



**Convention on the
Rights of the Child**

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**WRITTEN REPLIES BY THE GOVERNMENT OF THE KINGDOM OF SWAZILAND
CONCERNING THE LIST OF ISSUES (CRC/C/SWZ/Q/1) RECEIVED BY THE
COMMITTEE ON THE RIGHTS OF THE CHILD RELATING TO THE
CONSIDERATION OF THE INITIAL REPORT OF THE KINGDOM OF SWAZILAND
(CRC/C/SWZ/1)**

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*In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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TABLE OF CONTENTS

ACRONYMS AND ABBREVIATIONS

INTRODUCTION

PART I

A. DATA AND STATISTICS

1. Number and Percentage of Children (0-19 years) living in Swaziland
2. National Budget Allocations for Social Services and Trends
3. Number of Children Deprived of a Family Environment and Separated from Parents
4. Number of children with Disabilities
5. Health-related Statistics
6. Reported Child Abuse Cases
7. Education/Literacy Statistics
8. Substance Abuse Statistics
9. Children infected and affected by HIV and AIDS
10. Crime Statistics for persons below 18
11. Special Protection Measures

B. GENERAL MEASURES OF IMPLEMENTATION

1. Harmonization of Domestic Law with CRC Provisions and Principles
2. Litigation involving the Convention
3. Coordination of the Implementation of the Convention
4. Adoption of a National Plan of Action and its Scope
5. Efforts to provide training, awareness on the Convention and on human rights in general
6. Cooperation between Government and the International Community including NGOs in the implementation of the Convention
7. Priorities with regard to the Implementation of the Convention

PART II

Copy of the Convention on the Rights of the Child in Siswati

PART III

1. New Bills/Enacted Legislations
2. New Institutions
3. Newly Implemented Policies
4. Newly Implemented Programmes, Projects, and their Scope

ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
ANC	Ante-natal Cases
CPAC	Country Programme of Action
CRC	Convention of the Rights of the Child
HIV	Human Immuno-deficiency Virus
NCP	Neighbourhood Care Points
NGOs	Non-Governmental Organizations
NPA	National Programme of Action for Orphans and Vulnerable Children
OVCs	Orphans and Vulnerable Organizations
STIs	Sexually Transmitted Infections
SWAGAA	Swaziland Action Group Against Abuse
UNDP	United Nations Development Programme
UNESCO	United Nations Education, Social and Cultural Organization
UNICEF	United Nations Children Fund
WFP	World Food Programme
WHO	World Health Organization

INTRODUCTION

This report is the Government of Swaziland's response to the list of issues that will be discussed along with the country's Initial Report on the Implementation of the Convention on the Rights of the Child (CRC) with the Committee on the Rights of the Child at United Nations 43rd Session in Geneva on the 18th of September 2006. It has been prepared by the Ministry of Health and Social Welfare in consultation with other relevant government ministries and departments.

PART I

A. DATA AND STATISTICS

1. Number and Percentage of Children (0-19 years*) living in Swaziland

	2003	2004	2005
Males	288,595 (49.7%)	292,718 (49.8%)	296,554 (49.8%)
Females	291,615 (50.3%)	295,300 (50.2%)	298,684 (50.2%)
Total	580,210 (100%)	588,018 (100%)	595,238 (100%)
Urban	104,475 (18.0%)	106,145 (18.1%)	107,856 (18.1%)
Rural	475,735 (82.0%)	481,873 (81.9%)	487,382 (81.9%)
Total	580,210 (100%)	588,018 (100%)	595,238 (100%)
0-4	169,502 (29.2%)	173,763 (29.6%)	177,474 (29.8%)
5-9	133,679 (23.0%)	137,656 (23.4%)	143,040 (24.0%)
10-14	138,414 (23.9%)	137,379 (23.4%)	135,749 (22.8%)
15-19	138,615 (23.9%)	139,220 (23.7%)	138,975 (23.4%)
Total	580,210 (100%)	588,018 (100%)	595,238 (100%)
% of Total	53.7%	53.2%	52.8%

*These are official estimates, however they were not available by single years but by the designated age groups; hence it was not possible to obtain the number of children under 18.

2. National Budget Allocations for Social Services (in Emalangeni) and Trends

	2003/2004	2004/2005	2005/2006
a. Education:	563,776,468	697,854,548	839,128,408
Pre-primary*	304,941	456,590	585,746
Primary	307,547,175	372,238,969	456,780,710
Secondary	255,924,352	325,158,989	381,761,952
% of National Budget	22.77%	21.26%	26.03%

- Pre-primary education is not a mainstream activity for the Ministry of Education even though there is a budget allocation for pre-schools. Pre-schools are privately owned and run, and the
- Ministry of Education only provides the supervision structures to standardize the running of these schools.

b.	Health care:	22,470,335	28,409,646	30,313,033
	Curative services	16,493,379	19,647,703	23,688,243
	Public Health	5,976,956	8,747,543	6,610,390
	Children clinics & hospitals	nil	14,400	14,400
	Children's Centre of Clin. Excel	n/a	n/a	3,000,000
c.	Children with disabilities	51,900	51,900	51,900
d.	Families	n/a	n/a	n/a
e.	Children living below poverty line:			
	Educational Fund for OVCs	16,000,000	20,000,000	47,000,000
f.	Altern. care including care institutions:	588,223	626,700	626,700
	SOS Children Village Association	138,915	138,900	138,900
	Child Welfare foster children	63,708	102,200	102,200
	Caritas Orphans Aid	385,600	385,600	385,600
g.	Child abuse, sex. exploitn & child labour	na	na	na
h.	Children belonging to minorities	na	na	na
i.	Abandoned children, including street children: Please refer to (f) above.			
j.	Juvenile justice and rehabilitation*	227,869	234,547	282,880 *

Figures obtained for the Juvenile Correction Centre only.

3. Number of Children Deprived of a Family Environment and Separated from Parents

	2003	2004	2005
Separated from their parents	na	na	na
Placed in institutions*	660	732	780
Males	326	373	386
Females	334	359	394
Placed with foster families	51	55	48
Adopted domestically	22	26	24

Inter-country adoptions	na	na	na
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* Data is for registered homes only

4. Number of Children with Disabilities

	2003	2004	2005
Living with their families	na	na	na
Living in institutions	63	112	116
Placed with foster care	1	3	5
Attending regular schools	na	na	na
Attending special schools	239	244	253
Males	135	130	133
Females	104	114	120
Not attending schools	na	na	na

5. Health-related Statistics

	2003	2004	2005
Infant mortality rate*	na	na	na
Under-five mortality*	na	na	na
Rate of immunization	83%	83%	71%
Percent of children malnourished	na	na	na
Number of adolescent pregnancies	na	na	na
Number of adolescent mental patients	na	na	na
Number of adolescents with STIs	na	na	na

*Infant mortality rate (1997): 78 per 1000

*Under-five mortality (1997): 106 per 1000

6. Reported Child Abuse Cases

	2003	2004	2005
Number of reported abuse cases	na	1279	1816
Number of cases prosecuted (total)	619	597	984
- Rape	478	479	457

-	Incest	14	9	8
-	Sodomy	7	4	14
-	Indecent assault	48	45	49
-	Abduction	15	6	47
-	Statutory rape	57	54	69

Number of victims counselled na 899 1271

7. Education/ Literacy Statistics

	2003	2004	2005
Literacy rate for below 18 years	na	na	na
Literacy rate for over 18 years*	na	na	na
Pre-school enrolment rate	na	na	na
Primary- Gross enrolment rate	101%	101%	101.26%
- Net enrolment rate	85%	85%	84.29%
Secondary- Gross enrolment rate	48%	48%	51.31%
- Net enrolment rate	37%	37%	38.74%
Overall Enrolment Rate	80%	80%	81.89%
Pupil-teacher ratio: Primary	31	32	33
Secondary	13	18	17
Average number of children per class			
Primary	13	11	11
Secondary	37	39	42

*Literacy rate (10 years and older, 1997): 81.3% (82.6% for males and 80.2% for females).

RATES OF PROMOTION, REPETITION, DROP-OUT AND SURVIVAL RATES BETWEEN CLASSES IN 2003

	Grade1	Grade2	Grade3	Grade4	Grade5	Grade6	Grade7	Form 1	Form2	Form3	Form4	Form5
MALES & FEMALES												
Promotion Rate	74%	81%	74%	76%	76%	74%	77%	73%	60%	83%	60%	3%
Repetition Rate	19%	16%	19%	17%	15%	15%	9%	12%	18%	6%	30%	1%
Dropout Rate	7%	3%	7%	7%	9%	11%	14%	14%	22%	11%	10%	93%
Survival Rate	100%	91%	88%	80%	73%	65%	57%	48%	40%	29%	21%	13%
Pupil-years	1229	1084	1078	960	862	76%	627	550	490	311	209	
Coefficient of efficiency	-	-	-	67%	62%	57%	51%	45%	34%	38%	33%	28%

RATES OF PROMOTION, REPETITION, DROP-OUT AND SURVIVAL RATES BY GENDER IN 2003

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Form 1	Form 2	Form 3	Form 4	Form 5
FEMALES												
Promotion Rate	77%	74%	79%	79%	77%	76%	78%	72%	58%	83%	58%	3%
Repetition Rate	16%	11%	15%	14%	14%	14%	8%	13%	17%	6%	14%	1%
Dropout Rate	7%	15%	6%	7%	9%	10%	14%	15%	25%	10%	28%	96%
Survival Rate	100%	92%	76%	71%	65%	59%	52%	44%	37%	26%	17%	9%
Pupil-years	1189	1033	900	826	762	684	566	506	440	274	172	70
Coefficient of efficiency	-	-	-	66%	62%	58%	52%	45%	33%	37%	32%	28%

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Form 1	Form 2	Form 3	Form 4	Form 5
MALES												
Promotion Rate	71%	89%	70%	73%	74%	73%	76%	74%	61%	83%	63%	3%
Repetition Rate	21%	22%	22%	19%	16%	16%	10%	12%	19%	6%	16%	1%
Dropout Rate	8%	11%	8%	8%	10%	11%	14%	14%	20%	11%	21%	96%
Survival Rate	100%	90%	102%	92%	83%	73%	64%	53%	45%	34%	26%	19%
Pupil-years	1267	1153	1310	1133	991	876	704	606	554	358	257	156
Coefficient of efficiency	-	-	-	68%	63%	57%	50%	45%	35%	39%	34%	29%

RATES OF PROMOTION, REPETITION, DROP-OUT AND SURVIVAL RATES BETWEEN CLASSES IN 2004

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Form 1	Form 2	Form 3	Form 4	Form 5
MALES & FEMALES												
Promotion Rate	79%	88%	83%	83%	82%	77%	88%	77%	63%	94%	63%	1%
Repetition Rate	1%	1%	1%	1%	1%	1%	0%	12%	15%	4%	32%	1%
Dropout Rate	21%	11%	16%	16%	17%	22%	14%	11%	21%	2%	5%	98%
Survival Rate	100%	79%	70%	59%	50%	41%	34%	100%	87%	65%	64%	59%
Pupil-years	1007	800	710	596	501	415	323	1133	1034	677	934	593
Coefficient of efficiency	-	-	-	64%	57%	48%	46%	42%	32%	34%	62%	1%

RATES OF PROMOTION, REPETITION, DROP-OUT AND SURVIVAL RATES BY GENDER IN 2004

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Form 1	Form 2	Form 3	Form 4	Form 5
FEMALES												
Promotion Rate	79%	88%	83%	83%	82%	77%	88%	76.2%	61.2%	91.6%	60.7%	0.5%
Repetition Rate	1%	1%	1%	1%	1%	1%	0%	11.5%	14.8%	3.3%	16.1%	0.8%
Dropout Rate	21%	11%	16%	16%	17%	22%	14%	12.3%	24.0%	5.1%	23.2%	98.7%
Survival Rate	100%	79%	70%	59%	50%	41%	34%	100%	86.1%	61.9%	58.6%	42.4%
Pupil-years	1007	800	710	596	501	415	323	1,130	1,011	640	699	427
Coefficient of efficiency	-	-	-	64%	57%	48%	46%	42.1%	32.0%	34.3%	48.8%	0.3%

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Form 1	Form 2	Form 3	Form 4	Form 5
MALES												
Promotion Rate	73%	80%	74%	76%	78%	75%	90%	78%	65%	96%	65%	0%
Repetition Rate	1%	1%	2%	2%	1%	1%	1%	12%	16%	4%	17%	1%
Dropout Rate	26%	18%	24%	22%	21%	24%	9%	10%	19%	0%	19%	99%
Survival Rate	100%	74%	60%	45%	35%	27%	21%	100%	89%	69%	69%	54%
Pupil-years	1011	751	612	460	354	278	211	1137	1060	717	829	540
Coefficient of efficiency	-	-	-	49%	43%	36%	36%	35%	29%	31%	57%	0%

RATES OF PROMOTION, REPETITION, DROP-OUT AND SURVIVAL RATES BETWEEN CLASSES IN 2005

	Grade1	Grade2	Grade3	Grade4	Grade5	Grade6	Grade7	Form 1	Form 2	Form 3	Form4	Form5
MALES & FEMALES												
Promotion Rate	73%	80.5%	85.8%	78.5%	75.9%	75.6%	88.0%	73.3%	65.7%	95.0%	63%	1%
Repetition Rate	0.7%	0.8%	0.8%	0.7%	0.7%	0.6%	0.4%	13.7%	17.1%	5.0%	32%	1%
Dropout Rate	26.1%	18.7%	23.4%	20.9%	23.4%	23.8%	11.5%	13.0%	17.2%	0.0%	5%	98%
Survival Rate	100%	73.7%	59.9%	45.7%	36.1%	27.6%	21.0%	18.6%	15.8%	12.5%	64%	59%
Pupil-years	1,007	743	603	460	364	278	211	215	190	131	934	593
Coefficient of efficiency	-	-	-	51.3%	43.4%	36.5%	35.4%	32.5%	27.6%	29.7%	62%	1%

RATES OF PROMOTION, REPETITION, DROP-OUT AND SURVIVAL RATES BETWEEN CLASSES IN 2005

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Form 1	Form 2	Form 3	Form 4	Form 5
FEMALES												
Promotion Rate	76.3%	84.3%	80.3%	82.1%	78.3%	77%	88.6%	72.4%	64.2%	95.4%	60.7%	0.5%
Repetition Rate	0.6%	0.6S%	0.7%	0.5%	0.6%	0.7%	0.4%	13.8%	16.2%	4.6%	16.1%	0.8%
Dropout Rate	23.1%	15.1%	19.1%	17.5%	21.1%	21.9%	11%	13.8%	19.6%	0.0%	23.2%	98%
Survival Rate	100%	76.8%	65.1%	52.6%	43.4%	34.1%	26.6%	23.7%	19.9%	15.2%	58.6%	42.4%
Pupil-years	1,006	772	655	528	436	344	267	275	238	160	699	427
Coefficient of efficiency	-	-	-	58.5%	50.2%	42.7%	41.3%	37.2%	30.3%	32.6%	48.8%	0.3%

	Grade1	Grade2	Grade3	Grade4	Grade5	Grade6	Grade7	Form 1	Form 2	Form 3	Form4	Form5
MALES												
Promotion Rate	70.6%	77.3%	71.9%	75.2%	73.6%	77.6%	87.5%	74.2%	67.2%	94.7%	65%	0%
Repetition Rate	0.7%	0.9%	0.9%	0.8%	0.8%	0.6%	0.5%	13.6%	18.0%	5.3%	17%	1%
Dropout Rate	28.7%	21.8%	27.3%	24.0%	25.6%	25.8%	12.1%	12.2%	14.7%	0.0%	19%	99%
Survival Rate	100%	71.1%	55.5%	40.2%	30.5%	22.6%	16.7%	14.7%	12.6%	10.4%	69%	54%
Pupil-years	1,007	718	560	406	307	227	168	170	154	109	829	540
Coefficient of efficiency	-	-	-	45.3%	37.7%	31.2%	30.4%	28.4%	25.1%	27.1%	57%	0%

8. Substance Abuse Statistics (among children)

	2003	2004	2005
Number (%) of drug abusers	na	na	na
Number (%) of tobacco users	na	na	na
Number (%) of alcohol consumers	na	na	na

9. Children infected and affected by HIV and AIDS

	2003	2004	2005
Infected by HIV (15-19, ANC)	32.5%*	29.3%	na
Affected by HIV and AIDS	na	na	na
Leading Households due to HIV and AIDS	na	na	na
Orphans of HIV and AIDS living in - extended families or institutions	na	na	na

* Sentinel surveillance estimate among antenatal clients in 2002.

10. Crime Statistics for persons below 18

		2003	2004	2005
Number of Crime Suspects:	Both sexes	7113	6149	4418
	Males	5451	4395	3531
	Females	1662	1954	887
Number Prosecuted:	Both sexes	4808	4022	2827
Types of Sentences: Imprisonment	Both Sexes	1150	720	823
	Males	853	583	707
	Females	297	137	116
Corporal punishment	Males only	388	233	235
Fined	Both sexes	3270	3069	1766
	Males	2398	2038	1309
	Females	872	1031	457
Average incarceration period		na	na	na
Number of juvenile detention facilities*		1	1	1
Number detained in juvenile facilities		341	419	297
	Males	309	397	273
	Females	32	22	24
Number detained in adult facilities		na	na	na
Average length of detention		na	na	na
Reported cases of abuse and maltreatment		na	na	na
Juveniles tried and sentenced as adults		na	na	na

*Juvenile facility caters only for males; female juveniles are detained at the women's correctional facility, but sleep in different quarters within the facility.

11. Special Protection Measures

	2003	2004	2005
Sexually–exploited children	na	na	na
Children involved in substance abuse	na	na	na
Children who have received substance-abuse assistance	na	na	na
Involved in child labour	na	na	na
Internally displaced	na	na	na
Unaccompanied asylum-seekers	na	na	na

Notes: na - data not available
 n/a - not applicable

B. GENERAL MEASURES OF IMPLEMENTATION**1. Harmonization of Domestic Law with CRC Provisions and Principles**

There have been no significant initiatives by the Swaziland Government to harmonize domestic laws with the provisions and principles of the Convention. However, some work has been done in the following pieces of legislation:

- a. The amendment of the Criminal Procedure & Evidence Act, Section 223 bis, that has facilitated the establishment of the Intermediary Service and Children's Court. The Children's Court is a facility to obtain evidence during criminal trials in sexual offences involving young children.
- b. The adoption of the Constitution Act of 2005, which contains a number of provisions which cover everyone as well as protecting and promoting the rights of the child. More specifically, the Constitution encompasses a Bill of Rights that protects a number of fundamental rights and freedoms of the individual.
- c. Efforts are being made to develop a common definition within the dual legal framework of Swaziland. The Attorney General's Office in the Ministry of Justice and Constitutional Affairs in partnership with UNDP has commissioned a Gender, Human Rights and Law Reform project aimed at harmonizing national laws with the Constitution, CRC and other Human Rights Instruments to which Swaziland is a party.
- d. Legal Reform Initiatives: The Attorney General Office has also commissioned the Gender, Human Rights and Law Reform project to look into the following Acts: Marriage Act no 47 of 1964 and Administration of Estates Act no 28 of 1902. Amendments to these laws have been proposed, and these include those relating to the legal age of marriage and inheritance. More specifically, currently minors under the age of 18 cannot marry and require parental permission to marry. However, in terms of the proposed Marriage Act, minors can marry subject to the parents' consent

but where they refuse to grant the minor consent, he or she can seek of the Minister to marry. With respect to inheritance, under the proposed Administration of Estates bill it is unlawful to disinherit a child and the Master of the High Court has the responsibility to protect inheritance rights of the child by depositing the child's share into the guardian's fund. Also, whereas in the 1902 Administration of Estates Act the interest on the child's share accrued to the attorney responsible, under the proposed bill the interest will accrue to the child to ensure the right to survival and development. Other legal initiatives include the Sexual Offences Bill, which aims to curb sexual abuse and exploitation of children and highlights the inadequacy of Girls and Women's Protection Act of 39 of 1920. The same applies to the Children's Protection Bill, which will comprehensively address issues pertaining to the rights of the child.

2. Litigation Involving the Convention

To date, there has been no litigation involving the Convention. However, legal practitioners in courts of Swaziland do refer to the principles embodied in the Convention.

3. Coordination of the Implementation of the Convention

The Cabinet of the Government of Swaziland has approved the legislation and establishment of the Child Coordinating Unit and its implementation by the Ministry of Health and Social Welfare. As of 31st July, 2006, the Attorney General's Office was in the process of finalizing the instrument establishing the Unit, which will be responsible to integrate and coordinate all legislations, policies, plans, projects and programmes developed by government and NGOs to promote the rights of the child. More specifically, the Unit seeks to:

- a. Ensure that children are protected from all forms of abuse, supported and developed without discrimination;
- b. Assist communities to establish safety nets for all children within their jurisdictions;
- c. Review and formulate policies pertaining to children's issues;
- d. Coordinate and support all activities carried out by Government ministries and NGOs;
- e. Develop a database for all vulnerable children including orphans and street children, even at chiefdom levels; and
- f. Establish programmes geared to enhance life skills of children.

It is important to note that whilst the Child Coordinating Unit is not yet fully operational, the Government has been allocating funds to it since 2004. For the year 2004/2005 E10 million was allocated; the same amount has been allocated to the Unit for the current financial year.

4. Adoption of a National Plan of Action and its Scope

Swaziland has adopted the National Plan of action (NPA) for Orphans and Vulnerable Children for 2006-2010. The Plan seeks to achieve the following:

- a. Ensure that children have access to shelter and are protected from abuse, violence, exploitation, discrimination, trafficking and loss of inheritance;
- b. Support vulnerable individuals and households to enable them to produce or acquire sufficient appropriate food to meet short and long term nutritional needs;
- c. Improve access to basic health care services for the most vulnerable children; and
- d. Achieve universal primary education and provide support to OVCs in secondary schools.

To achieve these goals of the NPA, a number of interventions are currently being implemented or in the process of being started. These interventions have been grouped into the following rights-based programme areas: Right to Food, Right to Protection, Right to Education, Right to Basic Services, and Right to Participation.

Subsequent to the launch of the NPA in 2006, the main activities being undertaken include the mobilization of funds for implementation.

5. Efforts to provide training, awareness on the Convention and on human rights in general

The Government, in collaboration with international development partners, has undertaken training of the various stakeholders involved in the implementation of the Convention, as follows:

- The Attorney General's Office has embarked on the training of ministries and departments on State party reporting.
- The Deputy Prime Minister's Office and the recently established Ministry of Regional Development and Youth Affairs, in cooperation with UNICEF, has been implementing a Community Capacity Building for Children's Rights project since 2001. Under this project, training has been provided to various stakeholders including NCP caregivers, community child protection committees, guardians of OVCs, and community leaders.
- Save the Children (Swaziland), an NGO that receives an annual subvention from the Government, has been engaged in, inter alia, capacity building for children's rights. More specifically, it has provided training to community child protection committee members, caregivers, and OVC committee members on children's rights and protection.

6. Cooperation between Government and the International Community including NGOs in the implementation of the Convention

The Government works in close cooperation with international development partners and NGOs in the implementation of the Convention. Key in this regard has been the implementation of the Government of Swaziland/UNICEF Programme of Action 2001-2005 (Community Action for Child Rights). Under this programme various projects have been undertaken, including the following:

the establishment, strengthening and expansion of Neighbourhood Care Points and Community Child Protection Committees. Other sub-programmes/projects include those Early Childhood Development, Sustainable Livelihood, Education for All, Health Outreach Immunizations, Births, Marriages and Deaths Registration, and Legal Aid Education. During the Programme period, UNICEF made a substantial injection of funds towards the implementation of the various projects. For instance, UNICEF contributed more than E7 million (E7, 059, 481) during the period 2003-2005. Other international development partners who have assisted in the implementation of the Country Programme include WFP and UNESCO. WFP has been instrumental in the distribution of food to NCPs and destitute families, whilst UNESCO has worked closely with the Ministry of Education. NGOs have also played a telling role in the implementation of the Country Programme, individually and through their federation – the Coordinating Assembly of NGOs.

A new country program for 2006-2010 known as the UNICEF/Government of Swaziland Country Programme Action (CPAP) 2006-2010 is currently being implemented. The areas of partnership under CPAP include the following: education and life skills, child survival and development, safety nets for child protection, and advocacy and communication for child rights.

7. Priorities with regard to the Implementation of the Convention

- Operationalizing the Children's Policy and the Children's Bill, especially with respect to OVCs;
- Developing a strategy to enhance understanding of child rights issues among policy makers;
- Motivating legislators to effectively perform their roles and responsibilities for children;
- Establishing children's assemblies where children can participate on issues affecting them at both national and regional levels;
- Developing communication strategies to raise consciousness on violence and abuse encountered by children;
- Promoting more sensitive reporting on children's issues especially HIV/AIDS and sexual abuse through the media;

- Improving data collection, processing, analysis, and dissemination on issues involving children;
- Mobilization of resources that will enable the relevant government ministries and departments to disseminate and conduct advocacy and education activities on the Convention in order to bring about awareness and compliance as well as the involvement of children in all government projects and programmes that impact on their rights;
- Strengthening of the coordination, monitoring, and evaluation of children's programmes; and
- Strengthening of programmes addressing the needs of children with disabilities and other marginalized children.

PART II

There are two official languages in Swaziland: English and Siswati. A text of the Convention in Siswati has been produced, and is attached.

PART III

1. New Bills / Enacted Legislation

There has been no new legislation dealing directly with children's rights enacted during the relevant reporting period. However, there is currently a Children's Bill and Sexual Offences Bill that are currently being worked on. These bills are intended to address all aspects that deal with the protection and welfare of children, in particular, their protection from sexual offences and other forms of abuse.

In 2005 the Parliament of Swaziland enacted the Constitution of the Kingdom of Swaziland Act No. 001 of 2005 (hereinafter "the Constitution"). This is a vital document in so far as the determination of children's rights in Swaziland are concerned because it is the main determinant of the nature of rights that any social group will have/enjoy or not. The Constitution has a Bill of Rights within which specific mention is made of the rights of the child that are recognised and protected in the Kingdom of Swaziland (see Section 29). These include the following:

Citizenship of Children

Chapter IV of the Constitution Act of 2005 recognizes the protection of a child's name and identity as basic rights. The basic right of citizenship, for example, is premised on identity.

Bill of Rights

Chapter III of the Constitution guarantees the right to freedom of expression, freedom of thought, freedom of association and assembly, protection of privacy, freedom of conscience and religion, freedom of assembly and association, freedom from torture and degrading treatment, protection of family.

Rights of the Child

Section 29 of the Constitution protects a child from engaging in work that constitutes a threat to the education, health or development of the child. It also prohibits subjection of a child to abuse, torture or other cruel inhuman and degrading treatment or punishment subject to lawful and moderate chastisement for purposes of correction. All children have the right to be properly cared for and brought up by parents or other lawful authority.

Abolition of Illegitimacy

Section 29(4) and 31 of the Constitution outlaws the status of “illegitimacy” of children and provides that children whether born in or out of wedlock shall enjoy the same protection. Therefore under this provision it is unlawful to disinherit a child.

The above notwithstanding, the conformity of the Constitution with the spirit of the Convention on the Rights of the Child (CRC) is partial as demonstrated below:

- Article 1 of the CRC defines a child as “every human being below the age of eighteen years.” The Constitution does not either in Section 29 or in the interpretation provisions (Section 261) define what is meant by ‘child’ under the Constitution.
- Section 29(1) of the Constitution partially satisfies the requirements of Article 32 of the CRC that requires state parties to recognize “the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.”
- Section 29(2) of the Constitution satisfies the requirements of Article 19(1) of the CRC that provides that “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”
- Section 29(3) of the Constitution is in conformity with Article 18 (1) of the CRC that provides that “States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

- Section 29(4) of the Constitution, in so far as the Constitution conforms to the overall provisions and principles of the CRC, conforms to the requirements of Article 2 of the CRC, which requires that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”
- Section 29(6) provides for the right to free education to every Swazi child up to the end of primary school. The section however does not make such education compulsory as per the requirements of Article 28(a) of the CRC that requires that all state parties “Make primary education compulsory and available free to all”;
- Furthermore, Article 4 of CRC provides that “...With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.” Conformity with this article for the Swaziland case is limited by the fact that the Constitution only grants a limited right to education (s29(6)) and makes no provision for other economic, social and cultural rights.
- The Constitution has no specific provisions dealing with children with disabilities as required by Article 23 of the CRC, except in s30 that covers all people with disabilities.

2. New Institutions

The Government has established the following institutions that deal with the issues of children in the country.

- Ministry of Regional Development and Youth Affairs - established in April 2006.
- Child Coordinating Unit – established in 2002, but has only been gazetted in July 2006. It is however still not yet fully operational.
- Domestic Violence, Child Protection and Sexual Offences Unit within the Royal Swaziland Police.
- Children’s Court - The amendment of the Criminal Procedure & Evidence Act, (Section 223 bis) resulted in the establishment of the Children’s Court, within the High Court of Swaziland in 2005.
- Children’s Centre Clinical Excellency – This is a special health facility for children infected with HIV/AIDS, established in 2005.

3. Newly Implemented Policies

In addition to constitutional and legislative protection, there are national policies aimed at improving the welfare and quality of life of children in Swaziland. These include the following:

- National Policy for Children including OVCs – awaiting Cabinet approval.
- National Decentralization Policy - approved by Cabinet in 2006.
- National HIV and AIDS Policy and the Second National Strategic and Action Plan (2006-2008) - approved by Cabinet and launched by the Prime Minister in July 2006.
- National Health and Social Welfare Policy- submitted to Cabinet in July 2006 for approval.
- National Youth Policy, which has been approved by Cabinet.

4. Newly Implemented Programmes, Projects, and their Scope

- Neighbourhood Care Points (NCPs) – These are community based structures established in partnership with international development partners to provide food and basic care to OVCs. NCPs have been operational since 2003.
- Community Child Protection Committees (“Lihlombe Lekukhalela”) - a community out-reach initiative that involves members of the Royal Swaziland Police, the Director of Public Prosecution’s office, NGOs and community based organisations, dealing with matters relating to Gender Based Violence, within schools and other community forums nation-wide.
- A hotline jointly run by SWAGAA and the Ministry of Education designed to provide rescue services for school children under abusive conditions.
- Child friendly rooms within the Police Stations – These are designed to provide a congenial environment for children at police stations.
- Programme Advisory Committee on Child Labour- This is a multi-sectoral committee that been established to coordinate issues relating with child labour.
- KaGoGo Centres – This programme involves the establishment /construction of chiefdom-based centres to facilitate the management of community projects and activities.