Capacity building for implementing partners;
- (h) Empowerment of caregiver groups;
- (i) Improved accountability amongst stakeholders to ensure that benefits reach OVCs; and,
- (j) Comprehensive monitoring and evaluation of the national OVC response.

16. Provision of health and social welfare services is reviewed annually by the GOL and relevant development partners.³

17. The impact of the GOL's strategies and plans for children is also indirectly assessed through the periodic demographic and health survey (DHS). The 2009 DHS findings relevant to the CRC are discussed under their respective clusters (CO para. 15 & 16) later in the report.

² MOHSW & UNICEF. 2009. Inception Report. Revision of the National OVC Strategic Plan. Maseru, LS: MOHSW.

³ MOHSW. 2011. Annual Joint Review Report 2010/11 FY. Maseru, LS: MOHSW.

(iii) Government authority with overall responsibility to coordinating the implementation of the Convention

18. To strengthen its capacity to lead social development initiatives, the GOL separated social welfare functions from the MOHSW and created the Ministry of Social Development (MOSD) in 2012. This ministry has absorbed all of the GOL's current and proposed child protection interventions, services and functions under the newly established Directorate of Child protection Services.

19. This addresses in part the Committee's concerns regarding structural weaknesses and budgetary deficits that specifically address the implementation of the CRC (CO para. 11 & 12).

20. The Ministry of Law, Constitutional Affairs and Human Rights (MOLCAHR) retains its mandate to coordinate the implementation of the CRC and the Optional Protocols.

21. Other statutory and non-statutory bodies that play a role with respect to the CRC include, the National OVC Coordinating Committee (NOCC), which leads the multi-sectoral response to OVC and the Women and Children's Commission of the Lesotho Council of Non-Governmental Organizations (LCN).

Factors and difficulties

22. The GOL recognizes the need for a more integrated approach to implementing the CRC including, national legislation and policies related to it. However, it is yet to find ways of coordinating all relevant stakeholders for the effective implementation of this instrument.

23. The NOCC is meant to address the OVC leadership and coordination challenges experienced within the MOSD. Its revised TORs, currently awaiting the Cabinet's approval, make it accountable on all children's issues. Efforts to have a Children's Commission entrenched in the 2011 CPWA as a strategy to fully resolve concerns regarding GOL's leadership and coordination for the domestication of the CRC (CO para. 12 & 13) failed.

(iv) Budget allocation for implementation of the Convention

24. The GOL does not have specific budgets for implementing the CRC. Thus, the UN Committee's concerns regarding the lack of specifically allocated resources for this purpose (CO para. 12 & 18) have not yet been attended.

25. Within the Ministry of Education and Training (MOET), there are identifiable resources devoted to provision of education to children. The MOET receives approximately 23% of the national recurrent budget, ahead of the MOFDP at 13.4% and the MOSD at 3%. Within the MOSD and the Ministry of Police (MOPOL) budgets, there are specific resources allocated for Child Protection Services and the Child and Gender Protection Unit (CGPU) respectively.

(v) International assistance and development aid

26. The GOL receives technical and financial support for the formulation and implementation of CRC compliant domestic legislation, policies and programmes from a number of development partners including, UNICEF.

27. Support is also received from the EU, the Department for International Development (DFID), UN agencies, the United States Agency for International Development (USAID) and its affiliate programmes, Irish Aid (IA), the World Bank (WB) and GIZ (CO para. 19 & 20).

(vi) Independent national human rights institution and provision for protection of the rights of children

28. The provision for the establishment of the national human rights commission was introduced by the sixth amendment of the Constitution in 2011. The functions of the Commission with regard to advancing the course of children's rights are not spelt out in the draft legislation developed under the auspices of the MOLCAHR. (CO para. 13 & 14).

(vii) Measures to make the provisions of the CRC and its Optional Protocols known to all adults and children

29. The national efforts to sensitize stakeholders at all levels on children's issues (CO para. 21 & 22) included the following:

- (a) Translation and distribution of 'A Trolley Full of Rights' booklet;
 - (b) Annual distribution of calendars and other materials incorporating messages regarding the CRC;
 - (c) Publicity around UNICEF's annual state of the world's children report;
 - (d) Awareness raising on children's rights through mass media by including columns in newspapers and appearances on radio and television;
 - (e) Training of young reporters to write about child rights issues;
 - (f) Creation of a radio drama called "Sello Sa Tsuonyana/Cry of a Chick" whose conceptualization and performance involved children; and a magazine marking the 10th anniversary of the CRC;
 - (g) Celebration of designated regional and international days such as the Day of an African Child (June 16), the International Day of Children's Broadcasting (November 20) as well as the 16 Days of Activism Against Gender-Based Violence (November 25 to December 10);
 - (h) Training of state and non-state actors on child rights;
 - (i) Integration of children's rights into NGOs' programmes;
 - (j) Translation and simplification of the CPWA;
 - (k) Establishment of Village Child Justice Committees for restorative justice;
- and
- (l) Development of a Braille version of the CRC and its distribution to some schools for children with hearing and visual impairment.

30. NGOs get involved in the planning, implementation, monitoring and evaluation of child rights programmes. They have participated in the development of this Periodic Report and have representation on the NOCC.

31. Private sector entities such as financial institutions, mines, para-statal, etc. support children through their corporate social responsibility endeavours which include construction of shelter and schools, prizes for national competitions in debating and in academic subjects (such as maths and science), bursaries and other forms of assistance.

Factors and difficulties

32. The GOL previously took insufficient steps to make its Initial Report and concluding observations widely available.

33. The GOL has challenges of effectively monitoring child labour practices in the private sector especially in rural.

II. Definition of the child

(a) Definition of the child under domestic laws and regulations

34. In response to Lesotho's Report, the Committee raised concerns about widely varying definitions of a child in the constitutional, legislative and administrative frameworks for the protection of children (CO section D2 para. 21 & 22).

Constitutional measures

35. The Constitution continues to define a child as any person below the age of 21. However, specific statutes provide for a lower age range depending on the legal context such statutes are meant to address.

Legislative measures

Child protection definition

36. The CPWA fully adopts the CRC and ACRWC definitions that enunciate a child as a person under the age of eighteen. Together with the *Labour Code* (1992), the Act sets age-specific provisions with respect to children's engagement in formal employment; including in light; exploitative; night; industrial and, hazardous work.

Marriage definition

37. The marriage age is still not harmonised with the CPWA. The 1974 Marriage Act allows girls to marry before the age of eighteen. Also, culturally, children marry much younger especially in rural areas, sometimes earlier than commencements of puberty since the "Laws of Lerotholi" are silent on this matter.

Penal definition

38. The penal age of a child varies according to which Act they are being prosecuted under. The CPWA in Section 79(1) espouses that a child under age of ten cannot be prosecuted. Section 79(2) stipulates that a child aged between ten and fourteen will be presumed to lack the capacity to know right from wrong and, therefore, cannot be criminally prosecuted except where the prosecution rebuts this presumption. Under the Act, only children over the age of fourteen can be prosecuted and punished through detention (Section 156(1)).

39. *The Penal Code (2010)* sets the age of criminal responsibility.

40. *The Sexual Offences Act (2003)* has varying definitions of "child" by age with respect to offences against children (e.g. child molestation); and Commercial Sexual Exploitation of a Child (CSEC). The Act also creates offences in relation to sexual contact with a child below the age of twelve based on the factors the Act specifies.

Political definition

41. The political age of a person who can vote in Lesotho under the General Election Act 2007 is eighteen.

Compulsory education definition

42. *The Education Act (2010)* makes schooling compulsory between age six and thirteen.

Medical definition

43. Children aged twelve or older can on their own consent to medical treatment provided they have the mental capacity to appreciate its benefits and risks (CPWA Section 232 (2) (a)).

Administrative measures

44. The HIV Testing and Counselling Policy is consistent with the provision above.

45. *The National Identity Cards Act (2011)* says children will not be issued identity cards until they are aged sixteen.

Factors and difficulties

46. Existing legislation and policies as alluded to in the National Strategic Plan for VC (NSPVC) 2012-2017 are polarised by varying ages which define a child. The Plan notes

failure on the part of concerned Ministries to advocate and lobby Parliament to expedite action in this regard.

47. Much of the legislation has now been reviewed to ensure that age definitions are harmonized. However, many laws whose content does not primarily relate to children remain non-compliant with international treaties and conventions.

III. General principles

(a) Non-discrimination (article 2)

Constitutional measures

48. The principle of non-discrimination is enshrined in Section 4 (1) of the Constitution.

49. The Constitution provides universal protection against discrimination for all citizens regardless of age. At Section 32 (a), it specifically obliges the GOL to adopt laws and policies such that children and young persons cannot be discriminated against for reasons of parentage or other conditions.

Legislative measures

50. Since its Initial Report, the GOL has moved to address the Committee's concerns regarding legislative and societal aspects of discrimination against children, in particular girl children (CO section D3 para. 25 & 26).

51. Section 6 of the CPWA prohibits discrimination against children on grounds of disability, health, rural or urban background, birth, and socio-cultural, economic, refugee, or other statuses.

52. In addition, Section 13 grants children with disabilities a full range of rights, including dignity, special care, medical treatment, rehabilitation, family and personal integrity, education and training.

53. The CPWA places further obligations of protecting children from discrimination (Section 20(2)) on parents and the GOL. The latter is also responsible for creating awareness about rights, needs and potential contributions children with disabilities can make to society.

54. Section 19 of the CPWA declares children born out-of-the-wedlock lawful inheritors of parental property and also protects them against property dispossession upon the death of their biological mother.

55. Statutes aimed at further protecting children from gender discrimination include *the Legal Capacity of Married Persons Act, the Sexual Offences Act, and the Education Act*.

Administrative measures

56. The GOL with its partners, implements special measures to enable disadvantaged children to claim their rights without any discrimination. These include measures such as secondary education bursaries, financial assistance for destitute children to access basic non-formal education, child grants to help the destitute and those with disabilities to access basic necessities, education, health and social services.

Factors and difficulties

57. Although rights are protected at a legislative level, there is still significant discrimination which is not prosecuted in communities. Discrimination is considered not justiciable and, therefore, there are no penalties for it.

58. Discriminatory social attitudes towards minorities with physical and intellectual disabilities, sexual orientation and HIV/AIDS persist and are exacerbated by failure to enforce relevant legislation. For instance, girl children can still not inherit property,

regardless of the *Legal Capacity of Married Persons Act (2006)* and the CPWA because rural communities consider them foreign.

59. *The Chieftainship Act (1968)* disallows women to take chieftainship before the death of their husbands and before they are aged 18.

60. Notwithstanding the CPWA, girls who are pregnant are excluded from enrolling in schools most of which are faith-based. Often, they are not allowed back even after giving birth. Pre-marital pregnancy is still detested.

(b) Best interests of the child (article 3)

Constitutional measures

61. Through Chapter III provisions, Section 32, the Constitution implicitly protects the best interests of the child.

Legislative measures

62. The CPWA enshrines that the child's best interests shall be the primary consideration in any matter concerning a child (Section 4).

63. Decisions surrounding a child upon the break-down of parents' marriage should take the best interests of the child into account (*Legal Capacity of Married Persons Act (2006)* and CPWA). The Court of Appeal maintenance case of *Mapetla v Leboela [2012] LSCA 2* discussed the Court's duty to conduct investigation beyond evidence placed before it, if necessary, to ensure that the order serves best interests of the child.

64. A child's evidence should be given in camera where it is deemed to be in that child's best interest (*Sexual Offences Act (2003)*).

Administrative measures

65. The NSPVC explicitly states the best interests of the child as a guiding principle that must be fulfilled through multi-sectoral approaches.

66. The Fostering and Adoption Policy of Lesotho entrenches this principle.

67. The child-friendly and less formal practices employed in Children's Courts are premised on the child's best interests' principle.

Factors and difficulties

68. Due to lack of broad dissemination of policy and legislative texts, there is limited knowledge and understanding of this principle.

69. Prevailing socio-cultural practices and attitudes undermine the value of children and prevent consideration of their best interests in various contexts.

(c) The rights to life, survival and development (article 6)

Constitutional measures

70. Chapter II, Section 5(1) of the Constitution protects the inherent right to life of all persons.

71. At Section 5(2) an exception to this provision is given in executing the sentence of death imposed by a court in respect of a person convicted of a criminal offence.

72. At Section 32, the Constitution obliges the GOL to adopt measures to ensure that employment of children and young persons in work harmful to their morals, health, life or their normal development is punishable by law.

Legislative measures

73. Under the CPWA, a death sentence may not be imposed upon a child or person who was 18-years-of-age or below at the time the offence was committed.

74. Section 11 of the CPWA, gives children the right to basic needs including, education, medical care, social or other services required for a child's development.

75. At Section 20 (2) of the CPWA, parents or guardians are obligated to give good guidance, care, assistance and maintenance to children to ensure their survival and development.

76. At Section 22, the GOL has the duty to form policies and implement programmes that will ensure a child's survival and development.

Administrative measures

77. As noted above, the GOL has set itself responsibilities for ensuring the life, survival and development rights of its children.

Factors and difficulties

78. Due to poverty and destitution, the GOL fails to provide for the survival and development of all children hence high rates of early infant death, malnutrition, HIV and AIDS and orphan-hood persist.

(d) Respect for the views of the child (article 12)

Constitutional measures

79. Chapter II, Section 14 guarantees the right of freedom of expression to all persons in Lesotho, including children.

Legislative measures

80. The right of children to be heard, and the obligation to respect that right, are explicitly guaranteed under Sections 13 and 22 of the CPWA.

81. Under Section 13 a child has the right to express his/ her opinions freely and to have those opinions taken into account in any matter.

82. Under Section 22, the GOL is obliged to develop policies and procedures that promote children's rights to freedom of thought, conscience and religion, subject to appropriate parental guidance.

Administrative measures

83. A number of CSOs and GOL implement efforts that promote and protect children's right to be heard. Three girls and one boy were in the delegation that participated in the launch of the Girls and Boys Education Movement (GBEM) that addresses the plight of girl- children in Uganda in 2001. The movement was launched in Lesotho under the MOET. However, it ceased to exist around 2012/13.

84. The GOL facilitates participation of children and adolescents in national, regional and international forums. The country delegation that presented the Initial Report to the UN Committee included a child representative and so did the CSOs delegation that presented the Initial Report to the Committee of Experts on the Rights and Welfare of the Child (ACERWC) in 2014.

85. Children also participated in the development of the CPWA. They also took part in conducting the Lesotho child poverty study in 2010.

Factors and difficulties

86. Prevailing social attitudes cause children's opinions to be rarely considered within the family and broader community.

87. Despite the CPWA requirement that a child's opinion be sought, in practice children's courts pay little regard to it.

IV. Civil rights and freedoms

(a) Birth registration (article 7)

Constitutional measures

88. The Constitution at Article 38 provides persons born in Lesotho automatic citizenship of Lesotho. Article 39 says a person born outside of Lesotho, who has one or both parents who are Basotho, will become a citizen of Lesotho. Article 41 provides for dual citizenship in some circumstances.

Legislative measures

89. *The Citizenship Act (1967)* similarly provides for the same rights as those cited above though in more detail.

90. *The Registration of Births and Deaths Act (1973)* makes registration of births and deaths compulsory. This Act says registration will be considered late if it is made one year or more years after the birth.

91. At Section 8, the CPWA stipulates that the registration should happen within three months of a child's birth whether born alive or still. It further sets requirements for registration of a child's birth where the parent or guardian is unknown. The Act makes failure to register a child's birth an offence.

92. Section 9 of the CPWA, an additional provision for the development of a comprehensive system for OVC registration.

93. Under *the National Identity Act 2011*, the Office of the Register responsible for birth registration has been shifted from the MOLGC to the MOHA.

Administrative measures

94. In Lesotho, a birth is considered registered if, by the age of 5, the child has a birth certificate or the birth has been reported to traditional authority, namely the village chief or headman. Often, the latter happens in rural areas.

95. In 2009, only 45% of all births were registered, an improvement from the 26% reported in 2004.⁴ Only 18% of this group was in possession of actual birth certificates. Also, birth registration tended to be higher in urban than rural areas.

96. The new national identity cards system implemented by MOHA is intended to harmonize vital registration functions, including birth registration.

97. At district and community levels, the GOL is assisted by development partners to promote birth registration to ensure that children can access basic services such as the LCGP. During the LCGP-linked assessments, eligible families are encouraged to obtain birth certificates for their children.

Factors and difficulties

98. Achieving full coverage of birth registration in rural communities remains a challenge as it is not regarded a significant child protection requirement. In addition, the penalty levied for late registration has become a major disincentive for parents.

99. Central and district capacity within the Office of the Registrar is seriously inadequate hence unable to proactively identify unregistered children. This also causes delays in the issuance of birth certificates.

100. The new national identity cards system is also not yet helping to prevent duplicate birth registrations by individuals between districts.

101. The different time requirements on birth registration in the laws cause uncertainty and require rectification.

⁴ MOHSW and ORC Macro 2010, op. cit. note 3.

Name and nationality (article 7) and preservation of identity (article 8)**Constitutional measures**

102. The Constitution at Chapter IV, Section 38(3), stipulates rights of citizenship to persons born in Lesotho. Where there are exceptions; a person born in Lesotho may still become a citizen if he/she would otherwise become stateless.

103. The Constitution provisions for children born outside the country are also discussed under paragraph 88 above.

Legislative measures

104. For purposes of identity, the CPWA, Section 7, entitles a child to have a decent name and nationality upon birth; ending the traditional practice of giving children born out-of-wedlock demeaning or derogatory names.

105. Due to cultural traditions, some children are not named until the umbilical cord dries and falls-off. Hence, Section 18 of the Births and Deaths Act 1973 provides for amplification of birth registration which allows that such children be initially registered with details of parents' name(s). When they are duly named, necessary amendments are effected in the register. The GOL has reciprocal relationships with its Southern African neighbours to cater for children found to be deprived of aspects of their identity, including family, status and nationality.

Freedom of expression and the right to seek, receive and impart information (art 13) and freedom of thought, conscience and religion (article 14)**Constitutional measures**

106. Freedoms of thought, conscience, religion and expression are guaranteed to all persons under Chapter II, Sections 13 and 14 of the Constitution.

Legislative measures

107. Section 14 of the CPWA provides for the right of a child to express opinions.

108. At Section 22, the GOL is obliged to make appropriate information accessible to children. It is also obliged to encourage mass media to disseminate information of socio-cultural benefit to children while it guards against their exposure to harmful information and materials.

109. Finally, at Section 11(6) of the CPWA, and Section 234(2) children have the right to sexual and reproductive health (SRH) information and education appropriate to their age.

Administrative measures

110. The GOL has established Adolescent Health Corners whose primary functions are to avail SRH including HIV information and services to adolescents and young adults.

111. The GOL has been establishing YRCs in some districts to provide adolescents and young adults with information and life-skills oriented topics, including HIV prevention.

112. Radio is the most frequently accessed form of mass media in all regions and amongst all age groups. Over 60% of adolescents aged 15 to 19 listen to radio at least once per week. In urban areas, approximately 50% of the population views television once per week as opposed to 13% in rural areas. Access to newspapers is similarly skewed with 30% of adolescents and adults reading a newspaper at least once per week versus 12% in rural areas.⁵

113. The Ministry of Communications, Science and Technology (MOCST) is mandated to monitor the media and other country-wide communications activities. The MOCST has drafted a media policy and the Communications Act No.4 of 2012 and the Lesotho

⁵ Ibid.

Broadcasting Rules have been passed by Parliament. These initiatives do not necessarily create a child-friendly media environment, but they enable children access to information.

114. In addition, Gender Links and the Media Institute of Southern Africa undertake monitoring and provide training to journalists regarding fair and unbiased reporting in relation to women and girls, people with disabilities (PWDs), people living with HIV/AIDS (PLWHA) and children.

115. The State Library under the Ministry of Tourism, Environment and Culture (MOTEC) has a special section for children. The MOTEC operates five satellite libraries at district level. 23 other libraries operated by different government departments and NGOs are predominantly located in urban centres and are inadequately stocked with child-friendly information. Hence, MOTEC's recent efforts of opening libraries in the MGYSR's YRCs.

116. Some primary and secondary schools provide libraries for their students though they are often not well-stocked and have out-dated information.

Factors and difficulties

117. The Sesotho culture inhibits children from speaking and expressing their independent views. Culture dictates that they must follow their elders' directives; which curtails their ability to act independently.

118. The CPWA prohibits exposure of children to material of an abusive and sexual nature. There are no adequate surveillance systems to fully prevent this problem.

Freedom of association and of peaceful assembly (article 15)

Constitutional measures

119. The freedoms of association and of assembly are guaranteed to all persons under Chapter II, Sections 15 and 16 of the Constitution.

Legislative measures

120. Under Section 12 of the CWPA, children have the right to participate in social or cultural activities except those not in their best interests.

Administrative measures

121. Within the education sector, school children are encouraged to form social clubs particularly to address the impact of the HIV/AIDS epidemic on their lives.

Protection of privacy

Constitutional measures

122. Chapter II, Section 11 of the Constitution stipulates that all persons are entitled to have their family life and their homes respected as private spaces not to be invaded by the GOL.

123. At Chapter II, Section 10, all persons are protected from arbitrary search or entry into their private spaces.

Legislative measures

124. *The Data Protection Act (2012)* regulates the collection, processing and handling of private data for public use including, protection of personal data. The Communications Act (2012) establishes a Lesotho Communications Authority (LCA) to regulate the industry.

125. The CPWA Section 145(2) prohibits publication of details of a child appearing in court and provides that a child's evidence must be given in camera. It further prevents anyone aside from the adoptive parent from disclosing the child's adoption status.

126. *The Penal Code* provides that on release from detention, a child should have no criminal record.

127. *Labour Code Order (1992)* provides protection of employees' private information, including that of children employed in the formal sector.

Right to protection from torture and degrading treatment, including corporal punishment

Constitutional measures

128. At Chapter II, Section 8 of the Constitution, all persons are protected from torture or inhuman treatment, or degrading punishment.

129. The Constitution exempted from this provision any laws in effect before 1993 that authorized the infliction of punishment for lawful reasons.

Legislative measures

130. At Section 16 of the CPWA, children have the right to protection from torture and degrading treatment including, any cultural practice which dehumanizes or injures their psycho-social and general well-being.

131. The above-mentioned Section sets limits for child chastisement and discipline including that the child must understand their purpose.

132. At Section 22, the GOL is obliged to protect a child from all forms of maltreatment by anyone through implementation of appropriate social programmes for preventing abuse and ill-treatment of victims.

133. Under Part XI, the CPWA provides that arrests by police and private citizens must have due regard to the dignity and well-being of a child and use minimum force as a last resort and in a manner proportionate to the circumstances.

134. Section 103, stipulates that children must be held in suitable conditions and be treated in a manner consistent with their age while in police custody. Adults, girls and boys must be kept separate. Children should report ill-treatment while under arrest or police custody and any unlawful physical contact between police officers and them is prohibited.

135. The CPWA, at Section 127 stipulates that corporal punishment or public humiliation cannot be elements of diversion. It prevents Children's Courts from imposing sentences of corporal punishment or any form of punishment that is cruel, inhumane or degrading (Section 161).

Administrative measures

136. The School Health Policy (2005) recognizes a child's rights to protection from abuse by parents, peers, teachers and others. It also directs that punishment be administered according to the Education Act (2010) and revised School Regulations that prohibit corporal punishment.

137. The GOL subscribes to the global initiative to end corporal punishment of children as contained in the Universal Periodic Review (UPR).

Factors and difficulties

138. The chastisement of children in the form of mild or moderate physical punishment is deeply entrenched among Basotho. The GOL's efforts to eliminate it are challenged especially due to lack of research-based information revealing its detriment. No training and public awareness activities have been undertaken to eliminate the practice in public and private spheres.

V. Violence against children

(a) Abuse and neglect (art. 19)

Constitutional measures

139. Chapter II, Section 8 of the Constitution protects all persons from torture, inhuman treatment or degrading punishment. Article 32 of the constitution obliges the State to protect children and young people through its policies and laws.

Legislative measures

140. Under the CPWA, Section 20 parents and guardians are responsible for protecting children from 'neglect, discrimination, violence, abuse, exploitation, exposure to physical and moral hazards and oppression.' Sections 23 and 46 also contain provisions protection of children from abuse and neglect.

Administrative measures

141. The GOL through its policy frameworks creates a protective environment in which vulnerable children are protected from abuse and neglect.

142. CSOs complement the government by sensitising communities about the effects of various forms of abuse and neglect.

Factors and difficulties

143. Due to limited resources, the GOL and CSOs are unable to reach all corners of the country with their sensitization campaigns and this undermines the commitment to eliminate all forms of abuse.

144. Despite efforts made to sensitize the population about abuse, neglect and the harms they cause to children, there are no evident changes in behaviour and attitudes.

(b) Measures to prohibit and eliminate all forms of harmful practices, including, but not limited to, female genital mutilation and early and forced marriages (art. 24, para. 3)

Legislative measures

145. The CPWA under Section 17 prohibits cultural rites, customs or traditional practices which are harmful to children.

Administrative measures

146. The GOL and CSOs' commitment towards protecting children from all forms of harmful practices is demonstrated among others, through the commemoration of days designated to raise awareness about these harmful practices.

Factors and difficulties

147. Awareness raising activities seldom go beyond the celebration days; therefore, no long-term impact is realized.

148. Very few awareness raising activities are targeted at communities in remote areas.

Sexual exploitation and sexual abuse (art. 34)

Legislative measures

149. *The Sexual Offences Act* has redefined sexual offences and sexual exploitation. This act also makes rape and sexual assault illegal. Sexual contact with a child under age of sixteen is an offence.

150. *The Penal Code and Anti-TiP Act* also have provisions for dealing with sexual exploitation and abuse.

Administrative measures

151. Most CSOs including those specializing in legal related matters have programmes that educate the nation about SRH rights to complement the Government's efforts to end child sexual abuse in all its forms.

Factors and difficulties

152. The GOL and CSOs' commitment to fight child sexual abuse nationwide, is challenged by lack of resources.

153. Some community members still find it difficult to talk about and report cases of sexual abuse especially if they involve family members.

(c) **The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (arts. 37 (a) and 28, para. 2)**

Legislative measures

154. The CPWA, at Section 161 has provisions against torture and cruel, inhumane and degrading treatment.

Administrative measures

155. As discussed earlier, MOET requires School Management Boards to ensure that inhumane treatment of children and corporal punishment are eradicated in schools.

Factors and difficulties

156. In some schools corporal punishment is still practised and children and parents are not empowered enough to report it. No action is taken against those that continue practising it.

(d) **Measures to promote the physical and psychological recovery and social reintegration of child victims (art. 39)**

Legislative measures

157. Sections 127 and 178 of the CPWA provide for the creation of protective and supportive environments where children who have been subjected to abuse or have come into contact with the law can recover psychologically and emotionally from their experiences.

Administrative measures

158. CSOs play a critical role regarding the psychological recovery of children through their psycho-social support (PSS) programmes in several parts of the country.

Factors and difficulties

159. CSOs that provide PSS are usually unable to implement programmes that are far reaching due to limited resources.

(e) **The availability of helplines for children**

Legislative measures

160. Section 14 of the CPWA gives children the right to express their opinions freely and have such opinions taken into account.

Administrative measures

161. The GOL with support from Global Fund and UNICEF set up the CHL in Maseru and Quthing to create a safe platform for children to express themselves and report violations of their rights.

Factors and difficulties

162. Lack of resources has resulted in the closure of the Quthing CHL and the CHL in Maseru is also no longer effective.

163. The CHLs have never had permanent staff. Rather, they have been operated by volunteers and Auxiliary Social Workers from the MOGYSR and MOSD; the majority of whom lack training in handling child-sensitive issues. As a result, they easily got subjected to stress and burnout and often quit the job.

VI. Family environment and alternative care**(a) Family environment and parental guidance****Constitutional measures**

164. The Constitution obligates the GOL to respect the privacy and the sanctity of family life and the home.

Legislative measures

165. The CPWA, at Section 10 provides for a child's rights to know, live with family and grow-up in a caring and peaceful environment.

166. Under Section 20 of the CPWA, parents or guardians are charged with the duty of providing guidance, care, assistance and maintenance to ensure the survival and development of their children.

167. At Section 21, the CPWA stipulates that children's duties and responsibilities include respecting parents, guardians, superiors and elders at all times and assisting them when there is need depending on the child's age and ability.

(b) Parent's common responsibilities, assistance to parents, childcare facilities**Legislative measures**

168. Part XXIII of the CPWA sets out the rights of children to sustenance and maintenance by parents or any other legally liable persons to ensure their general well-being.

Administrative measures

169. The GOL's commitment to fighting vulnerability is demonstrated in efforts towards family strengthening and provision of material support to destitute households.

170. Religious and cultural norms of parenting are quite entrenched. Community leaders and NGOs with support from development partners provide guidance on parenting skills.

Factors and difficulties

171. Lesotho's families continue to be challenged by poverty, unemployment, food insecurity, HIV/AIDS and TB; undermining their ability to care for children.

172. The GOL cannot afford to pay annual subventions to all child-care facilities or pay them based on actual living costs per child.

(c) Separation from parents**Legislative measures**

173. The CPWA provides that children have a right to live with parents, except where it is not in their best interests to do so. Section 22 requires the GOL to make policies which support children whose parents are not capable of exercising proper parental responsibility.

174. The proportion of children deprived of parental care, neglected or abandoned is significantly high. Cases of removal and placement of such children is the mandate of the MOSD (Section 23, CPWA). Such cases are to be presented before a Magistrates Court within 48 hours to obtain an order.

175. It is in the best interests of children separated from parents to have contact with family wherever possible, regardless of the outcome of a court hearing awarding custody. Section 201 of the CPWA gives non-custodial parent rights of access to a child; and Section 204 provides that any of the surviving parents can be the guardian. Guardianship continues until a child turns 18 (Section 208).

176. Alternative forms of care provided under Part XIII of the CPWA include fostering and local and inter-country adoption.

177. Children may also be separated from their families as a result of being in conflict with the law, which is covered by Part XI of the CPWA.

178. The decision regarding where a child resides is a matter for the High Court in the case of adoptions and must be guided by the best interests of the child.

Administrative measures

179. Informal fostering and kinship care by extended family members without a court order is still widely practiced, though families are now reluctant to take in additional children due to endemic poverty.

180. Children born to incarcerated mothers are sent to residential care facilities or to live with extended family when they reach the age of two.

181. The MOSD has developed standards and guidelines for the care facilities to ensure quality and professional service delivery.

182. Development partners are assisting to strengthen MOSD capacity for the effective performance of responsibilities it is assigned by the CPWA.⁶

Factors and difficulties

183. An assessment of alternative care revealed that many children were placed in care facilities without court orders.⁷ Though the MOSD is responsible for monitoring children separated from their parents, it had incomplete records regarding numbers of children in care facilities and living conditions therein.⁸

184. Lack of resources and the difficult geographical terrain make funding and regulation of residential care facilities challenging.

185. Promiscuity and discordant partners owing to the HIV epidemic, escalating rates of divorce, alcohol abuse and gender-based violence (GBV) are among factors that cause children to be removed.

186. Children employed away from home also get separated from their families.

187. There is no well instituted referral system for handling children separated from parents and the GOL has no care facilities of its own.

⁶ UNICEF. 2010. Ministry of Health and Social Welfare, Department of Social Welfare: Report on Capacity Development Needs Assessment. Maseru, LS: UNICEF.

⁷ UNICEF. 2009. Assessment of Capacity to Manage Alternative Care for Children in Lesotho. Maseru, LS: UNICEF.

⁸ Ibid.

(d) Family reunification**Legislative measures**

188. The CPWA provides that where children are separated from parents because they need care and protection, or as a result of being in conflict with the law, it should be for the shortest time possible (Section 23).

189. *Under the Anti-Tip Act (2011)*, a child victim shall be reunified with their family as quickly as possible.

Administrative measures

190. Reunification of children is a joint responsibility of social workers in the MOSD and care facilities together with the CGPU. Whenever reunification is not appropriate, the MOSD social workers temporarily place concerned children in care facilities while investigations to find foster families for them continue. Only after these measures have been exhausted, can a child be placed in a care facility for an extended period.

191. Where following investigations no parent or next of kin is located within three months or alternatively, where parents are found but are incapable of caring for a child, he/she can be declared adoptable.

192. Currently, private foster homes outside institutional homes as envisaged in the CPWA do not exist. The 2014 CPWA costing puts a price on the implementation of private fostering and the Child Protection Strategy recommends that models of foster care be piloted.

193. There are NGOs that provide food and shelter to children and encourage children living and/or working from the streets to return to school. They also facilitate their reunification into families.

Factors and difficulties

194. Resources to facilitate searches for children's origins are not budgeted for by GOL. There is usually no transport and the searches are often time-consuming due to the difficult geographical terrain and location of families far from the main roads. Social workers are often not equipped with investigative skills for this sort of work and police are often reluctant to assist them.

(e) Recovery of maintenance for the child**Legislative measures**

195. Part XXIII of the CPWA sets procedures for ensuring maintenance for children.

196. Children's Courts have the jurisdiction to make maintenance orders and to compel parents, guardians or any other persons to provide maintenance to children.

197. Maintenance orders are the joint responsibility of parents of a child whether or not they were married when the child was born.

198. While maintenance orders generally expire once a child turns eighteen, they can be extended where a child is pursuing secondary education. A maintenance order may also expire when its subject becomes gainfully employed.

199. In addition, the MOJCS through the Department of Legal Aid has a bi-lateral arrangement with the RSA which obliges employers in RSA to honour maintenance orders issued by courts in Lesotho. The GOL also provides for garnishee orders under the Subordinate Courts Rules 1988 to ensure enforcement of maintenance.

Administrative measures

200. Where a parent does not abide by a maintenance order, the Children's Court can garnish a government employee's wages and/or imprison a recalcitrant parent. When parents cannot provide maintenance, the child will be taken to residential care facility or be

granted public assistance in the form of food packages while awaiting payment of cash grants.

Factors and difficulties

201. A biological non-custodial parent can be ordered by a court to maintain a child, however, because little effort is made to notify biological fathers upon the child's birth, children born-out-of-wedlock are unlikely to be maintained.

(f) Children deprived of a family environment, periodic review of placement, regulation and supervision of alternative care facilities

Legislative measures

202. The CPWA obligates the GOL to designate, establish, appoint and maintain a register of all places of safety as well as to monitor and supervise living conditions in them.

203. The CPWA contains criteria for the placement of children in alternative care arrangements.

(g) Adoption, national or inter-country

Legislative measures

204. The Adoption Proclamation (1952) permitted adoptions only for Europeans and not for Basotho. Part XIII of the CPWA provides for both local and inter-country adoption. Section 51 outlines criteria for persons who can adopt while Section 61 specifies requirements for inter-country adoption.

205. Part VIII of the CPWA sets out application procedures for fosterage and adoption. It further provides that such applications will follow standards and guidelines set by the MOSD.

Administrative measures

206. The GOL ratified The Hague Convention on Inter-Country Adoption in 2012. Currently, Lesotho has adoption agreements with Canada, USA, Sweden and The Netherlands. Plans are underway to sign an agreement with RSA.

207. The Foster Care and Adoption Policy 2013 and Adoptions Practice Guidelines and Procedures, oblige adoptive parents from the receiving states to send post-placement reports for the duration determined by the MOSD. Visits to the receiving states are made mandatory to monitor the well-being of adoptees.

208. To respond to the concerns of the Commission discussed in the next sub-section, a national Foster Care and Adoption Policy together with Practice Guidelines and Procedures have been developed.

209. Although not yet appropriately staffed, the Central Authority for regulating both local and international adoptions was established in 2013. Staff trainings have been provided; hence, the pace of adoption processes, record-keeping and assessments concerning the necessity and suitability of adoption have improved.

Factors and difficulties

210. Due to capacity challenges, the MOSD is unable to keep well-disaggregated records of adoption cases. After some children were removed illegally from the country and were found in vulnerable circumstances, the GOL set up a Judicial Commission of Inquiry on Adoptions in 2007 and temporarily suspended adoptions.

211. As the 2007 Commission confirmed, record-keeping by the MOSD and courts is poor hence obtaining precise figures on successfully completed adoptions is impossible. Records availed to the Commission revealed that only 151 children were adopted between 1995 and 2008. The majority of these comprised children abandoned at birth. The second largest group comprised female orphaned children.

212. The Commission found the then Department of Social Welfare incapable of effectively delivering adoption services alongside other broader child protection tasks.

213. Furthermore, the Commission established that due to the lack of a strategy for promoting local adoptions, adoption was regarded a foreign alternative care option.

214. The 2009 review of alternative care established that very few children are adopted locally due to lack of knowledge and the stigma and fear linked to the possibility of adopting an HIV-positive child.⁹

215. The other concerns of the Commission of Inquiry on adoptions included the lack of:

- Transparency and accountability in adoption procedures;
- Clear guidelines for assessing the suitability and eligibility of adoptive parents;
- Adoption register for preservation of quality and well-disaggregated data; and,
- Appreciation of adoption as an alternative care option, particularly at this time when traditional methods of caring for orphaned or abandoned children are collapsing.

216. Misconceptions that Basotho children are sold to adoptive parents internationally persist. Hence many Basotho would still not readily give their children up for adoption or adopt even if they are unable to biologically have their own children. There were 41, 23 and 38 adoptions in 2013, 2012 and 2011 respectively. Out of the 41 in 2013, 19 involved inter-country adoptions.

217. Assessments for children in residential care facilities are done by MOSD and the process is highly slow often, due to lack of appropriate identity documents. Thus, many potentially adoptable children reside in institutions for prolonged periods before they are afforded permanency. Of approximately 1475 children in residential care facilities at any one given time; half of them could be adoptable.

218. Further, there are approximately 300 prospective parents in receiving states at any one time, waiting to adopt from Lesotho.

(h) Illicit transfer and non-return

Legislative measures

219. Part VIII of the CPWA sets out the protections for children against illicit transfer and non-return.

(i) Ill-treatment, abuse and neglect

Constitutional measures

220. As noted previously, the Constitution protects all persons, including children, against any degrading, humiliating or inhumane treatment.

Legislative measures

221. Ill-treatment, neglect and abandonment are offences under the CPWA. The Act at Section 23 states that children exposed to these circumstances and to abuse and exploitation need protection. Section 46 makes neglect an offence punishable by community service.

222. The Penal Code at Section 30 makes abuse an offence and further precludes consent from being considered a defence.

Administrative measures

223. There are NGOs which provides temporary shelter and PSS to children who have been exposed to abuse and its traumatic effects before they can be reintegrated back into the community.

⁹ UNICEF 2009, op. cit. note 31.

Factors and difficulties

224. Recent assessments of the CGPU and CHL have shown that they have limited capacity to assist large numbers of abused and neglected children.¹⁰

225. The GOL is working towards establishing a social protection system accessible to all children and not just OVC. However, the coverage of existing interventions is highly limited, particularly in remote regions. Poor coordination of efforts remains a challenge.

226. Sentences for offences of neglect, abuse and exploitation are inadequate deterrents for the crimes. Hence, recidivism is relatively high. Sentences of community service are also not commonly imposed for serious assaults.

227. There is a severe lack of qualified psychologists and psychiatrists as no tertiary institution in the country offers training in these fields. Diagnosis and provision of PSS and rehabilitation efforts, therefore, become severely hampered.

(j) Implementation of rights in early childhood

228. The GOL's progress in this regard is captured under the cluster on education.

VII. Disability, basic health and welfare**(a) Children with disabilities****Constitutional measures**

229. The Constitution under the Principles of State Policy provides that the GOL must make efforts to provide for the needs of people with disabilities, including affording them equal opportunities in employment. Such efforts should apply to both adults and children.

Legislative measures

230. The CWPA definition of child disability includes physical, intellectual, sensory, or mental nature or other disability irrespective of its cause, whether temporary or permanent, and extent to which it disables a child to engage normally in activities of social life.

231. Under the CPWA, children with disabilities have the right to education regardless of the type or severity of their condition.

232. The CPWA, at Sections 13 and 22, provides that children with disabilities must enjoy rights to dignity and participation in order to obtain the greatest degree of decent life, self-reliance, social integration as well as their full potential in society.

233. *The Sexual Offences Act (2003)* in Section 15 gives special provisions including harsher penalties for sexual acts committed against persons with disability.

234. *The Education Act (2010)* requires that children with disabilities integrated into mainstream schooling.

Administrative measures

235. The GOL has developed IECCD training manuals and the CBR programme which help with the 'early identification' of children with disabilities.

236. In this respect, the GOL has adopted the UN guidelines on CBR for children and adults with disabilities. The GOL has developed a National Disability Policy (2011) to further guide its efforts and to ensure the full enjoyment of rights belonging to this vulnerable group.

¹⁰ Likoti FJ et al. 2007. Evaluation of the CGPU in the Police Districts of Lesotho: Final Report. Maseru, LS: UNICEF; Nala D et al. 2008. Child Protection Review and Report on the Peer Review of the Child Help Line in Lesotho. Maseru, LS: UNICEF.

237. The GOL provides some assistive devices free of charge to children with disabilities depending on availability of resources.

238. During the 2009/2010 fiscal year, the MOSD provided devices to 483 children and adults.¹¹ Children with disabilities also receive bursaries and other practical assistance through the MOET to attend IECCD classes and secondary school.

239. The GOL has established an enabling policy and legislative environment that provides for alternative care facilities for children with disabilities. CSOs raise awareness on protection and promotion of the rights of these children.

240. Development partners and the GOL have provided sign language training to teachers to support school children with speech and hearing impairment. Some learning materials have also been produced in Braille. The Global Fund has supported the production of additional training materials.

241. The Norway Association of the Disabled provides technical and financial assistance to the GOL to:

- Implement the National Disability Policy and UN Convention on the Rights of Persons with Disabilities (UN-CRPD);
- Facilitate the establishment of a national steering committee for the implementation of the UN convention; and,
- Lead the development of realistic and detailed work plans for each stakeholder.

242. Lesotho National Federation of Organizations for the Disabled (LNFOD) plays a prominent role in creating awareness on rights of all people with disabilities (PWDs), including children, and in monitoring Lesotho's compliance with the UN-CRPD (2008).

243. The GOL operates the Itjareng Vocational and Rehabilitation Centre (IVRC) for PWDs which offers courses in woodwork, leather work, sewing, electrical and metal work. The MOSD CBR officers in each district provide services specific to PWDs.

244. GOL in 2013 hosted Communities of Practice Disabilities Advocacy in Mainstreaming (COPDAM) conference for over 20 African States. Each year Disability Day is celebrated by the MOSD where PWDs are invited.

245. There are eight schools for children with hearing and visual impairment, intellectual disabilities and any form of physical disability respectively. Lesotho College of Education (LCE) offers a certificate course in sign language. The MOET established SEU under the Education Sector Plan to address the specific needs of these children.

<i>Name of school</i>	<i>Type of disability catered for</i>
St. Catherine's High School	Visual impairment
St. Bernadette Resource Center for the Blind	Visual impairment
St. Angela Cheshire Home for Disabled Children	Physical
Phelisanong Lesotho	Physical and intellectual
Kananelo Center for the Deaf	Hearing impaired
MohloliaoBophelo	Visual impairment
St. Paul School for the Deaf	Hearing impaired
Thuso E TlaTsoaKae Handicapped Center	Physical

Source: MOSD

¹¹ MOSD. 2010. Annual Joint Review Report 2009/2010. Maseru, LS: MOSD.

246. Community-based organizations (CBOs) also sensitise communities on the realities, rather than myths about PWDs by organizing community meetings called “lipitso”, and radio and television programs. Interpreters and signers assisting on television and at public events are now more common.

247. Of all children surveyed as part of the Situational Analysis of VC 2011, 1.9% had an identifiable physical (1.4%) or mental disability (0.5%), while 10% were thought to have a learning disability.

248. Guided by the *Building Control Act (1995)*, a limited number of schools have been built with ramps to give better accessibility to children who use wheelchairs and other disability aids.

249. The Rehabilitation Unit within MOSD in 2013 advocated for quota’s in employment of PWDs. There were a number of employers who pledged to employ a designated number in 2014, the results of which remains to be seen. Numbers of PWDs are still relatively low in employment in the formal sector. The Disability Equity Bill (2013) is still awaiting enactment.

Factors and difficulties

250. Challenges affecting PWDs include low budgetary resources allocated to programmes targeted at them, negative employers’ opinions and limited access for children with disabilities into the mainstream schools due to the lack of training and understanding of their needs by resulting in children being turned away.

251. Physical access to services is an enormous hindrance in the disability sector. Schools and clinics are often far away from villages, if not in other districts entirely. *The Building Control Act (1995)* has been in place for 20 years, yet no funding was provided to make schools and other buildings accessible to children with disabilities until recently. The topography also makes movement of ordinary wheelchairs difficult.

252. Documents are very rarely in Braille and Braille readers are expensive and few.

253. Stigma continues to surround disabilities. This ranges from superstitious beliefs that disabilities are contagious to a complete lack of understanding that a physical disability does not impair a child’s mental capabilities.

254. Currently, 5.3% of all children in primary school are considered disabled while for all children and adolescents in secondary school the figure is 5.5%.¹² For the age group 10-14 years, finishing primary education and beginning secondary education, recent surveys found that while 90.4% and 96.4% of non-disabled males and females were students, only 78.5% and 85.1% disabled males and females were students.¹³

(b) Health and well-being of children

(i) Survival and development

Legislative measures

255. Section 22 of the CPWA places the responsibility of child’s survival and development on the GOL, by requiring it to formulate policies and programmes that emphasize on primary and preventive health care, public health education and reduction of infant mortality.

256. The CPWA at Section 10, grants children rights of living and growing-up with parents in a caring and peaceful environment.

257. Sections 11, and 20 (2) enshrine children’s rights to education and health; as well as parents’ and guardians’ responsibilities to provide them with good guidance, care, assistance and maintenance.

¹² MOET. 2011. Data output from the 2010 Education Census.

¹³ GOL. 2009. op. cit. note 34.

Administrative measures

258. Lesotho subscribed to the Millennium Development Goals (MDGs) which provided a good tool for assessment of child development.

259. To contribute towards survival and development, the MOSD annually supports 25,000 OVC and destitute children and youth with secondary education bursaries from the national recurrent budget. These bursaries are augmented through the Global Fund grants to provide recipients with school uniforms, toiletries and stationery. The GOL provides further material assistance to orphaned and destitute children in remote areas for them to access basic non-formal education programmes offered by Lesotho Association for Non-Formal Education (LANFE), the Lesotho Distance Teaching Centre (LDTC) and an NGO named Sentebale.

260. The LCGP launched in 2009 with EU and UNICEF support assist destitute households with basic necessities such as schooling, health and social services to children under their care. The MOSD is also piloting the Integrated Social Safety Nets.

261. District Child Protection Teams (DCPTs) proactively identify vulnerable children to ensure that they access health, education, social or other services.

262. The IECCD Policy states the principles on which a child's development is premised and they include life-skills programmes run jointly by MOET and MOH.

Factors and difficulties

263. Lesotho struggles to provide for the survival and development of its children because of factors including high rates of HIV/AIDS estimated at 23%, orphan-hood, malnutrition, infant death and inadequate service delivery.

(ii) Health and primary health care services

Constitutional measures

264. At Article 27 the Constitution obliges the GOL to develop laws and policies that protect children's health; reduce still births and promote their proper development. The frameworks should also control and prevent epidemics and diseases as well as improve public health.

Legislative measures

265. The CPWA protects a child's right to health, regardless of religious or other beliefs (Section 11(2)). The Act further provides for rights to SRH information and education (Section 11(6)); protective measures relating to the health of children (Part XXV); consent to medical treatment at the age of twelve years (Section 232); HIV testing (Section 233); and, provision of medical assistance to child victims of sexual abuse or exploitation (Section 234).

Administrative measures

266. The 2010 National Guidelines for HIV and AIDS Care and Treatment recommend HIV testing for child victims of violence and stipulate that eligibility for Post-Exposure Prophylaxis (PEP) should be founded on equity particularly, on clinical considerations of risk.

267. Baylor College Paediatric AIDS clinics, located in some districts, provide primary health care (PHC) to children infected with HIV/AIDS and conducts relevant research. Districts that have no such clinics are visited. Baylor conducts Youth Clubs in Maseru on weekends.

268. NGOs including community support groups are involved in peripheral health care provision in Lesotho. JHPIEGO provide medical circumcision for boys as an HIV preventative measure and trains nurses. WVL manages an advocacy programme called Child Health Now aimed at ensuring that children under 5 receive a high standard of medical care including immunisations and nutrition.

269. Since 2007, basic PHC interventions offered through public health centres have been free of charge for all adults and children. ART, PMTCT, IMCI and IMAAI programmes have also been decentralized to the health centres. A recent initiative by the MOH has also revitalised PHC.

270. The high rates of HIV/AIDS have led to increased donor funding for the care of people infected especially, from the US government. Thus, the overall and quality infrastructure, health systems and provision of drugs have drastically improved. Most clinics now generally have consistent water and electricity. There are now five nurses employed in each health centre.

Factors and difficulties

271. While the GOL has implemented the IMCI programme since 2000, there is a challenge to make it available to all children. The 2009 LDHS investigated prevalence of IMCI conditions among 3,348 children and found that Acute Respiratory Illness (ARI) symptoms formed 5.5% of the sample, with fever and diarrhoea at 17.2% and 11.2% respectively. The study also revealed that only 65.5%, 59.7% and 53.4% of children who experienced ARI, fever or diarrhoea sought treatment from health facilities.¹⁴

272. In 2010, the GOL deployed 10 IMCI supervisors to improve implementation at health centre level; however, the community component is not yet fully implemented.¹⁵ Stock outs of IMCI medicines compromised the effective administration of IMCI protocols.

273. Maternal mortality rates are still very high despite the relative growth of resources from donors. One in nine children die before the age of five. Although special clinic days are scheduled, the coverage of immunisations of children is still low at only 64% from 80% due to shortage of nurses. Children and adolescent on ART medication do not have good compliance often due to poor parental supervision of dosage. The latter complain about the unpleasant side-effects. Further, surveys suggest that PMTC programs reach only 48% of eligible HIV-positive pregnant women.

274. Cultural barriers still undermine the provision of health care. For instance, women married in one district must travel to their families in another district to give birth. Many still deliver at home due to lack of education and, with the difficult topography; they walk long-distances to clinics. To combat this problem there are Waiting Homes at most health facilities where women can stay for the weeks leading up to their giving birth. Mothers continue to use traditional healing practices despite the wider availability of allopathic medicine.

(iii) Efforts to diminish infant and child mortality

275. The unacceptably high rates of early infant and under-5 mortality remain a dominant feature. The primary causes include: HIV/AIDS; malnutrition and food insecurity; several births occurring outside health facilities without supervision by trained birth attendants, etc.

276. The GOL is improving the situation by completely refurbishing and strengthening of the country's PHC system with support from partners. The support includes training of nurses and nurse assistants, repairing and re-equipping local health centres, and scaling-up the number of community health workers receiving monthly incentives to provide primary care-level support within communities and households.

277. The National Health Policy 2012 and Ministry of Health Strategic Plan 2012-2017 are GOL's overarching policies relating to child health. More specific policy documents not mentioned in the Common Core Document include: Infant and Young Child Breastfeeding Policy which encourages exclusive breastfeeding and Adolescent Health Policy. GOL further established the Paediatric Unit as a separate Ministry directorate.

278. All pregnant women presenting at an ante-natal care clinic for the first visit are routinely tested for HIV. To reduce stigma and improve compliance rates with PMTCT

¹⁴ MOSD and ORC Macro 2010, op. cit. note 3.

¹⁵ UNDP. 2010. 2010 Annual UNDAF Review Report. Maseru, LS: UNDP.

drugs, new and expectant mothers, whether HIV positive or negative, are provided with identical Mother-Baby Packs as part of the Plan B program for prevention of transmission of HIV during pregnancy and after birth. The packs for HIV positive women contain PMTCT drugs and those who are negative receive post-natal vitamins.

279. Health care clinics run Nutrition Corners for the feeding of malnourished under-5s. They also have committees coordinating activities and ensuring information exchange between health centres and the surrounding communities. GOL provides cash grants and food supplements for babies in vulnerable families; agriculture programmes for improving food security and reducing levels of stunting and wasting in children as well as WASH programmes to improve sanitation and access to clean drinking water, particularly in rural communities.

(iv) HIV and AIDS

Administrative measures

280. A national PMTCT programme was rolled-out since 2005. In 2009, its coverage reached only 48% of eligible HIV-positive pregnant women.¹⁶ That same year, the proportion of infants born of HIV-positive mothers was estimated at 13%, showing some benefit from the GOL's continuing efforts in this area.¹⁷

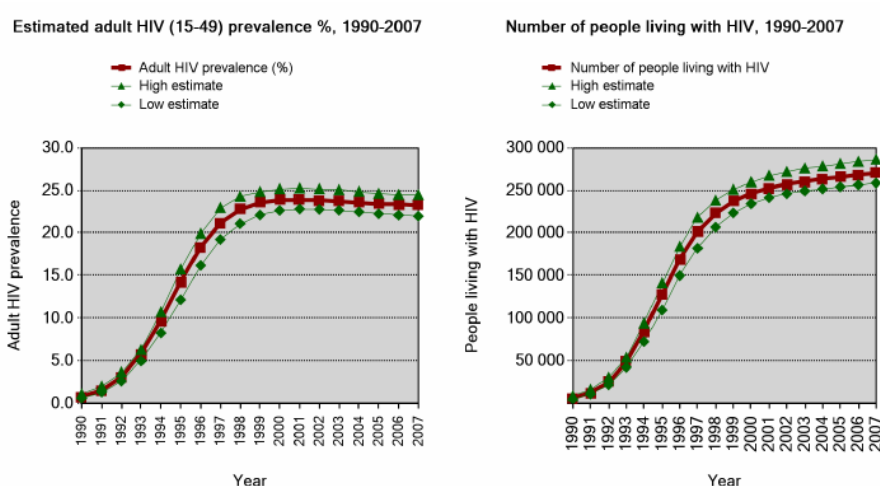
281. The availability of DNA-PCR screening for children has steadily increased since the GOL acquired this capacity in 2009. The number of children tested for HIV using it increased threefold from 3,600 in 2007 to 9,065 in 2009.¹⁸

282. Through the Global Fund assistance and the Baylor International Paediatric AIDS Initiative (BIPAI), paediatric doctors have been trained and deployed to district hospitals. In addition, 37 ART nurses, 26 doctors and 10 senior HIV counsellors have been trained on DNA-PCR screening and the initiation of ART in children.¹⁹ Finally, through BIPAI, two satellite clinics have been opened supported by the Children's Centre of Excellence in Children's HIV/AIDS Treatment based in Maseru.

Factors and difficulties

283. Lesotho's high incident of HIV/AIDS has stabilised, but not decreased in recent years.

HIV Seroprevalence and number of people living with HIV



Source: Situational Analysis VC 2011

¹⁶ MOSD and ORC Macro 2010, op. cit. note 3.

¹⁷ MOSD 2010, op. cit. note 37.

¹⁸ Ibid.

¹⁹ Ibid.

284. A report of the 2011 detailed assessment of the National HIV/AIDS Strategic Plan revealed that despite the recognition of the importance of legal reforms for reducing the high prevalence of HIV and sexual exploitation, implementation of the new laws is slow; consequently, the epidemic continues to escalate.

(v) Malnutrition and food insecurity

285. Chronic malnutrition and food insecurity continue to negatively affect the survival and development of children. Changing weather patterns are negatively affecting the already fragile agricultural sector. Emergency food assistance is required for poor households with family members, including children, living with HIV or TB.

286. The impact of these challenges on children includes wasting which continues to be a primary source of morbidity. 4% of children under 5 are wasted, with 1% being severely wasted.²⁰

287. To address the prevalence of child malnutrition, the GOL has introduced the Integrated Management of Acute Malnutrition programme and trained health providers on the protocol; however, its implementation remains a challenge.

288. Growth retardation, indicated by stunting, has been the main nutrition-related problem in Lesotho for a decade now. Stunting ranges from 30% to 50% across the different districts.²¹

(vi) Maternal and infant mortality

289. Despite efforts by the GOL, progress in reducing the number of maternal deaths substantially remains slow.

290. The proportion of women who received ante-natal care from health professionals and of those assisted by a health professional during delivery including those who delivered in health facilities improved slightly.

291. The National Roadmap for Reduction of Maternal and New-born Morbidity and Mortality implemented since 2005 was reviewed in 2010 and additional measures were introduced to fast-track implementation.

(vii) Immunization

292. Immunization coverage for young children has declined since 2004 from 67% to 61% in 2009, falling below the country's target of 90%. The 2009 accreditation survey of health facilities revealed that this is because only 25% of the hospitals and 14% of health centres provide routine immunization for newborns before they are discharged.²²

293. The GOL has implemented the Reaching Every District strategy, through Child Health Days and other modalities, to substantially improve routine immunization coverage for children across the country.

(viii) Access to information on child health and nutrition

294. The GOL has produced a range of materials on the health needs and importance of adequate nutrition for children. This information is available in local languages mainly through health facilities.

(ix) Preventative care, including family planning

295. The GOL worked together with development partners to ensure availability of commodities throughout the period under review. No shortage of contraceptives has been

²⁰ MOSD and ORC Macro 2010, op. cit. note 3.

²¹ Ibid.

²² Ibid.

reported in the country, but logistics for delivering the commodities pose challenges that may lead to such shortages.²³

(x) International co-operation for technical assistance

296. The GOL receives financial and technical support for the protection and promotion of child health from UNICEF, WHO, UNFPA, WFP, ICAP, DFID, Irish Aid, EU and BIPAI.

(xi) Reproductive health rights of adolescents and measures to promote healthy lifestyle

297. During 2010, the GOL drafted a new Sexual and Reproductive Health Policy and Strategic Plan which emphasize on improving the provision of SRH information for adolescents.

298. The GOL also developed a Reproductive Health Commodity Supply Strategic Plan to substantially improve the availability of SRH commodities throughout the country.

299. SRH, HIV/AIDS, and general health information, is included in the MOET's life-skills curriculum offered within secondary schools. SRH content is also mainstreamed into curriculum from class 3 onwards.

300. There have also been more complementary HIV-prevention interventions implemented by NGOs though their scale and scope are limited. Currently, life-skills-based education implemented within schools has tended to be more generic in its treatment of SRH issues and could benefit from a greater focus on HIV.

301. Currently, 19.6% of all adolescent girls between 15 and 19 years have already started childrearing.²⁴ The proportion is 3% at age 15 rising to 41% at age 19. Educational attainment has an inverse relationship meaning that young women with less education are more often found to have begun childrearing before the age of 19.

(c) Abolishment of traditional practices harmful to child health

Legislative measures

302. Section 17 of the CPWA prohibits cultural practices harmful to children's lives, general development and well-being.

Administrative measures

303. To this end, the GOL has established a close collaboration with the traditional medicine practitioners to ensure that circumcision in initiation schools is carried out in accordance with respect for children's dignity and health. The GOL has set the minimum age for participation in these rituals at 18 provided they do not inhibit schooling; however, monitoring this is a challenge throughout the country.

Factors and difficulties

304. There is increasing awareness and understanding of harms caused by cultural practices in urban areas at least. But there is resistance to change in rural areas where such acts are justified on cultural bases.

305. The large number of boys involved in herding continues to prevent them from accessing education. Domestic work for girls is also ingrained and educating the public on its perils remains a challenge.

306. Use of traditional medicine and superstition persist, for example, children are exorcised under the guise of religious practice.

²³ UNDP 2010, op. cit. note 40.

²⁴ MOSD and ORC Macro 2010, op. cit. note 3.

(d) Protection of children from substance abuse**Legislative measures**

307. The CWPA under Section 18 provides for protection of children against use, production, trafficking or distribution of dangerous substances.

308. Lesotho as noted earlier also has a specific *Drug of Abuse Act (2008)*.

Administrative measures

309. Some NGOs and health facilities offer programmes to adolescents with substance use challenges. These include residential care, counselling and rehabilitation for recovering addicts. In addition, a National Peer Educator's Substance Abuse Prevention Manual was developed in collaboration with all key stakeholders and has been used country-wide since 2007.

310. Lesotho has ratified the WHO Framework Convention on Tobacco Control.

311. LMPS established a specialist unit which deals with drug related crimes only. The MOH's Mental Health Directorate offers a substance abuse program for addicts.

312. The sale of tobacco and alcohol to children under eighteen is not allowed under the MOTEC guidelines. Advertising tobacco on television and radio is also prohibited. School grounds and hospitals are now tobacco free zones.

Factors and difficulties

313. The prohibition of sale of tobacco and alcohol to minors is not enforced. The fine for use of marijuana is so minimal that it has deterrent effect. ARV drugs are at times misused to give a sedative effect. Children on the street sniff glue to survive the cold during severe winters.

(e) Children with incarcerated parents and children living in prisons**Legislative measures**

314. There is no prohibition of a mother imprisoned with her child.

Administrative measures

315. Correctional Services Operational Guidelines espouse that breastfeeding mothers stay with their children until the age of two, thereafter; the child is placed at a care facility or with extended family until the mother is released from prison.

316. In the women's prison in Maseru there is a clinic with a full-time nurse who provides pre-natal and post-natal care.

317. Every six months, all correctional centres host special days where inmates' families can attend. This paves way for the reintegration of inmates on release. Pregnant mothers are given light duties and pregnant girls and young mother-inmates attend school at the JTC on weekdays. They are allowed to take examinations and attend graduation ceremonies.

Factors and difficulties

318. Prisons have no appropriate facilities for nursing mothers. They have no privacy, no hygienic sanitation facilities including provision of sanitary towels on regular basis. In some districts, beds are not provided.

319. Since there are currently no nursery for children in the correctional centres. Officers play with children while mothers undertake their daily duties.

(f) Social security and childcare services and facilities

Legislative measures

320. Section 22(b) of the CPWA obliges the GOL to provide appropriate assistance to parents or guardians for raising children if they are unable to do so by themselves. Provisions governing childcare services and facilities appear under Part XXI of the Act.

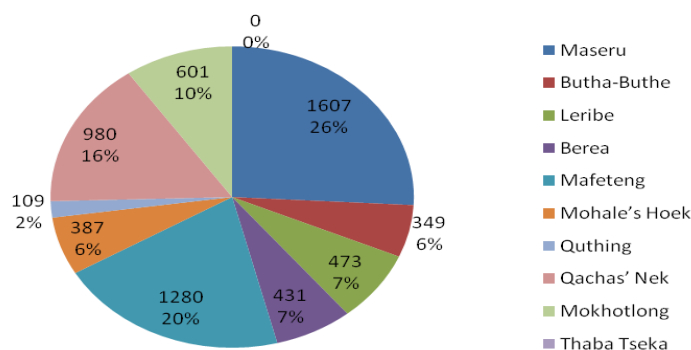
Administrative measures

321. The GOL through MOSD has institutionalized LCGP, public assistance and education bursaries as means of social security for children. All residential childcare services are provided by NGOs.

322. Lesotho provision of social security to children and youth is guided by SADC Minimum Package of Services.

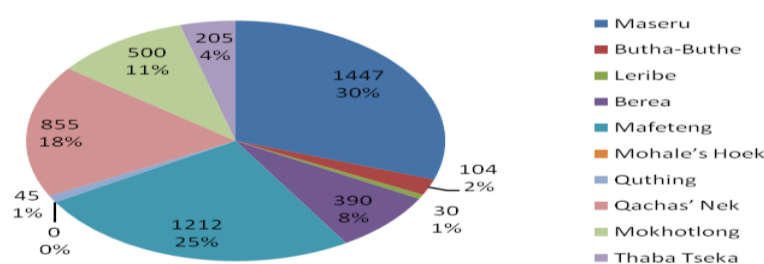
323. Eligibility for Public Assistance is determined by MOSD social workers. Because funding is insufficient to pay all eligible beneficiaries, households may at the discretion of the social worker, be given food packages in the interim. The budget for Public Assistance decreased by over 20% from 41.3 million Maluti to R32.5 million Maluti in 2013.

Distribution of Public Assistance Programme by district, 2009



Source: MOHSW (2010).

Distribution of food parcels by MOHSW, 2009

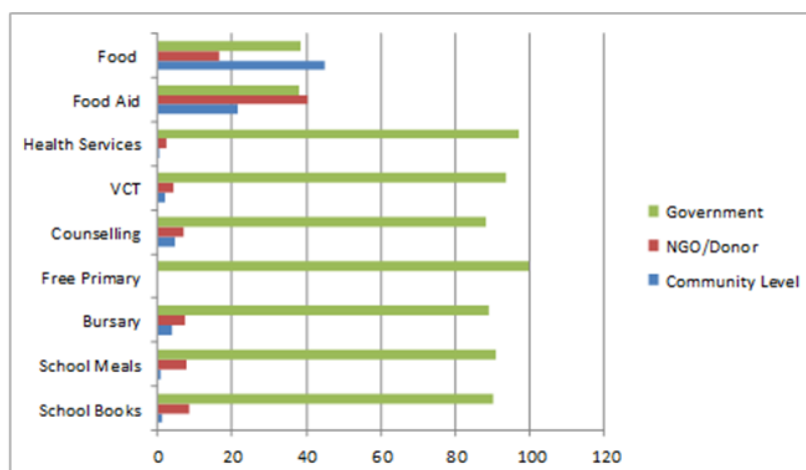


Source: MOHSW (2010).

324. Poor families are provided with exemptions from medical fees by way of a letter from MOSD.

325. As shown in the bar chart below, NGOs provide social assistance in different forms. However, the GOL contributes overwhelmingly to social security.

Service providers



Source: Situational Analysis of VC in 2011.

326. Lesotho receives significantly less donor funding than it used to for social development programming. The establishment of MOSD as a separate Ministry has improved the absorption capacity of available funding. The GOL has increased the budgetary allocation for LCGP.

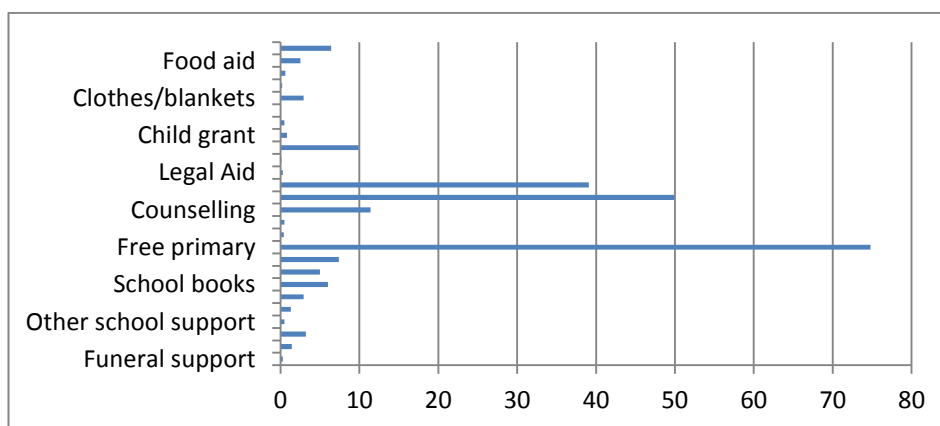
Factors and difficulties

327. The number of people living in poverty far outweighs the financial assistance available. The 2011 Situational Analysis of VC indicated that currently more people have no access to staple foods; live on begging or borrowing; participate in a food-for-work and others go to bed hungry.

328. Social security reaches a limited number of beneficiaries since many are either unaware that they can apply for the benefits or they lack information on how to access them.

329. The SADC Minimum Package of Services’ seven indicators are not fully met due to inadequate resources. Areas such as health and education are often prioritised.

Access to services



Source: Situational Analysis of VC in 2011.

(g) Practical assistance to ensure physical, mental, spiritual, moral and social development and to reduce poverty and inequality

330. The LCGP pilot phase was completed in 2010 and its roll-out began in 2011. The GOL is developing mechanisms that would guarantee sustainable support for LCGP recipients in the form of social welfare services or other assistance.

(h) HIV/AIDS and adolescents

331. There are over 50,000 HIV-positive children and adolescents below the age of 19. The specific needs of this population are not completely understood or integrated yet within national strategic frameworks guiding the GOL's response to HIV.

332. Of adolescents having had at least one sexual encounter in the past 12 months, 45.8% females and 14.1% males had tested for HIV. Only 1.4% females and 8.9% males aged 15 to 17 had more than one sexual partner during the same period. From this age group, 18.6% females and 39.7% males had had a sexual encounter in the past 12 months with only 56.5% females and 58.9% males reporting the use of a condom. Of adolescents aged 15 to 19, 77.6% females and 66.9% males indicated that using condoms correctly and consistently and limiting sexual encounter to one uninfected partner would prevent the spread of HIV.²⁵

VIII. Education, leisure and cultural activities**(a) Right to education, including vocational training and guidance, and making primary education compulsory and free to all****(i) Primary education****Constitutional measures**

333. The Constitution, at Section 28, places on the GOL the responsibility to ensure that education directed towards full human development, the respect for human rights and fundamental freedoms is available to all. The GOL is further mandated to make primary education compulsory and secondary education as well as technical and vocational education accessible.

Legislative measures

334. *The Education Act 2010* makes primary education free and compulsory for learners aged 6 to 13 for the duration of 10 years.

335. Similarly, the CPWA, at Section 11, provides for the child rights to education.

Administrative measures

336. The GOL considers equitable basic education as a fundamental human right and a key to socio-economic development.

337. The initiation of Free Primary Education (FPE) in 2000 demonstrated the GOL's commitment to achieve universal primary education. In 2009, the LDHS found that 94% of children aged 6 to 13 years were enrolled in school.²⁶ Enrolment increased from 176,365 in 1999 to 388,681 in 2009.²⁷

338. Historically, more females than males enrolled in primary schools. However, gender parity was reached in 2003, and, since 2004, slightly more males than females enrol in primary school annually. For example, in 2009, 196,319 males compared to 193,105 females were in school.²⁸

339. As overall enrolment in primary education has increased, the promotion rates from year to year have also improved from 68% in 2006 to 73% in 2009. The pass rate has remained relatively stable moving to 86% in 2009 from 85.8% in 2006. However, the GOL considers this to be below acceptable levels and is therefore, taking further steps to improve the pass rate.²⁹

²⁵ Ibid.

²⁶ MOET. 2011. Data output from 2009 and 2010 Education Census.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

(ii) Pre-primary education

340. Through the Education for All Policy, the GOL ensures that every pre-school-aged child is assisted to develop holistically in a free and healthy atmosphere. Therefore, IECCD programmes are provided in partnership with non-governmental stakeholders. Thus the number of IECCD institutions has grown dramatically from 1,291 in 2005 to 2,233 in 2009. Enrolment increased from 22,724 in 2005 to 41,723 in 2009.³⁰

341. The GOL also supports Reception Classes. This began on a pilot basis with classes attached to 10 primary schools in 2006. By 2010, 228 reception classes had been created; attached mostly to church-run primary schools.³¹

(iii) Transition from primary to secondary level

342. The GOL encourages pupils to continue to secondary level on completion of their primary education. The transition rate from primary to secondary fluctuated between 61.6% in 2001 and 69.2% in 2008; and it reached 73.1% in 2009.³²

343. However, the GOL is concerned that of every 100 pupils completing primary education, 27 do not proceed to secondary level. The 2009 LDHS found that only 37% of secondary school age children, from 13 to 17 years, were enrolled in secondary schools. In rural areas, only 28% were enrolled while in urban areas this proportion was 57%.³³

344. The major factors contributing both to the low transition rates and low secondary school enrolment include:

(a) Admission into secondary gives preference to children with satisfactory results in their primary school leaving examinations;

(b) Due to the high cost of secondary school education children from poor and destitute families are excluded;

(c) The concentration of secondary schools in urban areas creates accessibility problems for children in rural regions.

(iv) Access to primary education for orphaned and vulnerable children

345. The 2010 Education Act includes provisions regarding education of vulnerable children not in formal schooling. The rate of enrolment of children in primary education falls to 87% amongst poor families or those living in the most remote, mountainous areas.³⁴

346. The GOL provides bursaries for poor children to participate in IECCD. Through this assistance, the GOL also operates a school feeding programme in IECCD and primary schools nationwide.

347. As free and compulsory education is rolled-out, families and communities are sensitized that all children now must be in school.

348. With the dramatic increase of orphaned children, numbers of those enrolled in primary schools increase annually as a proportion of overall enrolment. In 2010, 30% of children enrolled in primary school were classified as single or double orphans.

349. In 2009, the enrolment ratio of double orphans and non-orphaned children with either both parents or one parent staying in the same household as the child was 0.98.³⁵

350. The SEU within the MOET advocates for the inclusion of children with special needs in the school system at all levels and also for provision of curriculum materials in Braille; as well as for training teachers in sign language.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ MOSD and ORC Macro 2010, op. cit. note 3.

³⁴ Ibid.

³⁵ Ibid.

(j) Encouraging development of different forms of secondary education and ensuring access

(i) Secondary education

351. The GOL is working to improve access to secondary education in tandem with the implementation of free and compulsory primary education. The GOL's achievements in this regard include:

- (a) Increasing number of teachers by 44% from 3,290 in 2005 to 4,735 in 2009;
- (b) Increasing number of secondary schools by 45% from 217 in 2005 to 315 in 2009; and,
- (c) Improving student-teacher ratio of 1:22 which is still below the recommended ratio of 1:24.

352. The total enrolment in secondary schools increased by 54% from 72,437 in 1999 to 111,480 in 2009 with more females than males. In 2009, there were 64,600 females compared to 46,880 males enrolled. The gender parity index at secondary level was 1.3 in 2009 indicating that for every 100 females enrolled there were only 73 boys. Reasons for this trend are being explored.

(ii) Technical and vocational training and development

353. Given Lesotho's unique geographic situation and limited employment opportunities, the importance of adapting training policies to produce workers with marketable and competitive skills for both the local and regional labour markets is fully recognized.

354. The MOET's Department of Technical and Vocational Education and Training (TVET) as the regulatory body, seeks to improve the quality of tertiary training at this level through curriculum development; accreditation, inspection and assessment of institutions including programmes; administration of trainee proficiency trade tests; and, provision of workshops and equipment.

(iii) Non-formal education (NFE)

355. The number of secondary-school-aged children participating in NFE is unknown. These programmes are offered for children who cannot participate in formal education programmes.

(iv) Access to secondary level education for orphans and vulnerable children, including children with disabilities

356. Almost 40% of children enrolled in secondary school in 2010 were considered orphaned.

357. The bursary programme provides support to orphaned children including those with disabilities. However, the latter are still challenged to pursue secondary education because, due to insufficient resources, the MOSD is unable to provide assistive devices to them.

358. In 2010, there were 6,711 children with disabilities enrolled in secondary schools representing 6% of total enrolment. Overall, they constitute approximately 25% of all children enrolling in Form A through to Form E.³⁶ Their progression through secondary education has not yet been fully tracked. The major factor affecting their progression is poverty suggesting that, they stand to benefit more from the provision of bursaries than orphaned children.

359. The rationalization of secondary school fees with the view to improve accessibility is on-going. The sixteenth cohort of children since the introduction of FPE is now completing primary school and this puts tremendous pressure on Lesotho to expand secondary education at no or low-cost.

³⁶ MOET. 2010. Output from 2009 and 2010 Education Census.

(k) Tertiary-level education

360. The GOL operates seven tertiary level institutions whose enrolment increased by 25% from 18,406 in 2008 to 23,049 in 2009.

361. The GOL continues to provide opportunities for high school graduates to pursue tertiary studies through its National Manpower Development Secretariat (NMDS) scholarship Programme.

362. Due to the shortages of health care workers, the GOL has dramatically increased spaces in tertiary institutions providing training in the health professions. Health sciences as well as other high demand specialities e.g. civil engineering at tertiary level have also been prioritized.

(l) Make educational and vocational information and guidance available to all children

363. Currently, the GOL is unable to make educational and vocational information and guidance available to all children. NGOs and students' groups from tertiary institutions complement the GOL'S efforts by conducting career guidance shows around the country. For nearly 10 years, the National University of Lesotho has hosted annual open-day events for high school-leavers.

(m) Measures to encourage regular attendance and reduce drop-out rates

364. The quality and efficiency in education remain a challenge for Lesotho. Repetition and drop-out rates at primary and secondary levels remain unacceptably high. Therefore, there are on-going efforts to improve the technical competency of teachers and the overall quality of educational programmes including, the revision of School Supervisory and Management Regulations, 2010, to prohibit repetition in grades 1 to 3. The new regulations also limit repetition between grades 4 and 7 to not more than twice over a nine-year period of primary education.

365. Measures to reduce repetition are supported by the 2010 Education Act and by the Curriculum and Assessment Policy (2009) which address how assessments of students should be conducted to enable promotion. This includes a policy of no examinations for grades 1 through 3.

366. The GOL's revised legislative and policy environment explicitly prohibits the expulsion of female adolescents and young women who become pregnant from school, including after child-birth in accordance with the CPWA.

367. The GOL experiences challenges in enforcing this right because a large percentage of schools are owned by faith-based institutions whose policies and practices are inconsistent with the new laws. The GOL is addressing this by monitoring adherence with new legislation through its school inspection and certification programme.

(n) School discipline

368. The CPWA and the Education Act discourage the use of cruel or inhumane physical punishment in schools and promotes use of restorative measures in disciplining children.

369. Acceptable measures for school discipline aligned with the human rights of children have been set out in the new School Supervision and Management Regulations to guide their implementation in schools.

370. School Management Boards and Principals are required to sensitize parents and learners on expectations regarding learners' conduct. They also have to be vigilant that any unauthorized abusive, cruel or inhumane punishment including, corporal punishment of learners by staff or by other learners, is finally eradicated.

371. However, on-going sensitization has revealed that prompt discipline of teachers and institutions that condone such behaviour, is lagging behind.

(o) Use of international cooperation to eliminate illiteracy and to ensure quality educational programmes

372. Development partners that contribute to the strengthening of Lesotho's education sector include UNICEF, UNESCO, Irish Aid, World Bank, Global Fund, EU and JICA.

(p) Aims of education

(i) Development of children to their full potential

373. To ensure that learners develop holistically, beside standard curriculum, children in all primary and secondary schools are offered life-skills including opportunities to participate in cultural activities. Content on human rights and fundamental freedoms is also integrated into subjects such as development studies.

(ii) Development of respect for human rights and fundamental freedoms

374. Culturally, children are raised to treat parents, elders and guardians with respect as well as to value the cohesion of families and communities.

(iii) Development of respect for the child's parents, cultural identity, language and values

375. Under the CPWA, the duties and responsibilities of children include provision of service to the community, preservation and strengthening of social and national solidarity; and, upholding the positive value of community.

376. Children within and out-of-school have opportunities to explore their cultural identity. Within primary schools, 13% of the curriculum includes topics on cultural identity and instruction is in Sesotho. Schools also encourage learners to form cultural groups for music and dance and the GOL runs annual competitions for them. All schools participate in Moshoeshoe's Day celebrations and are also routinely included in formal State occasions.

(iv) Preparation of the child for responsible life in a free society

377. Life skills education at primary and secondary levels includes topics of self-esteem, independence, responsibility and the importance of upholding moral values. Different clubs and movements in and out of school provide training and guidance on human rights and responsibilities of children.

378. With support from UNICEF and the Global Fund, the GOL has integrated children's rights within education programmes. Primary and secondary school Principals and teachers have been trained on the life skills curriculum. Life-skills are also incorporated within non-formal education programmes offered to children and youth.

(v) Development of respect for the natural environment

379. Through the NCDC, the MOET has developed components of standard curriculum to address environmental education at both primary and secondary levels. Children also learn about environmental issues through development studies, life skills programmes, and through practical experience in agriculture or animal husbandry. Some NGOs also run educational environment programmes for children.

380. However, there are challenges, which inhibit integration of topics on environmental awareness and climate change within the school curriculum. These include an external examination-driven syllabus, lack of integration of subjects within the national curriculum, limited environmental knowledge amongst educators, and the tension between donor-driven programmes and the local environmental educational needs of Lesotho's children.

(vi) Ensuring quality in accordance with Lesotho standards

381. The GOL continues to provide training opportunities for all teachers and educators, from IECCD to secondary level mainly focusing on child-centred teaching and learning methodologies, literacy and numeracy, languages (Sesotho and English), mathematics and science.

382. To ensure accessibility of quality education, the GOL has established more schools, especially in the mountain areas where children travel long and unsafe distances on a daily basis. To further improve quality, the GOL, with contributions from development partners, has built newly furnished schools; provided additional fully furnished facilities in existing schools (e.g. class-rooms, administration blocks, kitchens and toilets); and, has renovated existing school buildings to promote a healthy and conducive learning environment.

383. The GOL is also providing additional teaching positions to cater for the increased enrolment resulting from the introduction of free and compulsory primary education. At primary school level, the desired teacher-pupil ratio of 1:40 was achieved and surpassed such that in 2010 the teacher-pupil ratio was 1:34. However, some disparities exist by regions and schools across the country whereby the teacher-pupil ratio is either higher or lower.

384. All pupils in primary schools are provided with stationery and textbooks; while secondary learners are provided with textbooks for core subjects through a rental scheme. Schools are also provided with teaching and learning materials such as mathematics and science kits.

385. The GOL ensures that the curriculum offered is relevant as well as meets the nation's needs, ambitions and aspirations. The Curriculum and Assessment Policy (2009) ensures that the school curriculum is periodically reviewed to ensure that it accommodates societal needs and emerging issues, including the requirements of learners with disabilities and compliance with the CRC.

386. Through the revised School Supervision and Management Regulations, parents and community members are encouraged to play a role in promoting quality of education; through participation in school development activities, School Management Boards or through Parent/Teacher Associations. Likewise, schools must be involved in appropriate community development activities.

387. The MOET performs routine inspections and provides supervision for all schools in line with the regulative framework set out in Part VII of the School Supervision and Management Regulations. Through the Education Act, these functions have been expanded and strengthened by establishing an Inspectorate of Schools.

(q) Cultural rights of children belonging to indigenous or minority groups

388. Lesotho has a relatively homogeneous population in terms of cultural heritage and ethnic identity. There are, however, children with cultures and identities that are not Basotho. The GOL remains open and inclusive to these children, encouraging them to also learn about and celebrate their own cultures and origins. Through the NCDC, materials for primary level education have been translated into "Xhosa" to support school children from this ethnic group.³⁷

389. The new School Supervision and Management Regulations enjoin both Boards and Principals to be vigilant against discrimination on any grounds within the school environment, particularly, "race, nationality, religion, physical abilities, political affiliations of parents, and, in co-educational environments, gender."

(r) Education on human rights and civic education

390. Within the national curriculum, particularly at secondary level, there are topics on the history and development of democratic rule and good governance in Lesotho.

(s) Implementation of child rights in early childhood

391. The GOL provides children of pre-primary age with opportunities to attend reception class and IECCD programmes so that they get the earliest opportunity to develop

³⁷ Young Christian Students Lesotho and OSISA. 2010. Report on Advocacy for Promotion, Development and Use of All Indigenous Languages Including Sign Language. Maseru, LS: Young Christian Students Lesotho.

into independent and productive citizens; fully conscious of their human rights and responsibilities.

(t) Play, rest, leisure, cultural activities

392. Leisure and cultural activities for Lesotho's children take place within the school system throughout the year as part of the national curriculum. In addition, the GOL promotes culture through festivals and national competitions such as the annual Morija Arts and Cultural Festival, launched in 1999.

393. As the GOL works to enhance the national school infrastructure, due regard is given to the importance of including space and facilities for recreation within school structures.

394. Under the Education Act and the revised School Supervision and Management Regulations, when schools register with government, they must present site plans with space for sports grounds and social premises.

IX. Special protection measures

(a) Protection for refugee children, migrant children, internally or externally displaced children

Constitutional measures

395. The Constitution, at Chapter III, Section 32 obliges the GOL to provide protection and assistance to children regardless of parentage or national origin.

Legislative measures

396. *The Aliens Control Act (1966)* makes provisions for refugees in Lesotho and stipulates that non-citizens may seek temporary refuge.

397. *The Anti-Tip Act (2011)* requires that victims be returned to Lesotho.

398. *The Refugee Act of 1983* recognizes the granting of refugee status to all family members including children and provides for their protection.

399. The CPWA affords full protections to refugee children without discrimination on the basis of origin. Where a child's repatriation seems not to be in his/her best interests, his/her naturalisation is to be expedited.

Administrative measures

400. The MOSD is legally mandated to provide refugee children with the same services and support as other children deprived of their family environment.

401. Lesotho has a Disaster Management Authority Policy for governing situations of natural and man-made disasters including evacuation. There are also CSOs that provide disaster relief aid.

402. Several child refugees and their families from Zimbabwe and the Democratic Republic of Congo have successfully been placed.

Factors and difficulties

403. In few instances of trafficking, responsible government Ministries claim they have no resources to return children to their homes. Even foreign Embassies where the victims come from offer very little assistance for their return.

(b) Support for children involved in or recovering from armed conflict

404. Lesotho is not involved in armed conflict. But recent sporadic political instabilities have impacted negatively on children's lives by leaving them injured or orphaned.

(l) Measures taken to comply with the Optional Protocol on Children in Armed Conflict

405. *The Defence Act No.4 (1996)* provides for recruitment into Lesotho Defence Force (LDF) of persons only between the ages of 18 and 24.

(c) Children in situations of exploitation**(i) Economic exploitation, including child labour****Constitutional measures**

406. The Constitution protects children against economic exploitation, including child labour.

Legislative measures

407. The CPWA at Part XXIV makes extensive provisions regarding children's employment as described earlier under the child protection definition, Paragraph 36. The Act sets the age of engagement in light work which does not interfere with their schooling or development at thirteen and the minimum age of employment at fifteen.

408. Types of hazardous work disallowed for children are mining, carrying heavy loads, manufacturing involving dangerous chemicals, working with dangerous machinery, herding animals, Commercial Sexual Exploitation of Children (CSEC) and tobacco production and sale.

409. Children employed in manufacturing industries must provide proof of age and an employer must keep a register of all such children. These children are afforded the same protections under the Labour Code Order (1993) as their adult co-workers.

410. *The Anti-TiP Act* protects against being trafficked for work related purposes.

411. The Education Act free primary provision serves as an additional safeguard against engagement of children in any form of work that interferes with their education.

Administrative measures

412. The GOL ratified the ILO Convention No. 182 on the Worst Forms of Child Labour in 2001. A National Action Programme on the Elimination of Worst Forms of Child Labour (APEC) was developed in 2008 led by the MOLE.

413. Enforcement of the labour provisions in the CPWA and the Labour Code is a joint responsibility of the LMPS and MOLE Labour Inspectors who have powers to assess how many children are employed, check if proper records of child workers are kept and the conditions of work.

414. A church funded NGO named Beautiful Dream Society provides shelter and counselling for women and children involved in commercial sex work. The Herd Boys Association of Lesotho "Monna ka Khomo" provides basic literacy classes and life-skills.

Factors and difficulties

415. Approximately 24,660 children between the ages 10 and 17 were involved in the labour force (Census, 2006). Out of this, 56.1% were male orphans. In addition, about 32,183 children were involved in domestic work.³⁸

416. The 2011 Situational Analysis of VC provides vital statistical information regarding engagement of children in unpaid domestic work and paid herding. It also indicates how these children contribute financially or in kind to households. This analysis found no children engaged in dangerous types of work, but it established that some performed work which prevented them from playing with other children, attending school or doing homework to a level that harmed their development. Furthermore, it discovered no

³⁸ GOL 2009, op. cit. note 38.

differences across orphan status or ecological zone, except that children in rural areas were more likely to be engaged in work that affected their schooling and playing time.

417. There are alarming numbers of herd-boys in Lesotho as the practice is culturally ingrained. Approximately, there are 70, 387 male herders in the country (BOS Continuous Multi-Purpose Survey, 2014). More information needs to be disseminated about the harms caused to children by herding, such as its interference with the boys' education, nutrition and lack of intellectual stimulation due to living isolated in remote areas with only animals for company.

418. Further, many employers are not aware of the existence of the CPWA.

419. Poverty and destitution continue to force young children into remunerative work mainly as herders or domestic workers. The already less valuable girl children also end-up being forced into unregulated CSEC as a survival strategy.

420. Proper implementation of the provisions of the CPWA, the Education Act and APEC remains a challenge due to shortage of resources.

(ii) Use of children in illicit production and trafficking of drugs

Legislative measures

421. Specific provisions from the *Drug of Abuse Act (2008)* and the CPWA relevant to this topic have already been discussed in paragraphs 310-316.

Administrative measures

422. Discussions relevant to this section of the report are also in the paragraphs cited above.

Factors and difficulties

423. For this section, reference should be made to paragraphs 310 through 316.

(iii) Sexual exploitation and sexual abuse

Constitutional measures

424. Article 8 of the Constitution provides for protection against inhumane treatment.

Legislative measures

425. *The Sexual Offences Act (2003)* makes rape, sexual assault and sodomy illegal. Section 23 requires that proceedings involving children be held in camera to protect child victims and child witnesses' privacy.

426. The CPWA Section 23 (child in need of care and protection) and Section 44 (ill-treatment, neglect, abandonment or exposure of children to abuse) make provisions relating to sexual exploitation and abuse. The latter Section makes such acts offences.

427. The Penal Code under Sections 48 to 55 criminalises indecency and unlawful sexual intercourse with children, sexual molestation of minors, indecent assault, unlawful sexual act, incest and prostitution respectively.

428. *The Anti-Tip Act (2011)* prohibits the sale of and sexual exploitation of children.

429. Provisions within the Anti-TiP Act and the CWPA require the GOL to provide swift and effective interventions for children who become victims of trafficking or sexual abuse.

Administrative measures

430. Lesotho ratified the Sale of Children and Pornography Optional Protocol in 2003.

431. The National Guidelines for the Management of Survivors of Sexual Abuse adapted for Lesotho from the WHO Protocols for Sexual Abuse, introduce a comprehensive, holistic and integrated approach that ensures the effective protection of victims, mainly

children. They also ensure that emergency PEP, medical treatment and PSS are provided at health facilities.

432. The 2003 Gender and Development Policy obliges the GOL to formulate laws and policies against all forms of sexual abuse and exploitation under the leadership of the MOGYSR which is mandated to mainstream gender into all frameworks and programmes.

433. The 2007 Education Sector Policy on HIV/AIDS states that safe workplaces will be established throughout the education system to protect all children from all forms of sexual abuse.

434. The 2008 National Reproductive Health Policy acknowledges young persons' greater risk of contracting HIV/AIDS and calls for the enforcement of laws that protect them against this scourge and gives them access to information and services.

435. A 2013 USAID survey report entitled National Response Efforts to Address Sexual Violence and Exploitation Against Children in Lesotho revealed that almost 6% of all households had at least one child who had been subjected to violence in the previous twelve months. Around 1% had suffered sexual violence. One out of ten respondents noted that, in the year before the survey, they were personally aware of situations of sexual abuse in their immediate neighbourhoods; with this response being higher in urban areas.

436. A police forensic laboratory was established in Maseru in 2009.

437. PEP is now routinely provided to children to avoid transmission of HIV/AIDS and other STIs. The PEP kit also includes prevention of pregnancy measures.

438. Many CGPU officers received training on child play therapy. But good efforts in this area are undermined by regular transfers of officers to other duty stations and functions.

439. The establishment of children's courts is meant to promote use of child-friendly practices in deducing evidence from children without subjecting them to courtroom trauma.

440. The Penal Code was amended to allow for the termination of pregnancy where the child was conceived as a result of rape.

441. Through efforts of the Federation of Women Lawyers (FIDA) and the MOGYSR, sensitization on sexual and reproductive rights of women and girls has occurred countrywide focusing on laws that protect them.

442. The MOGYSR runs a temporary shelter for victims of sexual abuse and exploitation, domestic violence and trafficking.

Factors and difficulties

443. The rate of sexual assault of children is alarming. Reported incidents of rape have been on the rise and they involve children of all ages; the highest figure being in the 13-18 age group. The trend is also noted to be increasing among children and infants as young as 12 months.

444. Statistical evidence regarding sexual abuse of children is inadequate. In 2005, of 668 cases reported to the CGPU, 51% were sexual offences. 166 of them involved the under 18s. Between January and June 2006, 789 sexual offence cases were reported, 179 involved children. Data covering the period April to December 2009 indicated 57 cases of neglect and 23 of assault against children. These cases also included common assault, abduction, and sexual assault. It is believed that these figures do not represent the magnitude of the problem fully.

445. Provision of a core of suitably qualified intermediaries to support child witnesses in court has still not been realized.

446. Cases of abuse often go unreported, especially if they involve family members. Where cases are reported they are not prosecuted for varying reasons. Where they are prosecuted, police seldom secure convictions as children make poor witnesses. Due to the traumatizing courtroom environment; they avert their eyes, fidget when nervous and have poor memory surrounding traumatic events. Consequently, judges think children are

dishonest and therefore their testimony is not sufficiently weighted against that of an opponent adult witness.

447. Convictions also fail because doctors are often reluctant to give evidence in court; yet they do not fill-in medical forms submitted to the courts in a manner that helps corroborate other evidence.

448. Referral mechanisms within the key sectors (Police, Social Development, Justice and Health) involved in dealing with the survivors of abuse at all levels continue to be weak.

(iv) Sale, trafficking and abduction of children and compliance with the provisions of the Optional Protocol

Legislative measures

449. The GOL has passed the Anti-Tip Act 2010 which makes the sale, trafficking and abduction of children a criminal offence. Such activities are also prohibited under the CPWA.

Administrative measures

450. The GOL's Multi-Sectoral Committee Against the Trafficking of Persons has developed a National Action Plan to intensify public awareness raising, create better surveillance systems to identify and prevent trafficking and standardize approaches to rescue and rehabilitate victims.

451. With increased and better understanding of the crime among the public, numbers of reported trafficking cases are also rising.

452. The Beautiful Dream Society shelter also cares for child victims of trafficking. WVL ran an awareness project in five districts to combat trafficking in persons but discontinued in 2013 due to shortage of funding.

453. The CGPU is tasked to investigate and prosecute these matters in liaison with Interpol with respect to cross-border crimes and rescuing victims.

<i>Year</i>	<i>Trafficking cases reported</i>	<i>Trafficking cases remanded</i>
2011	44	13
2012	17	3
2013	66	16

Source: CGPU Database

454. Of the cases reported in 2013, 21% involved children.

455. Despite the number of cases being remanded, there have been only three prosecutions and zero convictions.

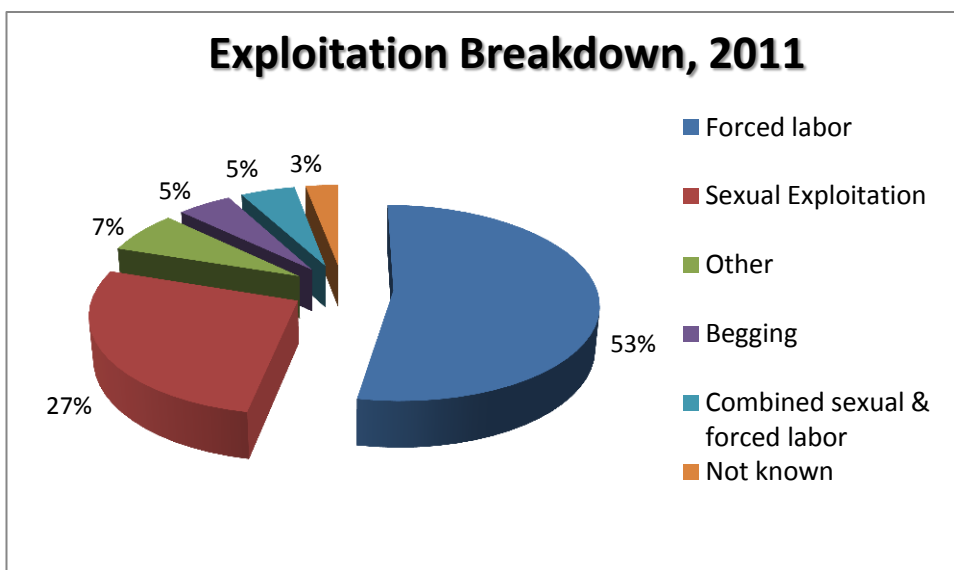
Factors and difficulties

456. Although there is no systematic and well-disaggregated data, reports suggest that there is an increase in the rate of trafficking in persons. The US Department of State report 2010 indicates that Lesotho is a source and transit country for trafficked women and children.

457. In addition, the rapid assessment conducted in 2010 by the MOHA found that trafficking in Lesotho occurs for purposes of organized crime and sexual and labour exploitation. However, lack of systematic data makes it impossible to estimate the extent of these phenomena. Many cases still go unreported due to ignorance, fear, stigma and absence of effective reporting mechanisms.

458. The 2011 Situational Analysis of VC asked caregivers whether children they knew were ever sent to work in a place known to be exploitative and, dangerous without their consent since the beginning of 2010. 1.9% of all caregivers responded in the affirmative.

459. The reasons for trafficking include the following:



Source: Interpol Statistics

460. The challenges confronting the CGPU in this area include, insufficient training on what constitutes trafficking, lack of clarity in the legal definition of cross-border trafficking, inadequate financial resources for carrying out investigations and limited numbers of translators for non-Sesotho speaking victims and offenders.

461. There are no places of safety for male victims of trafficking, as Beautiful Dream Society receives women only.

462. While the GOL acknowledges the risk of trafficking and abduction, particularly for children living in poverty or orphans, there is no surveillance system to formally track them. The GOL relies on a bi-lateral agreement with RSA for the identification and safe return of abducted or trafficked children.

(d) Children in street situations

Legislative measures

463. Section 45 of the CPWA makes begging an offence. A person who causes or allows a child to beg can be imprisoned for up to ten months.

Administrative measures

464. The MOLE, with support from ILO, has undertaken studies to identify the causes of children living or working on the streets. The APEC identifies children living and/or working from the streets as one category constituting the worst forms of labour for Lesotho.

465. In partnership with NGOs, the GOL has increased its support for children living and/or working on the streets through provision food, shelter, life skills and education.

Factors and difficulties

466. Growing orphan-hood and vulnerability coupled with the breakdown of extended family safety nets compel children to live and/or work from the streets mainly in the Capital City and towns across the country.³⁹

³⁹ UNICEF. 2011. Situational Analysis of Orphans and Other Vulnerable Children in Lesotho. Maseru, LS: UNICEF.

(e) Children in conflict with the law, victims and witnesses**Legislative measures**

467. The CPWA sets out full legal protections and processes for children in conflict with the law by specifying the rights of child offenders, or victims or witnesses of serious crimes.

Administrative measures

468. The 2010, comprehensive assessment of children detained at the JTC concluded that there is no effective juvenile justice system in Lesotho. In addition, it found that authorities responsible for setting up such a system had very little knowledge or experience with child justice.⁴⁰

(f) Administration of juvenile justice**Constitutional measures**

469. The Constitution at Article 26 provides for equality and justice for its citizens. Article 12 provides anyone charged with a criminal offence the right to fair trial.

Legislative measures

470. The CPWA has redefined the administration of juvenile justice to uphold the respect, dignity and worth of children who come into conflict with the law. Under the Act, such children are to be immediately diverted into a system of restorative justice where the potential for imprisonment is greatly reduced.

471. The CPWA provides for the establishment of Village Child Justice Committees as well as the institutionalization of restorative justice processes including, family conferencing, victim-offender mediation and open village healing forums. It further provides for a broad spectrum of diversion measures which represent a shift from retributive and punitive dispositions. Children, parents, chiefs, probation officers, police officers, prosecutors or magistrates have roles to play in all these processes.

472. Under the CPWA, children under the age of 10 may not be prosecuted for criminal offences. Children between 10 and 14 have to be accordingly assessed to determine whether they possess the capacity to appreciate the difference between right and wrong and have the ability to act in accordance with that appreciation. The CPWA makes a presumptive determination that children do not have such capacity unless proved beyond reasonable doubt by the Crown.

473. The Act stipulates that children below the minimum age of prosecution must be placed under the supervision of probation officers for counselling or provision of other therapeutic interventions.

Administrative measures

474. With assistance from the Global Fund, UNICEF and other partners, the GOL engaged all stakeholders, including children's representatives, in the development of policy and regulatory frameworks to operationalize the CPWA.

475. In 2002, the Ministry of Home Affairs, Public Safety and Parliamentary Affairs (MOHAPS) established the CGPU, motivated by the increasing number of children exposed to neglect, exploitation or violence. CGPU provides services and investigates cases of infants and children in need of care and protection in all 10 districts.

476. In 2005-06, UNICEF assisted the CGPU to develop a computerized database for assembling well-disaggregated and accurate data on relevant children and women cases to

⁴⁰ Kimane I, Lebuso M, Sakoane S. 2010. Situation Analysis of the System of Justice for Children in Lesotho with a Particular Focus on Young Offenders in Detention at the Juvenile Training Centre (JTC). Maseru, LS: UNICEF.

generate quality reports. The database is accessible to service providers for purposes of informing policy and programming as well as improving their referral systems.

477. Through UNICEF assistance, the CGPU has been given orientation on child protection issues, relevant legal and policy frameworks, PSS techniques and stress management. Furthermore, the Global Fund assisted the CGPU with prefabricated mobile offices where inadequate office space compromised victims' confidentiality.

478. Established in 1979, the Probation Unit became functional in 1980 and the CPWA (Part XIX) mandates it to conduct age determination enquiries, ensure use of non-custodial sanctions and facilitate re-integration, rehabilitation and restorative justice for children.

479. Village Child Justice Committees established under the MOJCS are operational only in selected Local Councils of Mohale's Hoek, Qacha's Nek, Mafeteng and Thaba-Tseka districts.

480. Maseru is currently the only district with an appropriate Children's Court infrastructure.

Factors and difficulties

481. A 2007 evaluation of the CGPU revealed that it had no capacity to perform its function effectively. The evaluation further revealed inadequacies in human, material and logistical resources and lack of training in gender and child-related matters including confidentiality. Regular transfers of trained officers continue to undermine investments made in the CGPU.

482. The physical structures of children's courts in the other nine districts are inappropriate and not child-friendly.

483. Despite training on the CPWA, some magistrates and prosecutors are reluctant to begin to treat children differently from adults.

(g) Children deprived of their liberty

Legislative measures

484. The GOL has established legal and regulatory measures for the treatment of children deprived of their liberty.

485. In line with the Criminal Procedure and Evidence Act (CP&E) 1981, the CPWA at Sections 161 (1) & (3) provides life imprisonment or death sentences may not be imposed on children and no corporal punishment or cruel or degrading punishment may be prescribed for them. Section 156 (1) limits imprisonment of children to a maximum of 3 years and prohibits it for those under 14 years.

486. Part XV of the CPWA requires a court to release a child on bail unless it is not in the child's best interest to do so. It also provides that whenever a child is remanded pending trial, it must be for the shortest time possible.

487. Part XVII provides for legal representation at the expense of the child's parents or guardian or responsible person.

Factors and difficulties

488. There are no approved schools or probation hostels as envisaged under the CPWA due to financial constraints.

489. Children also rarely receive legal representation given that they cannot afford it. It is only in a limited number of cases where they are charged with serious crimes that they will be granted assistance of Legal Aid lawyers.

(h) Sentencing of children**Legislative measures**

490. Under the CPWA, a child who has been convicted of an offence may be recommended for diversion and a wide spectrum of non-custodial sentencing options are prescribed for this purpose.

491. Part XVIII, specifically Section 157 says that any sentence involving a residential element must be employed as last resort and should be for shortest time possible.

Administrative measures

492. The Management Board of the JTC is empowered to consider releasing an inmate early despite the original sentence.

493. Family members can visit children at JTC.

494. The expansion of restorative justice and diversion services has resulted in a decrease in numbers of juveniles detained at the JTC.

Factors and difficulties

495. Despite provisions that families can visit their children detained at the JTC, this remains a challenge for many families that reside outside Maseru.

(i) Physical and psychological recovery, rehabilitation and social reintegration**Legislative measures**

496. Section 178 of the CPWA provides for reformation schools and probation hostels. However, Sections 182, 183 and 186 provide that no child under the age of 13 will be sent to either of these institutions.

497. Restorative justice measures give children the option to be returned to their families under an order to continue with schooling. Supervision orders where children report to Probation Officers (Section 127) can also be imposed.

Administrative measures

498. There are Rehabilitation Units established within the MOJCS. Their responsibility is to equip offenders with life skills, counselling, rehabilitation and vocational training in preparation for their successful reintegration into communities.

Factors and difficulties

499. Lack of resources prohibits the Probation Unit from providing adequate supervision to children released from detention. Diversion measures are also used minimally as magistrates' fear that supervision orders will not be enforced.

500. The JTC is not decentralized to district levels. Further, its physical infra-structure and facilities are dilapidated and no longer habitable.

501. While Probation and Rehabilitation Officers often make assessments for rehabilitation as well as reintegration plans; they sometimes fail to affect them for a number of reasons. For instance, reintegration becomes impossible for numerous orphaned juveniles.

502. There is a lot of stigma that inhibits the smooth reintegration of children who have been in conflict with the law back into communities and arranging for their readmission into schools.

503. Probation services are partially decentralized as they are available in seven districts.

(j) Training activities for professionals involved in juvenile justice

504. With development partners, the GOL has provided numerous trainings for officials involved in juvenile justice including, Probation Officers. The Justice Sector Reform initiative supported by the DFID and EU under the leadership of the Chief Justice made efforts to institutionalize restorative justice.

505. In 2013 and 2014 alone, three training sessions were conducted by University of Western Cape (RSA) with members of the judiciary on all relevant provisions of the CPWA.

(k) Treatment of children belonging to minority or indigenous groups

Legislative measures

506. The Constitution and all legislation guarantee the same rights to all children.

Administrative measures

507. The GOL makes deliberate efforts to ensure that children who are non-Basotho in the Southern parts of the country receive appropriate treatment even throughout the juvenile justice system.

Factors and difficulties

508. The non-Sesotho speaking ethnic groups in Quthing and Qacha's Nek, sometimes pose challenges in the delivery of justice services. This occurs particularly when members from these groups insist on speaking in court in their mother tongue, Xhosa. Therefore, the GOL has on several occasions had to employ interpreters conversant with this language to assist with court processes.

509. Albinism is prevalent in Lesotho. Children with this genetic disorder, while they are not killed like in some other African countries, culturally, they are believed to be a curse and, consequently, they are often ill-treated.

510. Gay and lesbian children are also discriminated against. There are CSOs that do advocacy work in defense of the rights of these groups.

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