

## **Child Rights-Based Analysis of Children without Parental Care in Lesotho**

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### **Introduction**

The Lesotho Government has formulated some legislations and policies on children's issues and also domesticated some international instruments like the United Nations Convention on the Rights of the Child (UNCRC or CRC) 1989. The UNCRC and the African Charter on the rights of a child have recognized that all fundamental human rights also constitute the rights of the child as a member of human society. Children who are orphans or who are made vulnerable by HIV and AIDS become more prone to a wide range of rights violations. Some identified actions that constitute violation of child rights in Lesotho range from all forms of child abuse, harmful traditional practices such as male circumcision to property disinheritance (Vachon et al., 2015). The society and families, due to some cultural beliefs and ignorance of children's rights, perpetrate some of the violations (Alice, 2015).

Lesotho has instituted structures in promoting care of children and has ensured that the rights of children are not violated. These include children's homes that render a wide range of services including monitoring, advocacy and enforcement of the rights of the child, educational assistance, and food security initiatives, psychosocial and material support. However, a caring family environment can serve as a child's first line of protection. As such, the state has pledged to empower the family as the basic unit for the growth and development of orphans and vulnerable children (Tanga, 2013). The emphasis is on re-integration of vulnerable children into families with a caring adult, and ensuring that families do not disintegrate further.

Complementary to the Government's efforts in the promotion, protection and respect of fundamental rights of all orphans and vulnerable children at all levels are various duty bearing agencies. Their duties include monitoring, protection, and promotion of child rights and advocacy, prevention of all forms of abuse, provision of care and accommodation, integrated care and support, securing property rights, counselling and referrals (Tamasane, 2011). In the course of performing their functions for children, most of the duty bearers in Lesotho are confronted with constraints such as financial and human capacity, which somewhat inhibit the actualisation of their duties.

The next section of this paper is the general overview of Lesotho's socio-economic situation, followed by a review of literature and the research methodology. The findings are presented and discussed in subsequent sections. The recommendations constitute the last part of the paper.

## **1 General overview of the situation in Lesotho**

Lesotho's population as of September 2015 was estimated at 2 143 814, with a population of 695 026 of children under 15 years (United Nations Statistics Division, 2015). According to UNICEF (2014a), orphaned children account for 17% of the total population and half of this is due to HIV related illnesses and AIDS. The Republic of South Africa surrounds the Country, which in turn has a great result in a fragile subsistence agricultural economy. Lesotho is very mountainous, with a topography that results in a fragile subsistence agricultural economy. According to the WFP (2008), in the last decade there has been a decline of nearly all human index indicators due to the negative synergy of poverty, food insecurity, unemployment and HIV and AIDS. The impact of HIV and AIDS has now reduced the projected life expectancy of the Basotho from 57 years in 1997 to 42.3 years in 2006 and 42 years in 2015. The country's Human Development Index (HDI) ranking fell steadily to 155<sup>th</sup> out of 179 countries in 2008. Life expectancy in Lesotho for both sexes is 50.38 years, males 50.3 years and females 50.23 years (United Nations Statistics Division, 2015).

Although Lesotho also enjoyed an economic boom around the mid- 1990s, it later experienced a drastic turn around because of some civil and political upheavals in 1998 as well as the economic crisis of 2007/2008. According to the Lesotho's Poverty Reduction Strategy (LPRS), in order to attain the Millennium Development Goal One of halving the proportion of people living in poverty by 2015, the country's economy needed to have grown by 7.5 per cent a year (UNICEF, 2008). The country's economy has largely been affected by the excessive retrenchment of migrant labourers from the South African mining industry in the 1990s as well as the phasing out of quotas under the Multi Fibre Agreement (MFA), which led to the closure of many textile industries. According to the UNICEF country report (2014b), the proportion of the population living below the national poverty line (\$20 per person per month) has remained stable at 58 per cent over the past two decades. Poverty is deeply entrenched in the mountainous areas, where about 70 per cent of the people live, with the highest levels of poverty in the female-headed households. About one fifth of the children are moderately to severely underweight. Considering that the economy of the country is mainly agro-based, most of the households are still suffering immensely due to the prevailing drought conditions (Tanga, 2013).

At present, Lesotho has a high infant mortality rate of 50.125 deaths/1000 live birth and HIV prevalence is around 24 percent, which is one of the highest in the world (UNICEF, 2015). According to the Government of Lesotho UNAIDS estimates, HIV infects approximately 254,000 adults and 16,000 children. Nonetheless, access to antiretroviral treatment as well as Prevention of Mother-to-Child Transmission (PMTCT) programmes for HIV-positive pregnant and nursing women have now improved greatly. The pandemic has already resulted in a crisis of orphans (Tanga & Tangwe, 2014). The premature death of parents has led to an increased number of elderly, single-parent and child-headed households, which are more likely to suffer from poverty and food insecurity, further placing an unbearable burden on the extended family and other traditional community structures in particular. This situation has forced many children (some of whom may be HIV positive) to drop out of school in search of employment, in the process being subjected to exploitation and abuse. Related to this, UNICEF (2015) contends that about 17 percent of the children within the age group of 5-14 are child labourers. United Nations Development Programme [UNDP] (2017) further adds that the projection for the year 2016 shows that 48,000 children of ages 10-14, constituting 18

percent of children in that age group, are expected to be economically involved in child labour.

In the light of the situation portrayed above, the Lesotho Government and other institutions felt legally and morally compelled to introduce measures of providing protection and proper care of the minors. In an attempt to overcome these challenges, the Lesotho Government has formulated some legislations and policies, some of which include the *Child Protection Act, 1980*; *Rules and Protection of Juveniles deprived of Liberty*; *National Social Welfare Policy 2002*; *Adolescent Health Policy 2003*; *Children's Protection and Welfare Bill 2004*; *National Policy on Orphans and Vulnerable Children 2005*. This is coupled with domestication of various relevant international and regional instruments like the *United Nations Convention on the Rights of the Child 1989* and the *African Charter on the Rights and Welfare of the Child*) and established strategies to ensure implementation of legislation and guarantee adherence to various Conventions it has ratified. Recent years have seen all sectors across the board, both government and Non-governmental, partaking in various ways in childcare and protection initiatives.

## **2 Overview of the literature review**

### **2.1 Children without parental care and the mitigation of effects**

The Convention on the Rights of the Child [CRC] (1989) is the most rapidly and widely ratified international human rights treaty in history, placing the family at the centre of children's development (Tanga, 2013). A nurturing caregiver is considered the most important factor in a child's development of cognitive, physical and emotional skills, giving them the absolute best possibilities to thrive and reach their full potential. Early experiences and the environments in which children develop during their earliest years can have a lasting impact on their lives, and the more risks they are subjected to, the higher the impact on child development (Harvard University, Centre of the Developing Child, 2009). Article 18 of the CRC states that "parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child" (United Nations General Assembly, 1989). However, parents might find themselves unable to fulfil these obligations, rendering their children without parental care and protection under many conditions.

In such situations as described above, parents may decide that they are either unable or unwilling to provide necessities such as food, clothing, shelter, health care, protection and/or education, or the state may intervene to remove their children. Hence, these children may be regarded as children without parental care (Petrowski et al., 2017). The concept of children without parental care is defined as; "all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances" (UN, 2009). In Poland, Knuiman, HAM-Rijk, Hoksbergen and Van Baar (2015) revealed that most children without parental care still have both parents. Various factors such as poverty, health issues, family violence, and substance abuse can lead parents not to care for their children. Furthermore, parental death is one of the factors that contribute to the increasing number of children without parental care.

In order to mitigate the effects on children without parental care, some children end up in alternative care. Article 20 of the CRC stipulates that state parties are responsible for ensuring such care in situations where a child is "temporarily or permanently deprived of his or her family environment" (United Nations General Assembly, 1989). In 2009, the UN General Assembly adopted guidelines for the alternative care of children. The guidelines are

recommendations to governments for fulfilling the UN Convention on the Rights of the Child in Article 20. The basic rationale behind the guidelines is that “every child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment” (UN, 2009).

There are various forms of alternative care such as kinship and non-kinship foster care and Child and Youth Care Centres. Many traditional African societies view the care and upbringing of children as a responsibility shared by parents, extended family and the larger community and this dates back to the pre-colonial times (Biemba et al. 2010). Kinship care in Africa is an integral and inseparable part of what constitutes a family, guided by cultural norms and traditional values that view the care of children as the binding duty of all family members (Assim, 2013). In the same way, the African concept of “Ubuntu” upholds that all humanity is believed to be interconnected through a shared universal bond (Dreyer, 2015). However, the continuing impacts of HIV and AIDS, coupled with poverty and inequality, political and economic instability, and armed conflict, have put a strain on the ability of the extended family and kinship system to absorb childrearing responsibilities in situations of parental loss (Assim, 2013; Tanga, 2015), thereby living children without parental care. Therefore, faith-based organizations, international and national NGOs and private donors have stepped in to create institutions in order to respond to the growing number of children who have been orphaned due to various causes (Petrowski, Cappa & PterGross, 2017).

In South Africa for example, a child is placed in alternative care if the child is found to be in need of care and protection (Heyman, 2016) and the conditions are contained in section 150 of the Children’s Act No. 38 of 2005 (Republic of South Africa, 2005). The unfortunate children find themselves on the streets and suffer from continual exposure to drug abuse, violence and hunger (Makofane, 2015). Most of these children run away from home environments that are abusive and dysfunctional, while others run away from lives rooted in multiple household problems such as family violence, divorce, alcohol abuse, poverty and maltreatment (Myburgh et al., 2015). Consequently, harsh environments on the streets, resulting in low self-esteem and negative treatment from the public, affect them.

Some children without parental care are force into child-headed households. According to James and Prout (2015) child-headed households, exist due to the death of parents or the abandonment of children by their parents and when parents are sick. Children who are the heads of their households are faced with different challenges, which may include an increased responsibility for the family, lack of grief support, shortage of resources, increased school absenteeism and withdrawal, poor school performance, inadequate access to medical care and sexual exploitation of young girls (Pillay, 2015). In some instances, children without parental care end up in prisons or detention centres. In most countries, children in conflict with the law or who have committed crime(s) are removed from their parents and are held in juvenile prisons or prison-like facilities (Nethery & Silverman, 2015) where the best interests of the child(ren) should be taken into consideration. As Nethery and Silverman (2015) maintain, in the majority of institutions, children become bored, restless and demotivated, terrified, and isolated.

## **2.2 Children’s rights**

The United Nations Convention on the Rights of the Child (1989) stipulates a combination of protective, welfare, moral and political rights, summarized by what has been termed the three P’s of children’s rights: provision, protection and participation. The first ‘P’ stands for the

right to provision, which is the right to an adequate standard of living, health care, education and services (Imo & Ansell, 2014). Provision includes alternative care, love, care and support. Denzin and Giardina (2014) maintain that state parties should provide rehabilitative measures for children who are victims of neglect, abuse and exploitation. Also, the African Charter on the Rights and Welfare of the Child [ACRWC] 1999 views children as people who deserve rights and dignity. Every African country uses ACRWC as a plan to observe the rights of African children (Franceschi, 2014).

The second ‘P’ stands for the right to protection and Laverack (2014) defines it as preventing and responding to violence, exploitation and abuse against children. Violence against children includes commercial and sexual exploitation, trafficking, child labour and harmful traditional practices such as genital mutilation and forced child marriage. According to Moody (2015), the Declaration on the Rights of the Child was the first children’s rights legal instruments in 1924. It asserted that children must receive any kind of relief when they are distressed. They must be protected from all kinds of abuse and their talents must be recognized. The 1924 declaration specified that the needs of the sick, backward, orphan, poor and hungry must be met, thus creating a welfare principle in the protection of children. It acknowledged that children are equally entitled to rights in their own accord, making the subjects of the international law, rather than objects to be protected by others. According to the CRC, children should live in a conducive environment that will allow them to grow up and develop fully. The child could develop positive experiences if the environment is favorable but, if not the risk can affect the child’s development, including physical and mental health development (Razgale et al., 2014).

The third ‘P’ stands for the right to participation, which means the continuing processes whereby children and their views are involved with, and contribute to, activities and practices at different levels on matters that concern them (Ruck et al., 2016). Child participation is not only a significant right by itself but can have a double contribution to the lives of children; empower and improve their skills and competences. Gillett-Swan and Swan (2015) state that Convention on the Rights of the Child [CRC] (1990) calls for the entire commitment of the community to intentionally and actively involve children as main participants in the designing and implementation of support services for them. In addition, the child’s right to participation and freedom of speech and opinion are contained in the CRC, articles 12 and 13. According to Johannisen (2014), children’s right to participation is also contained in the United Nations Convention on the Rights of the Child (1989), which states that participation allows children to develop confidence in themselves as social actors who act as change and agents who have some control over their lives. However, according to Ruck et al. (2016), children are no longer bearers of rights.

### **3 Research Methodology**

The study used two methods of data collection, namely; secondary data from literature review and focus group discussions with representatives of various stakeholders in Lesotho.

#### **3.1 Research approach and design**

We adopted the qualitative approach, which is characterised by in-depth enquiry and places emphasis on participants’ perceptions. A qualitative methodology usually provides rich, detailed data and is more flexible, less structured and open to unanticipated data (Daniel, 2012). The method examines ideas, motives, themes, words and observations of a small number of cases in detail (Creswell, 2014). Furthermore, the qualitative approach is a way of describing and understanding a phenomenon from the participants’ viewpoints in order to

have a broader understanding of the complex situation (De Vos, Strydom, Fouché & Delpont, 2011). This is the most fitting approach because the researchers sought to explore participants' perceptions on issues of children's rights in Lesotho. The specific research design was exploratory, which provides a well-grounded picture of the situation of children without parental care in Lesotho. An exploratory qualitative approach was also adopted, when exploring the perceptions of participants about a particular topic in which the researcher wants to develop initial ideas (Neuman, 2015). Such a qualitative design is appropriate for understanding the perceptions of relevant participants on the issue of children's rights in Lesotho. Due to its flexibility, it enables the researchers to address research questions of all types (what, why, how) (Yin, 2009).

### **3.2 Sampling technique, method and procedure of data collection**

A purposive non-probability sampling method was employed in the selection of a sample of 13 participants representing ten organisations. The rationale for the choice of this sampling method was that the researchers were interested in selecting a sample that could adequately answer the questions and one that contains the most characteristic, representative and typical attributes. According to Daniel (2012), this technique is most useful in providing rich information about the topic of the study. Purposeful or judgemental sampling is when a researcher uses his or her own judgement and expertise in selecting the participants who are knowledgeable to the study (Kumar, 2011).

Formal letters were sent to ten purposively selected organisations and institutions with requests for them to nominate a representative whose duty or responsibility in the organisation included overseeing children's rights programmes and/or had been working with children. Personal contacts were then established with the individual representatives who subsequently participated in the focus group discussions. The stakeholders' focus group discussions took place in December at the Lesotho International Sun Hotel, a private location. This was to ensure a conducive and secure environment to draw out credible information from the discussions with the participants. The stakeholders included representatives of the following:

1. Government departments - Department of Social Welfare, Master of the High Court, and the National AIDS Commission.
2. Public Security and Safety was represented by the Child and Gender Protection Unit (CGPU) of the Lesotho Mounted Police Service (LMPS).
3. Local and International NGOs were represented by Red Cross Lesotho, SOS Lesotho, Care Lesotho, Lesotho Save the Children and Lesotho Save the Children's Help Line.
4. Orphanages were represented by Beautiful Gate.
5. The National University of Lesotho was represented by a team of three lecturers.

A carefully planned programme with detailed expectations of the participants as well as the overall process was forwarded to participants in advance, which facilitated their effective participation. They were split into two groups and each group dealt with all the questions and issues (focus group discussion guide) that were sent to them one week before the focus group discussions in different rooms. One group was made up of seven participants and one researcher while the other group had eight participants and one researcher. After the two focus

group discussions, the two groups assembled in one venue where there was a general session characterised by further discussions, questions and answers. The process was guided with minimal interruption by the researchers, two of them were from the National University of Lesotho. The participants being experienced persons in the field of children's rights, the process flowed smoothly and almost naturally. The discussions were audio-recorded with the consent of the participants.

### **3.3 Data analysis**

Data generated from the focus group discussions was analysed thematically. Tesch's (1990) grounded theory method of analysis was used. This encompassed a process called coding and categorizing of data, which was done by breaking the data down into units for analysis and then categorizing the units. This was achieved by using taped and transcribed interviews and field notes data. Contradictions, missing information, commonalities and uniqueness in content were identified in consideration of the research questions. The data is reported in major themes and guided by the research questions as suggested by Tesch (1990). This method was deemed best because of its explorative nature, suitable for capturing qualitative interview data.

### **3.4 Trustworthiness, conformity and credibility**

To ensure that findings were credible and trustworthy, triangulation was used in order to crosscheck, validate and verify information. The triangulation of sources method was employed through cross verification from a number of sources. This means that participants did not only come from one institute or organisation but from different organisations (public, private, NGO, civil society and university), with different viewpoints. This helped to curb bias and enhance the provision of reliable information. The researchers used perspective triangulation by using multiple perspectives to examine and interpret the information that was obtained through focus group discussions. Using more than one perspective to investigate the research questions ensured that diverse viewpoints casted light on the topic. Peer examination was also adopted to ensure the dependability of the data. Trustworthiness, conformity and credibility were ensured in accordance with Kumar (2011), who maintained that checking credibility of the data could be through multiple sources while dependability could be through peer examination. Similarly, conformability could be ensured through triangulation of methods while transferability could be a detailed description of the research context (Kumar, 2011).

### **3.5 Ethical considerations**

The following ethical principles were strictly observed: confidentiality, informed consent, voluntary participation and avoidance of harm as suggested by Leedy and Ormrod (2013) and Denzin and Lincoln (2014). In observing the informed consent principle, the researchers thoroughly explained the purpose and nature of the study to the participants prior to commencement of the focus group discussions. The researchers avoided harm by ensuring that participants were not put in a situation where they could be harmed physically, emotionally or psychologically. In upholding voluntary participation, the participants were not coerced in any way to participate in the study. Lastly, in upholding confidentiality the participants were assured that their information would not be shared with other participants and pseudo names would be used when presenting the data whenever necessary.

## **4 Results**

The findings are presented according to the following themes: Understanding of the meaning of children without parental care, the number of children without parental care, the major reasons for lack of and specific risks of children without parental care, rights violations and factors associated with child rights violations.

### **4.1 Understanding of the meaning of children without parental care**

One of the first things during the two focus group discussions was to determine the understanding of all the stakeholders regarding children without parental care. A common understanding of the meaning of children without parental care was that these are children who have lost one or both parents due to HIV and AIDS, illness and other causes; those separated from parents due to a variety of causes; those living in residential institutions and child-headed households; and those placed in alternative care by court decision. However, the professional understanding and interpretation of no parental care varies according to professions. While the legal experts might see lack of parental care from a judicial point of view, social workers could view it from a social perspective while economists might point to economic issues. One of the participants said:

Because we are from different professional orientations, we are going to have different understandings and meaning of children without parental care. Social workers might define children without parental care differently from judicial or legal experts (Representative of the Master of the High Court).

Nonetheless, the consensus shared by most professionals during the two focus group discussions revealed that absence of parental care manifests in some characteristics, attributes or features of a child, among which includes the following: first, children without access to basic needs, which include education, shelter, clothing and psychological support (emotional, spiritual and leisure). Secondly, it is a state of being neglected or abandoned. Thirdly, it means no fundamental parental supervision. In addition, it signifies a manifestation of lack of personal assurance (this includes low self-esteem and feeling of inferiority complex). Finally, it is also seen as a situation where children are facing food insecurity and lack of access to health in terms of basic hygiene. One social worker representing the Department of Social Welfare expressed her viewpoint regarding the consensus understanding of what children without parental care as follows:

I'm glad that we have come to a common understanding of what children without parental care is all about. Although we have not defined it in one sentence, we could come up with diverse intervention actions as a collective in helping these vulnerable children of this country.

In Lesotho, according to the consensus from the participants, children living without parental care were mostly orphaned children, children heading households. Furthermore, the findings revealed that children in the rural areas, especially in Quthing and Mokhotlong districts, who were mentally retarded, those with various disabilities as well as those with separated or divorced parents were seen as children without parental care.

### **4.2 The number of children living without parental care**

The issue of interrogating how many children in Lesotho were actually living without parental care, given the above definition of living without parental care could not be addressed with accurate precision. The nearest estimate can only be generated through an insight on the



number of orphans in the country, who are the only children in this category about whom adequate records exist. The number of children estimated to be orphaned by HIV and AIDS is about 74.000 (UNAIDS, 2014). Although there are conflicting figures on the number of orphans in Lesotho, the fact is that the number of orphans has been fluctuating. From HIV and AIDS alone, there were 4 320, 68 000, 92 000, 100000 and 74, 000 for the years 1996, 2001, 2003, 2004 and 2014 (UNAIDS, 2014), while in 2013, there were 130,000 orphans within an estimated number of 170,000 from all causes (UNICEF, 2014b). According to the Ministry of Education and Training (2006), males constitute 49.8 percent, while girls make up 50.2 percent of the total orphans. Within the population of 515,465 children in Lesotho between the ages of 6-18 attending school, there are 175,650 orphans, which constitutes 43 percent. Of these orphans, 80 600 (46 percent) are in school.

In estimating the trend of change over time, there has been a steady increase in the number of orphans in Lesotho from 1996 to 2008 and to 2014. Although the first case of HIV was first detected in Lesotho in 1986, within ten years, that is 1996, more than 4,000 cases were reported and by 2008, this number had exceeded 175,000 and by 2014 we had 170 000 (Bureau of Statistics, 2008). This escalation led the government to declare HIV and AIDS a national disaster in 2002.

### **4.3 Major reasons for lack of parental care**

Among other reasons for lack of parental care, stakeholders unanimously agreed on the death of parents, resulting from both AIDS and other diseases. One participant noted that:

HIV and AIDS have ravaged the population of this country as if we were chosen for punishment. Both adults and children are dying every day; the worst is the death of adults, leaving children to be orphaned, beggars and destitutes in the streets of all our towns (SOS Lesotho representative).

The participants also agreed that the presence of HIV and AIDS or other terminal diseases confronting the parents would probably lead to lack of parental care. The findings also show that domestic violence and conflict in the family increased the risk of lack of parental care. One participant remarked that:

In Lesotho there are plenty of broken homes resulting from drug and alcohol abuse, especially by men and this leads to the perpetration of domestic violence on their wives and children, with its many concomitant repercussions (Representative of Care Lesotho).

General poor health conditions of parents, especially given the fact that the country has poor health infrastructure to cater for the health of its citizenry was also given as a reason for lack of parental care for children in Lesotho. The participants explained that health insurance did not extend to the common person, though the government has drastically reduced the amount of money for consultation and medication in hospitals. The stakeholders in the two focus group discussions were of the opinion that with fewer equipped hospitals and clinics as well as doctors and nurses, the health of the Basotho is uncertain.

### **4.4 Specific risks of children without parental care**

Children without parents are very likely to be confronted with an array of social and economic problems. The stakeholders suggested that given their experiences in working with children of this category, the problems or risks might manifest in different ways. First,

children whose parents are living with HIV often experience many negative changes in their lives. They begin by suffering from neglect, especially emotional neglect long before the death of their parents. In addition, such children suffer from psychological distress, anxiety, depression and anger, which can be directed at different people and/or to self. One of the participants from SOS Lesotho noted that:

There is usually withdrawal from normal activities such as playing with other children as well as even from schooling because they have to take care of their sick parents or siblings and support them economically and socially.

It was disclosed by the participants that exposure and vulnerability of such children to sexual abuse and exploitation was very common in Lesotho. According to the participants, young girls, most of whom are orphans because of lack of parental care, get involved in sex work in urban areas. Consequently, child prostitution in the country is poverty-driven rather than commercial entrepreneurship driven as the participants remarked. The consequences of prostitution are many and include susceptibility to HIV and AIDS and other chronic or terminal diseases. All the participants reported that other areas of child abuse and exploitation resulting from lack of parental care included boys serving as stock herders, car washers, bus conductors for taxis and shop packers while girls were most likely going to be involved in domestic services as domestic servants, and both boys and girls were also likely going to be engaged in street vending. Although the urban orphans were most likely going to face many risks and problems, such as struggling with drug and alcohol abuse and committing other delinquent acts, the participants agreed that those in the rural areas faced the most hazardous conditions such as livestock herding and different types of exploitations.

Another major risk discussed by the participants was the issue of substance abuse, which is becoming prominent among children who are in this category, especially if they want to find solace for their worries and pains. The participants agreed that there was poor morale and low self-esteem that characterised children without parental care, especially those whose parents were infected with HIV, given the stigma and discrimination that is rife in Lesotho. The participants reported that experience shows that those infected with the virus were still being victimised as capable of infecting those around them. Some of them were isolated and mocked by other children both at school and in their communities, many participants maintained.

The participants were very bitter about property grabbing by relatives of deceased parents. This was one of the serious risks facing children without parental care. It was discussed and debated at length with the consensus that property grabbing by relatives of deceased parents left children without anything to rely on as life collateral. One of them said:

The loss of property rights is a common phenomenon in Lesotho as relatives inherit the property of their loved ones while the children are left to struggle on their own or with little or no support from such relatives (Representative of the Department of Social Welfare).

It was also revealed during the focus group discussions that there was low enrolment in schools and low performance in education in Lesotho. Despite free primary education in Lesotho, most orphans lack uniforms, books, school fees and other necessities, which their caregivers cannot afford. Apart from the low enrolment of orphans in schools, even those that

attend school perform poorly in their academic work because of various reasons associated with their orphanhood, including social stigma and discrimination.

#### **4.5 Rights violations faced by the children without parental care and factors associated with child rights violations**

The major child rights violation faced by children without parental care in Lesotho, as reported by the participants, is presented in brief based on the major CRC 1989 major articles pertaining to children's rights. Article 1 of the CRC (1989) is on non-discrimination but in Lesotho, as the focus group discussion participants agreed, this right, for many of the children without parental care, is violated for various reasons. Some of the reasons include, but not limited to, child or parent's HIV positive status, parents' death due to AIDS, family poverty and destitution, disability of either child and/or parent. Furthermore, the right of children without parental care to survival and development as spelt out in Articles 6, 7, 8, 23, 27-29 of the CRC was also seen by the participants as being violated in Lesotho. The participants maintained that the majority of these children had no or have minimal access to basic needs, including food, shelter and clothing. They also reported that many of them were confronted with health and life threatening illnesses; suffered from food insecurity and child labour.

On the right to protection, which is contained in Articles 5, 9, 19-20 and 37 of the CRC 1989, children without parental care in Lesotho suffer from lack of protection. The findings show that because of lack of protection of children without parental care, they become vulnerable to being abused, forced marriages, early sexual involvement, property grabbing, corporal punishment, domestic violence, child labour/ trafficking, female genital mutilation and forced circumcision. Finally, the CRC 1989 stipulates children's right to participation (Articles 2, 18 and 23). As indicated in the focus group discussions, this right is an illusion in Lesotho for children without parental care. According to the participants, these children are unable to express their opinions freely about decisions that affect them. In summary, one of the participants maintained that:

Many of these children's rights are violated by members of their family and community, especially their peers and even teachers at schools. It is common knowledge what these children go through because their voices are not heard, regarding matters that concern them. Take for instance, what we have discussed regarding property grabbing by relatives (Representative of the National University of Lesotho).

Some of the actions that are constitutive of violation of child rights are perpetrated by the society and families due to various reasons and prevailing circumstances. Issues identified by the participants included the socialisation process, which dictates certain traditional practices and behaviour. In some parts of the country, a few cases, as indicated by some participants, female genital mutilation is still being practiced while male circumcision by traditional doctors, with its many consequences, is still rife across the country and it is unregulated. Secondly, the participants noted that the personal background, including traumatic upbringing and experiences of children without parental care negatively affected them. Furthermore, they noted that there was ignorance by many people of what constituted child rights, not knowing the law and children's rights. During the stakeholders' focus group discussions, it was established that most geographical areas/ districts in Lesotho may need some additional services, but the following areas were in greatest need; ThabaTseka, Qacha's Nek and Mokhotlong, where there are basically no institutionalised players and other stakeholders like non-governmental organisations. Furthermore, some urban settlements around the factory areas were also found to be in need of some attention. Notably, categories of children in

greatest need of additional services included the orphans and vulnerable children, including children with disability, children of parents working in the factories/ textile industries as well as children out of home based care.

In addition, there is there are myths around HIV transmission, questioning the authority of the older persons in the family and in the community and cultural notions that reduce children to objects, property or anything that is owned include the unquestionable decisions on behalf of children by parents and the older members of the community; presenting the first salary/wage to the family members amongst others. Finally, the participants agreed that poverty and greed in society were some of the factors leading to child right violations in Lesotho. All of these negatively affect children without parental care.

## **5 Discussion**

This paper has highlighted the consensus in the understanding of what is meant by children without parental care in Lesotho from the perspectives of different child rights' stakeholders. It was necessary to have a common understanding by all the stakeholders to be able to plan holistic interventions towards solving/resolving the issues confronting children without parental care. This is important as issues confronting children without parental care are not only the responsibility of the government but also civil society, NGOs and all other stakeholders. The actual number of children without parental care is a matter of debate and a contentious issue. The conflicting figures usually do not enhance better planning, monitoring and evaluation of government and other stakeholders' interventions. Therefore, the promotion and protection of children's rights as well as advocacy, counselling and referral, the provision of care and accommodation, and an integrated care and support (UN, 2010) will require accurate estimates of the number of children without parental care. A proper disaggregation of the numbers into different categories, whether orphans (single or double), neglected because of different reasons, abused by different persons, abandoned amongst others is necessary. In this way, better planning and implementation of programmes is targeted according to needs.

This paper has also contributed to the major reasons for lack of and specific risks of children without parental care in Lesotho. The overwhelming majority of these children are orphans, especially those resulting from HIV and AIDS, given the magnitude of the disease in Lesotho, where prevalence currently stands at 24 percent (UNICEF, 2015). The AIDS situation in Africa was described in the following words: "The increased spiral of adults in many countries means that the number of children orphaned each day is expanding exponentially. Africa is staggering under the load" (Avert Organisation, n.d.). This explains the situation of orphans in Lesotho. The loss of a parent to AIDS has serious repercussions for a child's access to necessities such as shelter, food, clothing and health as well as education. Many orphans, especially boys, turn to drugs and alcohol. In order to survive, they commit a variety of social vices such as stealing, burglary and pick pocketing, and the money they get is sometimes used for the purchase of drugs and alcohol. These findings concur with a study carried out by Vachon et al. (2015), which identified forms of child abuse and harmful traditional practices such as property disinheritance. In Lesotho in general, it is estimated that about 17 percent of children aged 5 – 14 years are child labourers and orphans constitute the majority these. When orphaned, children do not have any means to survive; there is a likelihood that they can easily be promised employment or better living elsewhere. Such children are exposed to human trafficking and other forms of exploitation as also reported by the U. S. Department of State (2014).

The grieving of children from dying or dead parents often results in stigmatisation in most communities in Lesotho when parents' deaths are associated with HIV and AIDS. The children whose parents are dying of AIDS experience distress and social isolation and this is exacerbated by fear, shame and rejection. There is also low self-esteem resulting especially from stigmatisation and discrimination. Most of these children in Lesotho have lost their identity, that is, a sense of belonging to a family and community as relatives are grabbing the property left behind by the deceased parents. This is because the male relatives believe that the property of the deceased belongs to the family and not the children who do not have a voice or power of taking decisions for themselves, as was reported by Tanga (2015). This constitutes violation of the rights of children without parental care. The UNCRC stipulates the rights to provision, protection and participation but this is far-fetched in Lesotho for the children without parental care. This accounts for the reasons for property grabbing and lack of holistic care and support.

## **6 Conclusion**

There are numerous threats or risks associated with children living without parental care and some include struggling with drug and alcohol and committing delinquent acts for survival; vulnerability to sexual abuse and different types of exploitations. The HIV prevalence rate of 24%, which is one of the highest in the world, is a precursor of the increased death of parents. The consequence is that this leads to increased child-headed households and other categories of children without parental care, who are more likely to suffer from various adversaries. Another serious consequence of the lack of parental care is the increase in children drop outs from school, which has negative repercussions on the future of the country. The lack of parental care has also promoted child trafficking and child labour, which are strongly believed to be prevalent in Lesotho. This analysis has established some existing gaps in required services in child rights protection. Despite the domestication of regional and international instruments on the rights of the child, as reported in the section of this study highlighting the situation in Lesotho, the government and other stakeholders have not succeeded in promoting and protecting the rights of children without parental care. This demonstrates its failure to effectively implement, monitor and evaluate its programmes vis-à-vis the rights of children without parental care. This has given rise to the violation of the children's rights on different fronts.

## **7 Recommendations**

The following recommendations are proffered to improve the conditions of children living without parental care:

Firstly, the state should empower and strengthen the family as the basic unit for the growth and development of orphans and vulnerable children. The respect of the rights of the child should begin in the family and this can only happen when there is a caring family environment, as the family serves as the child's first line of protection. This can be achieved through different community education and campaign programmes. Similarly, the empowerment of the parents in general on children's rights, care and protection is very vital in the realisation of children's rights. Emphasis should be on re-integration of vulnerable children in families that have a caring adult, and ensuring that families do not disintegrate further. However, this empowerment of parents can only be achieved if there are more childcare professionals, including counsellors, psychologists and social workers to offer professional guidance and support to children. Governmental departments, as well as other stakeholders such as local NGOs, faith-based organisations and civil society, could also offer these programmes.

Secondly, there should be establishment of more home based care centres, especially in the rural areas such as Thaba-Tseka, Qacha's Nek and Mokhotlong. These are districts where children's rights are violated the most and this is because the parents and community members believe so much in cultural practices, which are harmful to children's overall development. In addition, the government and other stakeholders should institute training of Children in life skills and psychological support as well as the strengthening of community-based child protection initiatives. In addition, there is a need for instituting monitoring systems on children's rights. This should be supported by proper dissemination of information pertinent to children's issues and a strong advocacy mechanism on child rights across the board. Finally, there should be an introduction of youth-extension follow up programmes as well as Child/Youth Grant and empowerment programmes for those children without parental care. Financial support will enable them to be well functional, hence a need for sustainable funding or support for starting some income generating activities.

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