

## UNIVERSAL PERIODIC REVIEW – HUMAN RIGHTS COUNCIL UNICEF INPUTS - Lesotho

### 1. Country Context

Lesotho is a small, mountainous kingdom entirely surrounded by South Africa. It has an estimated population of 1.8 million (Pop Census 2006) and 24 percent are aged 15-24 years (DHS 2004). Lesotho's Human Development Index is 0.494, ranking it 149<sup>th</sup> globally (UNDP HDR 2006). National and population level development indicators conceal significant gender, geographical, and age-group disparities in the realisation of human rights.

In Lesotho social and economic development initiatives, fulfilment of human rights, including rights to education, health, nutrition and survival and protection, are undermined by the negative synergy of high HIV prevalence, food insecurity and poverty. Lesotho has the third highest HIV prevalence in the world, estimated at 23 percent among pregnant women and those aged 15-49 and peaking at 39.8 percent in women aged 25-29 years (DHS 2004). Life expectancy declined from 58.6 years for males and 60.2 years for females in 1996 to an estimated 35 years in 2005.

The total population living with HIV is estimated at 265,000 (HDR 2006). There are an estimated 180,000 orphans, of which 100,000 have lost one or both parents to AIDS. Underlying causes of the HIV and AIDS epidemic in Lesotho include: early onset of sexual activity; concurrent multiple sex partners; a lack of the necessary skills to affect sexual behaviour change; a large migrant worker population, widespread poverty, high unemployment and inadequate and inaccessible health services.

Discrimination against women is perpetuated by customary and common laws, under which women have always been considered minors, resulting in lack of decision-making authority for women and girls, until the enactment of the Legal Capacity for Married Persons Act 2006. This legal framework gives married women equal legal status with men, including rights to freely access reproductive health services. This was a major step towards realising the rights of women and ultimately achieving MDGs 3 and 5. Women hold approximately 54 percent of all local council seats. Lesotho is a signatory to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) but no report has ever been submitted. Gender imbalances in decision-making in relation to sexual health are reflected in use of HIV prevention methods. HIV prevalence is higher among females in every age group; for example 7.8 percent among girls compared to 2.3 percent for boys in the 15-19 age group. Only 31 percent of young people (26 percent of girls and 44 percent of boys) aged 15-24 use condoms. Only 9 percent of women and 3 percent of men aged 15-24 know their HIV status (DHS 2004).

Lesotho's Poverty Reduction Strategy (PRS 2003) estimates that to achieve Millennium Development Goal 1 of halving the proportion of people living in poverty by 2015, Lesotho's economy needs to grow by 7.5 percent per annum. Average annual GDP growth rates are currently around 3-4 percent and have been constrained by large-scale retrenchment of migrant workers in the 1990s, and a recent slowdown in the garment factory sector. The World Bank predicts a reduction in GDP of almost one-third by 2015 (World Bank, 2000), as a result of HIV. The proportion of the population living below the national poverty line (US\$ 20 per person per month) has remained stable at 58 percent over the past two decades, but the proportion classified as "ultra-poor" (income below US\$10 per person per month) increased from 35 to 39 percent. Poverty rates are highest in mountain districts that are inaccessible to most basic services, where it exceeds 70 percent (UN CCA 2004). Female-headed households were reported as having the highest levels of poverty in 1994/95 (62 percent) and there is little evidence to suggest that their situation has changed.

Children's rights to education are compromised by the impact of HIV, especially girls, who discontinue their schooling to look after sick family members. Fifteen percent of children are out of school, and of these 60 percent are girls. School drop out rates among girls are increasing due to the need to care for sick relatives and orphaned siblings, teenage pregnancies and lack of a protective and gender sensitive environment i.e. sexual abuse, violence, insecurity to and from school. In mountain districts boys are expected to herd cattle rather than attend school. The current birth registration rates for Lesotho are at the rate of 43% (DHS 2004) and initiatives made to increase the rates are hugely undermined by infrastructural and human incapacities as well as facing critical challenges of weakened governance as the country is in its infancy stage with decentralisation.

Lesotho ratified the Convention on the Rights of the Child (CRC) in 1992 and submitted its initial report in 1998. Significant progress in policy and legislative reform for children has been made in line with the Concluding Observations and Recommendations of the Committee, primarily through the drafting of the Child Welfare and Protection Bill 2008, which is still not enacted to date. Lesotho is in the process of compiling the second, third and fourth periodic reports to synthesise into one report, with a special forum for children to ensure inclusion of their perspectives in the report. However, the delay in the enactment of this vital legal framework and bill of rights for Basotho children hinders an effective response to child rights violations.

Significant gaps exist in national and disaggregated data on child protection, vulnerability and emerging issues and their use to inform decision-making on programmes for children. Other gaps persist in relation to harmonisation of legal definitions of a child, prohibition of corporal punishment, juvenile justice systems for children and young offenders, justice for children for protection of all children in contact with the law and implementation of a comprehensive national programme for children with disabilities. This has not however impeded numerous and essential capacity development and skills building interventions for strengthening of key implementing institutions, as well as putting in place relevant advocacy and social mobilisation programmes for both service providers and communities at large.

## **2. Contextual Framework**

Lesotho as a Member State to the United Nations is committed and took a pledge to the obligations of the UN Charter and the Universal Declaration of Human Rights by signing in the indicated dates among others following listed instruments together with their respective Optional Protocols: The UN Convention on the Rights of the Child (CRC), 9 April 1992; African Charter on the Rights and Welfare of the Child (ACRWC) July 1990; International Covenant on Economic, Social and Cultural Rights, 9 December 1992 and same date the International Covenant on Civil and Political Rights ; Convention on the Elimination of All Forms of Discrimination Against Women, 21 September 1995; United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 14 December 1990 and the Beijing Rules; International Convention on the Elimination of All Forms of Racial Discrimination, 4 December 1971; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 12 December 2001; International Convention on the Protection of the Rights of All Migrant Workers and their Family Members, 1 January 2006; Convention on the Rights of Persons with Disabilities, 8 December 2008. However, Lesotho still owes initial periodic reports on the domestication of all the instruments apart from the CRC, where the initial report was approved in 2001 and the three more reports still owe.

Lesotho translated the above instruments into domestic and national legal framework to address issues of child protection and to uphold their rights, such issues are for example, child labour, inheritance rights, justice for children, marriage and matrimonial regimes, sexual offences, alternative care and guardianship of minors and violence, exploitation and abuse.

The following national legal framework strives to implement the international and regional instruments that Lesotho signed for and ratified in order to protect children and women: The constitution of Lesotho 1993, Children's Protection Act of 1980, Birth and Deaths Registration Act of 1973 this makes registration compulsory, The Labour code of 1992 that establishes the minimum age of employment at 15 yrs. The Lesotho Land Act of 1979, the Administration of Estates Proclamation of 1935, Law of Inheritance Act 26 of 1873, Ordinance of Succession, Intestate Succession Proclamation 2 of 1953. Legal Capacity for Married Persons Act, 2006, Sexual offences Act of 2003 makes it unlawful not to report a case of child sex abuse, when such information becomes available and the Adoption Proclamation of 1957.

## **3. Implementation Trends and Opportunities**

The United Nations Development Assistance Framework (UNDAF) guides the development assistance activities of the UN System in Lesotho during this 2008-2012 programming cycle, it is the translation of the above commitment by the United Nations Country Team (UNCT), under which the UNCT pledges to focus the UN System's resources on addressing Lesotho's national priorities and challenges.

The UNICEF Country Programme results for 2008 – 2011 aims to contribute to achievement of each of the four UNDAF outcomes. These in turn are derived from the eight national priority areas and two cross-cutting issues as outlined in the Lesotho Poverty Reduction Strategy (LPRS). These are clustered as: Growth Sectors; HIV and AIDS, Gender and Youth; Human Development; and Governance. Combating HIV is the country's highest priority in recognition of its impact on development and the dependence of other Millennium Development Goals on achievement of this goal. The LPRS is the medium term framework for realising the National Vision 2020. Design of the country programme was guided by the CRC (the Concluding Observations and Recommendations of the Committee on initial country report to the Rights of the Child), the ACRWC and the CEDAW.

UNICEF Lesotho through its Child Survival, Care and Development programme is striving to achieve a comprehensive package of high-impact maternal neonatal and child survival interventions that are accessible to at least 90% of women and children; quality PMTCT and paediatric AIDS care services available to 80% of the affected and infected mothers and children and the number of new HIV paediatric infections reduced by 50%. These results aim to contribute to a reduction in child mortality by 2012 of 40% and a reduction in maternal mortality by 50% from the 2004 baseline. The health sector has reached already over the set target as a result of the technical guidance and financial support received from UNICEF and other development partners, with intensive training of health service providers especially from the district and community levels with special emphasis on strengthening and ensuring accessibility of outreach programmes.

UNICEF collaborated effectively with the civil society partners in health particularly in the area of paediatric HIV treatment and primary prevention with institutional strengthening and leveraging of resources to ensure survival, care and development even of children infected. For instance providing support to places of safety for infected infants such as Beautiful Gate, Touching Tiny Lives, Baylor College and Clinton Foundation and others. UNICEF partnered with Baylor College and the Clinton Foundation to provide technical assistance and enhance national capacity to scale up treatment of paediatric AIDS, care and support. The first Baylor Paediatric Centre of Excellence for anti-retroviral therapy enrolled 36000 children out of an estimated 4,400 in need of treatment in 2006.

UNICEF supported improving service quality and expansion of paediatric AIDS and Prevention of Mother-To-Child Transmission of HIV (PMTCT) services. PMTCT is available in all the 18 hospitals and is scaled up to all 166 peripheral health centres, although uptake of HIV Testing is currently 95.6 percent. UNICEF in partnership with other agencies contributed to sustaining zero polio cases, integration of vitamin A (55 percent coverage) into routine EPI, introduction of Pentavalent vaccine in the routine schedule, implementation of Measles SIAs through provision of vaccines, cold chain supplies, training and social mobilisation activities and achieving 83% DPT3 coverage among children aged 0-11 months.

UNICEF Lesotho is also seen on the ground in the area of fighting food insecurity and malnutrition for children, where since 2004 there has been support to communities young farmers, OVC households and support groups (Home-based care groups), with garden tools and seeds (agricultural inputs) and this was in collaboration with the ministries of Agriculture and Food Security and Local Government and Chieftainship. With this there is training of the beneficiaries of the inputs on some agricultural technologies so they could use them properly to yield some produce.

UNICEF Lesotho through its Basic Education for All programme aims to have at least 95 percent of school going age children enrolled in primary school; at least 80 percent of girls and boys enrolled in grade 1 in 2008 to successfully complete grade 5; at least 80 percent of schools and NFE Centres implement life skills education for HIV prevention and at least 50 percent of schools implement the Child Friendly Schools (CFS) policy.

UNICEF with its financial and technical support facilitated the development of the Life Skills school curriculum in collaboration with the education sector as an intervention in the prevention of HIV and AIDS among children and youth and this is now implemented in 80 schools. The programme also supported the development of the national Child Friendly Schools policy that purports for a conducive learning and protective environment within the school setting especially with the plight of Orphans and other Vulnerable Children (OVC). The process to amend the Education Act 1995 was initiated and completed with the newly amended Education Act 2008, the purpose being to abolish corporal

punishment in schools as well as to enforce free primary education policy, not to only have it free, but, most importantly to make it compulsory.

UNICEF Lesotho through its Adolescent HIV Prevention programme is striving to ensure that there is enabling and supportive environment for at least 60% of girls and boys 10-19 years, including the most at risk, to acquire correct information, comprehensive knowledge and risk reduction skills to prevent HIV and that at least 30% of national and district level health facilities provide adolescent friendly HIV counselling and testing services, supported with comprehensive sexual and reproductive health support services. These results are to contribute to a reduction of 1% of new HIV infections among young people (15-24), as spelled out in the National HIV and AIDS Plan of Action 2006-2011.

There is a national strategy on Behavioural Change Communication developed together with the Government of Lesotho and civil society, in a manner to address the unsettling HIV prevalence rate through prevention programmes particularly for youth as they are the most at risk. For the same reasons UNICEF with the ministry of Health and Social Welfare, key NGOs and under the guidance of Child Helpline International, has supported and facilitated the setting up of the Child Helpline in the capital district of Maseru and is launching a regional branch in Quthing district to commemorate the 20<sup>th</sup> anniversary of the UN CRC in November 20 this year. This toll-free helpline is meant to facilitate reporting of cases of violations, exploitation and abuse of children and young people so they can easily access assistance, protection and basic services.

The fourth programme for UNICEF Lesotho, the Policy, Legislation and Social Protection aims to creating a more conducive and enabling environment to realize the rights of children and women and contribute to a more equitable access and utilization of basic services for Children of Lesotho. This is achieved through provision of to support the Government at national level in adopting and implementing new and amended legislative and policy framework, such as ensuring that the Children's Protection and Welfare Bill is enacted and implemented in harmonization with related laws and policies. With the ever increasing number of OVC, UNICEF aims to have at least 70,000 orphaned and children made vulnerable by HIV and AIDS receive quality family, community and government support, and access and utilize basic services without discrimination.

Lastly, to ensure that policy, evidence-based advocacy, national budget allocation, research and programming are informed by regularly collected and analysed strategic information on the situation of children, youth and women, particularly in relation to new and emerging issues, UNICEF also supports and facilitates state of the art knowledge gathering activities. These are national surveys like the DHS, Population Census, MICS; sector or programme specific assessment like the rapid assessment on OVC; sectoral databases like the vital and birth registration, health information management system, DevInfo and others. In 2003 UNICEF supported the setting up the Child and Gender Protection Unit (CGPU), a specialised division within the police that is trained to address to issues of children in contact with the law either as victims, witnesses or alleged offenders. A database was established and in use in all 11 police districts to enhance reporting and monitoring of child abuse and to facilitate referral to relevant services.

UNICEF since 2001 to date continued to support with financial and technical assistance the child law reform process that came about as an intervention to address the inadequacies, limitations and gaps of the current Child Protection Act 1980 to draft the Children's Protection and Welfare Bill. Similar support was extended to the development of some key national frameworks on child protection for a holistic approach, the costed OVC National Action Plan 2004 with M&E framework and the approved National OVC Policy 2006 with strategy. Leveraging resources is the one thing that UNICEF is committed to doing so to ensure effective implementation of existing national strategies and plans. As a result of this obligation Lesotho was able to secure M32 US\$ from Global Fund Round 7 for OVC, M11.3 Euros from the European Commission for OVC as well and several other financial resources such as the DFID. Lesotho launched its first Child Cash Grant programme in April this year where to date 922 households and 2,365 OVC beneficiaries have received a grant to help them meet their essential needs like food and help them access social services like school and health facilities.

#### **4. Capacity Development**

Capacity development seems to be a reality challenge and limitation towards economic and social development in Lesotho. There is very limited infrastructure in the country given the terrain of the

country and it is difficult for a larger population group to easily access information and services (70% lives in the mountain areas).

Lack of awareness and knowledge of HIV information, services that are available and where to access them for instance, renders communities susceptible to contracting the virus and adversely affecting the incidence rate of HIV. This hinders technological systems development and building, which would lead to development of sustainable infrastructure for sustained and accessible programmes and interventions especially for the marginalised groups and children, such as the ability for GOL to maintain the Child Cash Grant Programme as a community intervention.

It is in this instance that UNICEF supports the improvement and establishment of mechanisms for identification and targeting, data collection and reporting such as the Child and Gender Protection Unit (CGPU), database for the administration of estates for orphaned children, child helpline, DevInfo, etc.

UNICEF Lesotho is highly involved in the strengthening of key institutions that render basic social services, protection, advocacy and social mobilisation interventions for children, in an effort to uphold and protect the rights of Basotho children. These include among others Parliament so to prioritise children in the national agenda, the Media, child related civil society organisations, such as the NGO Coalition on the Rights of the Child (NGOC), Lesotho Council of NGOs (LCN) and its affiliates and relevant line ministries in GOL. Focus here mainly is skills building and improving technical capacity of service providers and implementers especially in advocacy and social mobilisation and specialised areas of services.

UNICEF solicits locally, regionally and internationally expertise for training of partners so to help in skills development and to as well train service providers and partners on the fundamental legal and policy framework that govern child related service rendering and protection.

As a good practice UNICEF assisted GOL in the setting up of coordination mechanisms for child protection and particularly to ensure synergy in the delivery of services and interventions for vulnerable children, that is, coordination of the national OVC response programme at both national and district levels. There is the National OVC Coordination Committee and the 10 District Child Protection Teams, which are all multi-sectoral in nature comprising of line ministries, local and International NGOs and Development partners.

## **5. Limitations, Challenges and Gaps**

Lesotho is faced with huge challenges of acute poverty, chronic hunger and high HIV prevalence rates and weakened governance, as already mentioned that undermine most efforts leading to significant social development and economic empowerment for the fulfilment of human rights of Basotho nation.

It has become apparent that the Rule of Law plays a fundamental role in area of governance in every country. The Parliament of Lesotho is charged with the mandate to legislate for and represent the interests of the public, however, there is a challenge in the enforcement of the laws passed and enacted and the problem is not well articulated as to the different roles of Parliament and Government (executive) in such matters, as to who has to be in control and regulate issues of such nature.

The non enactment of the Child Protection and Welfare (CPW) Bill is a great set back to the domestication of the CRC and the ACRWC and this has proved to undermine the already developed initiatives such as the implementation of the Residential Care Guidelines developed by GOL in 2006, the enforcement of the National OVC policy and many other programmes.

There is clear miscomprehension of national, regional and international instruments that govern and regulate service delivery by both service providers and the public at large, which impedes improvement and efficiency in the fulfilment of the rights of children and women and the translation of those to practical context. People do not know the policies and laws that they work under and similarly the claim holders do not know their rights as well, despite numerous social mobilisation activities. This may perhaps be attributed to a lack of proper Information, Education and Communication (IEC) strategy that goes along with a good monitoring and evaluation mechanism.

There is a critical need for adequate numbers to render the required services and this is also the case for a dire need for proper technical skilled human resources in the social sector, which is compromised by the scourge of HIV and AIDS as it affects mostly the productive age group. To fill this gap GOL could actually take opportunity of existing civil society as they are key in implementation, especially at the periphery level though these also face capacity problems, but, there seems to be no mechanism to coordinate the efforts of GOL and NGOs generally which creates duplication of efforts.

There is inadequate evidence and data to substantiate programme development and where there is some it is outdated and there is a need to set up child protection database and indicators critical to Lesotho. To adequately address the needs and challenges of Lesotho there is critical need for additional funding that are directed towards enforcement of legal and policy framework and governance, especially child protection and UNICEF is continuously embarking on leveraging resources.