ASSESSMENT OF CAPACITY TO MANAGE ALTERNATIVE CARE FOR CHILDREN IN SOUTHERN AFRICA

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Contents

ACKNOWLEDGEMENTS

ACRONYMS

ACC - Area Coordinating Committee (Zambia)
AIDS - Acquired Immune Deficiency Syndrome
ART - Anti-Retroviral Therapy
ARV - Anti-Retroviral
C & P - Care and Protection
C&YPA - Children and Young Persons Act
CCP - Community Child Protection ((Malawi)
CCSO - Child Care Service Order (Swaziland)
CD4 - Cluster of differentiation four
CHH - Child Headed-Household
CICL - Children in Conflict with the Law
CONGOMA - Confederation of NGOs Malawi
CRC – Convention on the Rights of the Child
CSG - Child Support Grant (RSA)
CWSA - Child Welfare South Africa (RSA)
DACC - District AIDS Coordinating Committee (Malawi)
DCD - Department of Child Development (Malawi)
DCS - Domestic Violence and Child Protection Section of Police (Swaziland)
DDP - District Development Plan (Malawi)
DfID - Department of International Development (UK)
DoSD - Department of Social Development (RSA)
DPP - Department of Public Prosecutions
DSW - Department of Social Welfare
DSWO - District Social Welfare Officer
DWAC - District Welfare Assistance Committee (Zambia)
ECD - Early Childhood Development
ESAR - East and Southern Africa
ESARO - East and Southern Africa Office of UNICEF
FBO - Faith Based Organisations
FCG - Foster Care Grants (RSA)
FHI - Family Health International
GHS - General Household Survey
GRZ - German Agency for Technical Cooperation
HBC - Home Based Care
HIPC - Highly Indebted Poor Countries
HIV - Human Immunodeficiency Virus
HSRC - Human Sciences Research Council
HSA - Health Surveillance Assistants (Malawi)
ICRC - International Committee of the Red Cross and Red Crescent
IDTR - Identification, Documentation, Tracing and Reunification
IDS - International Development Studies, University of Sussex
IGA - Income Generating Activities
ILO - International Labour Organisation, UN
INGO – International Non-Government Organisation
JCE - Junior Certificate Examination (Malawi)
KZN - Kwa-Zulu Natal
LL - Lihlombe Lekukhalela ('a shoulder to cry on' - volunteers) Swaziland
M&E - Monitoring and Evaluation
MCDSS - Ministry of Community Development and Social Services (Zambia)
MGDS - Malawi Growth and Development Survey
MHRC -- Malawi Human Rights Commission
MICS - Multi-Indicator Cluster Survey
MINMEC - Minister and Members of the Executive Committees' Council (RSA)
MK - Malawi Kwacha

MoE - Ministry of Education
MoGCWCS - Ministry of Gender, Child Welfare and Community Services (Malawi)
MoHSW - Ministry of Health and Social Welfare (Swaziland)
MoLG - Ministry of Local Government
MoLG&RD - Ministry of Local Government and Regional Development (Malawi)
MRDYA - Ministry of Regional Development and Youth Affairs (Swaziland)
MSW - Ministry of Social Welfare
MSYCD - Ministry of Sports, Youth and Child Development (Zambia)
NACCW -   National Association of Child Care Workers
NCP - Neighbourhood Care Points (Swaziland)
NGO - Non-Governmental Organisation
NIP - National Integration Plan (RSA)
NJJF - National Juvenile Justice Forum (Malawi)
NPA - National Plan of Action
NPO - Non Profit Organisation
OVC - Orphans and Vulnerable Children
PEPFAR - President's Emergency Plan for AIDS Relief
PHC - Primary Health Care
PLW(H)A - Persons Living with (HIV) AIDS
PSS - Psychosocial Support
PTA - Parents Teachers Association
PWAS - Public Welfare Assistance Scheme (Zambia)
REPSSI - Regional Psychosocial Support Initiative
RHM - Rural Health Monitors (Swaziland)
SASSA - South Africa Social Security Agency
SC - Save the Children
SCOPE - Strengthening Community Partnerships for Empowerment
SCN - Save the Children Norway
SCS - Save the Children Swaziland
SGBV - Sexual and Gender Based Violence
STD - Sexually Transmitted Diseases
SWAGAA - Swaziland Action Group Against Abuse
SWO - Social Welfare Officer
TA - Traditional Authority (Malawi)
TOR - Terms of Reference
UK – United Kingdom
UN - United Nations
UNAIDS - United Nations Joint Programme on HIV/AIDS
UNCRC – United Nations Convention on the Rights of the Child
UNDAF - United Nations Development Assistance Framework
UNDP - United Nations Development Programme
UNICEF - United Nations Children's Fund
USAID - United States Agency for International Development
USD - United States Dollar
USI - Unlawful Sexual Intercourse
UCT - University of Cape Town
VCT - Voluntary Counselling and Testing (for HIV/AIDS)
VDC - Village Development Committee (Malawi)
VSS&CP - Victim Support Services and Child Protection (Malawi police section)
WFP - World Food Programme
WLSA - Women in the Law Swaziland
WUS - World University Service
WVI - World Vision International
YWCA - Young Women's Christian Association
ZANIS - Zambia News and Information Network.

DEFINITIONS

Below are some definitions of child care and protection terms used in this document.

Alternative Care: article 20(2) of the CRC accords to children temporarily or permanently deprived of their family environment, or in whose own best interests cannot be allowed to remain in that environment, the right to "alternative care." States Parties are required to ensure "alternative care" for such children in accordance with their national laws. Article 20(3) of the CRC provides that alternative care could include, inter alia, foster placement, kafala of Islamic law, adoption or if necessary placement in suitable institutions for the care of children.[1] With respect to its juridical nature, alternative care may be[2]:

- Informal care: which is any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.
- Formal care: all care provided in a family environment which has been ordered or authorised by competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures.

With respect to the environment where it is provided, alternative care may be:
- Kinship care: family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature.
- Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children's own family, which is selected, qualified, approved and supervised for providing such care.
- Residential care: care provided in any non-family-based group setting as defined below.

Residential care[3]: Residential care can also be defined as "a group living arrangement for children in which, care is provided by remunerated adults who would not be regarded as traditional carers within the wider society". However it is apparent from "Home Truths[4]" that residential care may now be wider and encompass: "children's homes" that are run as a family type group home accommodating a number of children that are not related to the person running the home. Here the staff may be volunteers or related to the person in charge. Some of these homes are not registered with any government department and may not be known to the authorities.

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[1] Child Rights Glossary, UNICEF, Innocenti Research Centre
[2] UN Draft Guidelines for the appropriate use and conditions of alternative care for children. June 2007
[3] David Tolfree (1995) Roofs and Roots: The care of separated children in the developing world, London, Save the Children UK.
[4] Home Truths; The Phenomenon of Residential Care in the time of AIDS, Children's Institute UCT 2007

Adoption: is a judicial process in conformance to statute in which the legal obligations and rights of a child toward the biological parents are terminated and new rights and obligations are created between the child and the adoptive parents. Adoption involves the creation of the parent-child relationship between individuals who are usually not naturally so related. The adopted child is given the rights, privileges, and duties of a child and heir by the adoptive family[5]. Under the draft UN Guidelines adoption is viewed as permanent care.

Kafala: Under Islamic law is an alternative means of child care for children deprived of their family environment, for example, abandoned or orphaned children. Under Kafala, a family may take a child to live with them on a permanent, legal basis, but that child is not entitled to use of the family's name or to inherit from the family.[6]

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[5] http://legal-dictionary
[6] Child Rights Glossary, UNICEF, Innocenti Research Centre

EXECUTIVE SUMMARY

This report, prepared for UNICEF East and Southern Africa Regional Office (ESARO) assesses capacity of Malawi, South Africa, Swaziland and Zambia to manage alternative care systems for children. It is timely as East and Southern African countries pilot and assess cash transfers to poor families, that are seen as having potential to reinforce extended family care. It is worth mentioning at the beginning of this document that it was difficult to obtain information on alternative care. For the most part there is no systematic data collection or collation centrally in these countries[7] on the children living in informal or formal alternative care. It is difficult to discern trends that are not anecdotal. The information that was gathered is not particularly comprehensive and is often not capable of being disaggregated by gender or age. The absence of reliable data makes it difficult without further research to provide details on the additional costs that need to be borne in order to provide a comprehensive social protection system that tackles issues of child care and protection in line with the United Nations Convention on the Rights of the Child (UNCRC) and the Draft United Nations Guidelines on Alternative Care.

UNICEF is developing a framework and strategy for social protection in East and Southern Africa Region (ESAR)[8] as well as realigning its management systems and structures to accommodate the trend towards establishing cash transfer systems and developing transformative social protection.

The Government of Brazil is developing a set of UN guidelines[9] now at a draft stage for the appropriate use and conditions of alternative care for children. The Guidelines emphasise the role of government and link together policies and activities in social protection and child care towards promoting the desirability of the care of children by their family or finding permanent solutions like adoption or kafala, and only where these are not possible or not in the best interests of the child securing the most suitable forms of alternative care.

The context for assessing the capacity to manage alternative care is poverty, HIV and AIDS, poor access to services and spatial organisation affected by large townships and peri-urban settlements or people living in remote areas, which can give rise to violence and crime.

The assessment found that there was a great range in the percentage of children living with both parents with 62% in Zambia compared to 22% in Swaziland. Few children (3-6%) are living with their fathers alone while an average of 22% live with mother in Zambia and Malawi and 38% in South Africa and Swaziland. Children living in a household with neither their mother nor father varied between 19% in Malawi, 22% in South Africa, 34% in Swaziland, and 12% in Zambia.[10] There is a significant amount of informal placement of children primarily with extended family members even though one or both parents are alive, which far exceeds

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[7] South Africa does collect and analyse more data that the other countries.
[8] Social Protection in ESAR: A Framework and Strategy for UNICEF, Draft 22 August 2007
[9] Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil
[10] See latest Demographic Health Survey Reports for these countries

the estimated 3-4% of double orphans in these countries. The reasons for placements in relatives' homes are complex but can be driven by such factors as migratory work, the location of a secondary or better schooling, the inability of parents to provide for their children and illness. Extended family placements are the preferred method of care for orphans and nearly half of these placements are with grandparents. Only in South Africa are these extended family placements formalised through social work assessment and the courts, after which a foster care allowance is paid. South Africa also pays a child support grant to children living in poor families while the other countries are gradually developing cash transfer schemes, which when fully implemented will, in the main, target poor families. There is insufficient capacity outside South Africa to manage informal care, but it is recommended that governments give consideration to looking at simple systems of guardianship and researching into those children informally placed with people who are not relatives.

The main form of alternative formal care is residential care but even here many placements are with unregistered children's homes without oversight from the state social work service or the courts. There are no precise figures readily available on the number of homes, their residents, reasons for admission or length of stay. It is estimated that 396 children's homes were registered in the four countries accommodating 24,340 children. In South Africa, the placements are regulated through the courts and are reviewed. It seems that children enter residential care because of abandonment, abuse, neglect and poverty. Apart from Malawi there are relatively few double orphans in the children's homes. The main issues concerning the children's homes are not their physical standards but, apart from in South Africa, the absence of formal processes of prevention, assessment, 'best interest' decision making[11], care planning, review[12] and reunification It is recommended to governments, who should be assisted in this by UNICEF and Non Government Organisations (NGOs) that children inappropriately placed in homes are reunified and supported to live with parents and relatives.

There are very few recorded cases of formal fostering with non-relatives and it appears relatively few children are adopted.[13] There is a particular issue with abandoned babies and young children being placed in residential care and remaining there. Research has demonstrated that young children who are institutionalised before the age of six months suffer long term developmental delay and other health and psycho-social problems. Consequently, it is recommended that children aged less than 3 years old, with or without disability, should not be placed in residential care without a parent or primary caregiver.[14] It is preferable that these children be fostered and then placed more quickly through the proper process for adoption.

Apart from South Africa, where policy and laws have been modified to address social change, in the other countries these reform processes are less well advanced and need to be accelerated. There is a role here for UNICEF and other agencies to provide long term technical support to

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[11] Art 3 UNCRC The best interests of the child: all decisions taken by states and other organizations regarding the care and protection of children should be in the child's best interests
[12] Art 25 UNCRC
[13] Figures were not available for national or inter-country adoption. Without more comprehensive data or oversight on adoptions there will always be concerns raised about trafficking
[14] Browne, K.D, Hamilton-Giachritis, C.E., Johnson, R. and Ostergren, M. (2006). Overuse of institutional care for children in Europe. *British Medical Journal*. 332 485-487 (25/02/06)

work on processes of information collection, knowledge management and monitoring through to advising on policy and legal frameworks.

In Malawi, Swaziland and Zambia the social welfare ministries and the decentralised district offices in Malawi are under-resourced and are becoming overstretched by the additional management involved in cash transfer payments. There is a danger that child protection will be relegated to being of secondary importance. It is recommended that these ministries are properly funded and that their staff receive improved salaries to help them manage the new social protection systems and child protection. Furthermore, district social welfare offices need to be given funds to pay for residential care placements that are properly made. This would give the district greater management control and responsibility over the growing residential care phenomenon, which is currently externally funded and beyond the control of social welfare offices.

The report then makes individual recommendations for each of the four countries which reflect the different national contexts. The final section of the report tries to place alternative care in the UNICEF ESAR social policy and social protection framework. Recommendations to government, UNICEF and other agencies are that still more emphasis needs to be placed on prevention, particularly keeping mothers alive (through improved health care and expanded access to Anti Retroviral Treatment (ART) and families together. There also needs to be improved systems of protection with an emphasis on family and community care with the use of residential care as a last resort. There is an opportunity for advocacy by UNICEF to help ensure that money available for social protection from governments and donors can also be used to build the capacity of social welfare ministries to undertake child protection as well as cash transfer work.

INTRODUCTION

This assessment report prepared for UNICEF ESARO provides information on the capacity of Malawi, South Africa, Swaziland and Zambia to manage alternative care systems for children. It sets the issues of alternative care into the wider development context and is timely as East and Southern African countries begin to pilot and assess cash transfers to poor families who have struggled to raise their own children and those of relatives who have died. This is seen as having considerable potential to reinforce extended family care.

The report is also timely for UNICEF ESARO which is developing a regional framework and strategy for social protection[15] as well as realigning its management systems and structures to accommodate the trend towards establishing cash transfer systems and developing transformative social protection.[16]

At the same time, the Government of Brazil is developing a set of UN guidelines,[17] at a draft stage in early 2008 that are "intended to enhance the implementation of the Convention on the Rights of the Child, and of other relevant provisions of international human rights law, regarding the protection and well-being of children who are in need of alternative care or who are at risk of being so." The Guidelines emphasise the role of government and link together policies and activities in social protection and child care towards promoting the desirability of the care of children by their family or when necessary finding other permanent solutions like adoption or kafala, and only where these are not possible or not in the best interests of the child in securing the most suitable forms of alternative care.

This assessment of the capacity to manage alternative care for children in southern Africa has the following objectives:
- Assess volume and quality of alternative care provision and informal care;
- Assess and analyse a sample of residential care;
- Critically analyse policy, law, standards and practice in the provision of alternative care;
- Critically assess the capacity to implement, monitor and report by government at all levels;
- Develop a country by country model of minimum capacity requirements and resources to manage systems of alternative care.

This report attempts to respond to these objectives by assessing capacity within the current draft ESAR social protection framework and strategy. There are already concerns that the trend towards expanding social protection may put capacity stresses on ministries of social welfare who could take on the task of delivering cash transfers while at the same time having the

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[15] Social Protection in ESAR: A Framework and Strategy for UNICEF, Draft 22 August 2007
[16] IDS Working Paper 232 Transformative social protection Stephen Devereux and Rachel Sabates-Wheeler October 2004 IDS, Brighton, Sussex England
[17] Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

responsibility for improving the policy, laws and quality of provision of alternative care.[18] This alternative care assessment is placed in the present social economic context and brought into sharp focus by the HIV and AIDS pandemic, which has been infecting and affecting children and their parents in Southern Africa since the 1980s. It describes the current living arrangements for children in the four sample countries and the informal family placements as well as the present provision of alternative care which is dominated by frequently unregulated and unmonitored, NGO-managed residential care in comparison to the small number of children in formal foster care or who are adopted. The residential care phenomena and weak government capacity to manage this sector or formal family alternative care lead to observations that the present trends of cash transfers and other support to families to look after their children and keep them together is advisable. It seems very important to develop with the currently available funds for social protection, preventative strategies and at the same time ensure that the smaller number of alternative care placements that should be needed are well managed, government funded and of good quality. This advocates for current social protection schemes to include the proper funding of child care and protection placements.

CONTEXT

The reasons for children requiring alternative care and protection are occurring within a rapidly changing environment in East and Southern Africa. The authors of "Home Truths" a paper on residential care in South Africa, thought that poverty and HIV and AIDS were both usually background factors, though not frequently the direct cause of admission into residential care. Although there are differences in wealth, population and historical legacy between South Africa and the other 3 countries, the context for many of the children at risk of needing alternative care are similar. The major differences are in the policy framework and resources that are being applied to deal with the situations. These are much stronger in South Africa than in Malawi, Swaziland and Zambia where laws, policies and services are inadequate to deal with the protection of children especially from violence and abuse.

HIV AND AIDS

The effects of HIV and AIDS on the populations of the 4 countries in this assessment are similar and for this section Malawi is used as an example. In Malawi, the HIV prevalence rate among adults aged 15-49 years was 14% in 2005.[19] The Malawi Demographic Health Survey (DHS,) 2004 estimates 86,000-100,000 die from AIDS annually, the majority belonging to the most productive age group (15-49 years). The number of people living with HIV and AIDS (PLWHA) is estimated at 1 million; of these it was estimated in 2005 that 83,000 were children. Mother-to-child transmission is said to account for close to 30,000 infections

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[18] Expanding child-sensitive social protection through institutional strengthening: learning from experience – work in progress through the Better Care Network Miriam Temin
[19] Sentinel Surveillance Report, National AIDS Commission

annually[20]. Of all the children infected, about 10,000 are receiving ART but recent research indicates that all those over 6 weeks of age could benefit from it.[21]

Although the figures used below are not always comparable for the 4 countries they are illustrative of the effect that it has on family life. Fathers, followed by mothers, are still becoming ill, non-productive and dying from AIDS. There is still mother to child transmission leading to infected babies, some of whom are receiving care in babies' homes.

Information on Orphans (estimates)

	Malawi[22]	South Africa[23]	Swaziland[24]	Zambia[25]
Number of Children	6.4 million	18,086,530 100%	530,000	4.8 million aged 0-14
Paternal Orphans	12.0%	2,221,156 12%	13.5%	12.0%
Maternal Orphans	6.0%	512.987 3%	5%	6.0%
Double Orphans	256,000 4%	626,362 3.5%	4.4%	116,000 2.9%
All Orphans	1,000,000+ 21%	3,360,505 19%	95,000 18%	20.9%

While the double orphans require care which is usually provided by relatives, in South Africa, NGOs and government social workers said that it is the loss of the economically productive adult rather than the loss of the carer which is more difficult for the family to manage in the long term.

It still appears that as well as health service delivery issues, there are many reasons why mothers and fathers are not going through voluntary counselling and testing (VCT) and/or not receiving/adhering to ART. There is stigma, fear of disclosure, complex family relationships and disempowerment of women. Evidence from the Rapids programmes in Zambia and anecdotal evidence from drop in/community centres in Kwa-Zulu Natal are that home based care (HBC) and family support raise the take up of ART and in other ways keep mothers alive. Coverage by NGOs and these centres is currently insufficient. Death of mothers and fathers from AIDS has a major and increasing impact on the ability of extended family systems to provide care and support for the children. Poverty, lack of space and age of carers results in an unknown number of these children (with a higher ratio of HIV infected children) being admitted into children's homes.

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[20] Unicef, draft Country Programme document, Malawi, 2006

[21] M.Chipimo, HIV/AIDS Manager, Unicef

[22] Malawi: DHS, 2004 - Final Report (English); all Malawi figures are for children under 18 in households

[23] Child Gauge Children's Institute, UCT Sources: Statistics South Africa (2005; 2006) *General Household Survey 2004;General Household Survey 2005*. Pretoria, Cape Town: Statistics South Africa. Analysis by Debbie Budlender, Centre for Actuarial Research, UCT.

[24] Swaziland Demographic Health and Health Survey 2006-7, all figures are for under 18 years

[25] OVC Situation Analysis Vol 3 Data Review, Unicef Zambia 2004

POVERTY

Poverty appears to be a major contributory factor for the use of residential care and affects the ability of parents and relatives to care for the children. Grandparents who are too old to work and earn an income are frequently caring for their grandchildren. Although South Africa is a middle income country, poverty affects 60% of the population and ethnic groups differentially. Poor housing has left an estimated 4.8 million children living in overcrowded conditions.[26]

For the other sample countries, Zambia is used as an example. 67% of Zambians are poor and 46% of Zambians live in extreme poverty[27]. (Poor refers to people who have the capacity to meet their basic nutritional needs, but are unable to cater for additional necessities such as health, shelter, clothing and education. People in "extreme poverty" are unable to cater for basic nutritional requirements and suffer from poverty across generations.) Among these poorest of the poor, 25% of households are headed by elderly persons and 27% by women. Poor children begin school at an older age with attendance rates for 7-13 year olds at 75% across the country but this lowers to 68% for the extremely poor.

SPATIAL ORGANISATION

In Southern Africa, many people are migrating to urban areas to seek employment and find themselves living in large unplanned peri-urban settlements such as in Kabwe in central Zambia. This settlement is long established, but lacks all basic infrastructure and many children make their way from here onto the streets of Lusaka. Poor populations particularly in South Africa have historically suffered from separation of families because of employment practices and being contained in poor townships. While this situation is changing the staff of Ubumbano Drop in Centre, Umlazi, Kwa-Zulu Natal (KZN), based in the second biggest township in South Africa with a population of 1.7 million, were concerned about their inability to deliver services to even their small allocated geographical area because of overcrowding, endemic poverty of single parent households and crime/violence. These facility managers providing food parcels, VCT, partial care and home based care were convinced that community support and encouragement was vital to keep families together and to improve take up and adherence to ART. There are different spatial factors that affect poor remote communities in rural areas particularly lack of access to services and transport.

ACCESS TO SERVICES

Access to health and education are important for children from poor families. In all the countries except Swaziland, primary education tuition is universal and free. Despite the abolition of school fees in Malawi in 1994, over 10% of eligible children are not in school. 60% of those who enrol in standard 1 have dropped out by standard 4; this is particularly the case with girls.[28] There are frequently hidden school charges imposed locally for PTA, maintenance and improvements, not to mention school uniforms. Although there are in South

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[26] Child Gauge, Children's Institute, UCT
[27] Zambia Living Conditions Monitoring Survey Report, 2002-3, Central Statistics Office
[28] Unicef, draft Country Programme document, Malawi, 2006

Africa and in theory in the other countries exemptions even from these charges there is a strong connection between poverty and education, for example in Zambia, where only 33% of poor households are headed by a person with secondary education. Hidden education costs and health user-charges affect the ability of the poor to access these services and in Kafue District in Zambia, the Public Welfare Assistance Scheme (PWAS) is often used to pay for school uniforms, school maintenance costs or costs involved with transport for CD4 tests or collecting ART. Education and health costs affect the capacity of poor families to provide quality care for relatives' children. Free education is often cited as a pull factor with regard to admission into residential care[29] particularly with unregistered homes.

UNICEF[30] has come to the conclusion that the consequences for children of poverty, food insecurity exacerbated by HIV/AIDS, with recurring emergencies and weak governance, make it essential for UNICEF to focus on lifting the income of the poorest households with children, while also investing in the human capital of children.

VIOLENCE, ABUSE AND CHILDREN AS VICTIMS OF CRIME

In Swaziland the records of the Domestic Violence and Child Protection Section of the police show that of the 801 rapes of females in 2006 - 472 were girls, i.e. 59% were under 18 years. Swaziland Action Group Against Abuse (SWAGAA) also reported that rapes of children came to two thirds of the total reported to them (172 of 269). The High Court hears 20 rape cases per week against children under 16 years old. The hot line to Ministry of Education (MoE) identified headmasters (25%) and teachers (20%) as the main rape perpetrators. Reported violence and abuse committed against children follows a similar if not worse pattern in South Africa though whether children fall victim at schools as frequently is not reported. In South Africa, an estimated 25% of children live in households where there is violence[31]. This is frequently exacerbated by alcohol abuse. In the Polokwane Place of Safety there were 21 girls admitted for protection against sexual abuse perpetrated within the family out of 77 admissions. Othanweni Children's Home was caring for 20 children of which 5 girls had been admitted because they had been raped.

In all the countries this is becoming an important child protection and justice issue. The one stop centre model is being developed whereby women and girls can report abuse. They are staffed by police, social workers and health staff. South Africa has a child protection register which helps keep track of which children are at risk of abuse but there is as yet no corresponding register of abuser.

The One Stop Centre in Lusaka provides counselling, organises medical, legal and protection services all under one roof. It can receive 5 child abuse cases a week. This and two similar centres try to ensure justice for the child and conviction of the perpetrator. Very often a child will spend several months at the Young Women's Christian Association (YWCA) shelter so that her testimony/witness capacity is not interfered with.

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[29] Last Resort – Save the Children
[30] Social; Protection in ESAR: A Framework and Strategy for UNICEF, Draft 22 August 2007
[31] Child Gauge, Children's Institute UCT

Protecting children against violence and abuse is becoming an increasing feature of NGO and state social workers workload especially where justice against the perpetrator is hard to achieve. South Africa is using its residential care places of safety to protect these children and children's homes are being used for this purpose, this occurs to a lesser extent in Zambia, Swaziland and Malawi. Planning, budgeting and regulating alternative care must take into account the potential for a growing number of foster and residential care placements needed for children who have been abused and cannot immediately return home.

ALTERNATIVE CARE

INFORMAL CARE

In the UN draft guidelines, informal care comprises: 'any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.'[32]

Living Arrangements of Children in the 4 Countries[33]

Number Children Data <14 or 18	Malawi[34]	South Africa[35]	Swaziland[36]	Zambia[37]
Number of Children	6 m	18+ m	530,000	4.8m
Living with father only	3%	3%	6%	3%
Living with mother only	20%	38%	38%	23%
Living with both parents	58%	34%	22%	62%
Both parents alive but living elsewhere	11%	24%[38]	19%	8.1%
Double Orphans	3.5%	3.5%	4.4%	2.9%

From discussions in all the countries visited, it is apparent that in both custom and practice, children are the responsibility of both the parents and the wider extended family. It is seen both as acceptable and beneficial for children to live with relatives to improve their opportunities, which includes when parents are alive or deceased. Such placements may also be the result of

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[32] Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil
[33] Please note that all figures should be treated with a degree of caution – they come from different years and Zambia figures appear to apply to children 0-14 years rather than children 0-17 years.
[34] Malawi: DHS, 2004 - Final Report (English)
[35] General Household Survey 2004; General Household Survey 2005. Pretoria, South Africa
[36] Swaziland Demographic Health and Health Survey 2006-7, all figures are for under 18 year olds
[37] OVC Situation Analysis Vol 3 Data Review, Unicef, Zambia 2004
[38] Among black African families this figure is much higher – General Household Survey

factors such as migratory work, the location of a secondary or better schooling, the inability of parents to provide for their children and illness. Apart from in South Africa, the law places no restriction on family placements. Most informants acknowledged the potential for abuse and neglect in some of these situations and researchers have shown that some outcomes for children in these placements, particularly in West Africa[39] may not all be positive in terms of growth and development.

Read together with the figures for children whose parents have died there are a significant number of children being cared for by single mothers and other relatives. The responsibility for caring for orphans is frequently passed to grandparents and many do not have incomes to support these children.

- **Zambia -** 710,000 children, or 33% of orphans and 12% of non-orphaned children are being raised by grandparents.
- **Malawi** - 20% of households are looking after orphans, 49% of which were headed by females. There is no information as to the proportion of carers that are mothers, aunts or grandmothers.
- **South Africa -** 41% of 421,000 foster care[40] cases are with the grandmother, 30% with aunts, 12% with other relatives and 12% with non relatives[41].
- **Swaziland -** reported **c.** 47,000 children staying with grandmothers or alone, but not known if they are orphans.

Child headed households and street children can be evidence of gaps in provision of protection, family care and alternative care. In Malawi, the Vital Registration System found that in the study in 9 districts there were 373 child headed households out of 409,227 households included; i.e. nearly 1 child headed household per 1,000 households. In South Africa, there are 6 child headed households per 1,000 households. When the new children's legislation is in force in South Africa, children in child headed households will be able to claim these allowances in their own right. The number of street children in Zambia is estimated at 13,500 of which 15% are girls. Approximately 25% of children seen on the streets during the day are sleeping on the streets at night[42]. The ratio is less for girls. Interventions are the reintegration with family and the use of residential care either permanent or in temporary shelter.

Social Protection – Cash Transfer Schemes

In all of the countries cash transfer schemes are established or being piloted in selected districts. They are mainly targeted at the poorest of the poor and are based on income. These schemes when well developed can assist relatives meet the costs of caring for children.

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[39] Bledsoe et al. 1988; Schmutzhard et al. 1986
[40] South Africa formalises extended family care through the courts which also allows carers to claim a foster care allowance – see below
[41] South Africa; the first profile of social security grant beneficiaries. Jan Forster 2007
[42] The situation of street children in Zambia: A study by Ministry of Community Development and Social Services Ministry of Sport, Youth and Child Development Supported by UNICEF, Project Concern International and RAPIDS. Zambia 2007

Cash transfers are operational in Malawi on a pilot basis in 3 districts; in all of Likoma district and, in 4 traditional authorities in Mchinji and in certain traditional authorities in Machinga. The aim of the cash transfers[43] is to assist financially those who are both:

- **Ultra poor***: living below the lowest expenditure quintile and below the national ultra poverty line (only one meal per day, no valuable assets).
- **Labour constrained***: a household is labour-constrained when it has no able bodied household member in the age group 19-64 who is fit for work (i.e. they are chronically sick, disabled, elderly, child-headed) or when a household member who is fit but has a dependency ratio of more than 3 dependants per producer.

NB There is currently no national safety net for the most vulnerable in Malawi.

South Africa has 3 schemes which provide assistance:

- Foster Care Grants (FCG) paid to families for 449,009[44] children at the rate of Rand 620 a month. The grant is limited to six children per household. Receiving this grant involves decision making from the courts in the form of an 'in need of care' test and social work supervision in the form of a 'care order' which is renewable every two years. In effect this formalizes informal family placements for children and has had a dramatic effect of increasing social workers work loads leaving less time for other tasks.
- The Child Support Grant (CSG) which is means tested is paid at R200 per month per eligible child. Fully 7,930,807[45] children are presently receiving this grant. The take up of the grant is estimated to be 71% to 90% of eligible children depending on the specific province. There are difficulties in fulfilling the administrative procedures for some families without Identity (ID) cards or birth certificates.
- Care Dependency Grant and the Disability Grant which can be paid to children and adults respectively who have low CD4 counts.

The PWAS in Zambia aims to target the poorest 2% of the population and in 2006, a total of 166,559 clients were assisted. Social cash transfers were delivered to 64,700 beneficiaries. The Kalomo Cash Transfer Pilot[46] is seen as a successful model and cash transfer systems are being developed in selected districts.

In Swaziland there are a number of social assistance safety nets which can benefit children some of which are more comprehensive in their coverage than others, these are:

- Elderly Grant for 60+ years (E. 300 or $43 per quarter) collected personally at a local payment centre on a quarterly basis. This is the most comprehensive payment. It often benefits elderly carers of children. However, it currently occupies a third of all Social Welfare Officers (SWOs) time.
- Public Assistance/Family Support Grant under 60s (by cheque E 240/$34 per quarter) recipients are identified by Ministry of Health and Social Welfare (MoHSW) as

[43] GoM, NAC, Unicef, Social Cash Transfer Pilot Scheme Malawi, www.socialcashtransfers-malawi.org
[44] SAASA   http://www.sassa.gov.za/ Sept 2007
[45] GoM, NAC, Unicef, Social Cash Transfer Pilot Scheme Malawi, www.socialcashtransfers-malawi.org
[46] From KALOMO SOCIAL CASH TRANSFER SCHEME Ministry of Community Development and Social Services (MCDSS) GRZ, Vol 6 Models of Care, Orphans and Vulnerable Children in Zambia 2004 Situation Analysis. MSYCD

destitute families, most frequently these are child headed households and under 60 grandmothers and female carers looking after children.

- Orphan and vulnerable children (OVC) school fees – are paid by both MoHSW & MoE though at different rates.

NB. SWOs (Social Welfare Officers) stress that in their opinion direct financial assistance to poor households especially those looking after OVCs is the most beneficial way to assist OVCs and would therefore recommend the adoption of some form of cash transfer.

Increasingly, donors, NGOs and government are using cash transfers or considering using this mechanism to support poor families to care for children. This should assist both parents and relatives particularly the elderly to continue to provide this family care. It does not appear advisable for countries, both in principle and because of resource constraints, to follow South Africa and develop a similar foster care system for relatives.

Is there a need to research and regulate informal care?

"……. in informal care provided by individuals or families, governments should recognise the role played by this type of care, and take adequate measures to support and supervise its provision, on the basis of an assessment of which particular settings may require special assistance or oversight."[47] According to the UN draft Guidelines, governments should recognise the *de facto* responsibility of informal carers for the child and encourage all informal carers to register and for government to provide support, and access to all services and benefits likely to assist them in caring for the child. Governments should devise special and appropriate measures to ensure that children in informal care are effectively protected against abuse, neglect, child labour and all other forms of exploitation, with particular attention to informal care provided by non-relatives, by relatives previously unknown to the child, or far from the child's habitual place of residence. With regard to non-relatives and relatives previously unknown to the child, the UN draft Guidelines especially recommend that the child's welfare be monitored including through regular home visits. In Malawi there is support in the Ministry of Women and Community Development (MoWCD) for the monitoring of non-relative foster families.

Normally, unregulated, unsupervised and frequently unsupported extended families provide the care and protection for relatives' children. There is not the capacity within government or NGO structures in Swaziland, Malawi or Zambia to regulate or manage this type of family care or placement. Nor particularly in Malawi and Zambia is there the desire to regulate.

The number of children exposed to risks like abuse, child labour or other exploitation as well as not receiving food, health care, education etc. is not known. There should be no need for external social work supervision by government or NGOs unless a child is being exposed to these risks. These risks do not appear to have been researched and research might reveal in which types of situation children are at greater risk from which criteria for supervision could be

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[47] Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

developed. Research should particularly be directed at assessing the situation of children residing with non-relatives.

FORMAL CARE

In the draft UN Guidelines, formal care comprises: 'all care provided in a family environment which has been ordered or authorised by competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures."

The draft UN Guidelines place adoption and sentences of detention for children who have committed offences, outside the definition of "alternative care". Adoption is considered to be permanent care.

Residential Care

Residential care is the main form of formal alternative care currently used in the four countries visited and this is probably the situation in most Anglophone countries in eastern and southern Africa.

There was difficulty in acquiring precise information on children's homes. This applies to the number of homes, the number of children resident and the reasons for admission. This is especially true of unregistered homes where the relationship between the government and the home has not been formalised through registration. In South Africa, the information with regard to homes was more easily available at provincial level as they are the managers of this aspect of alternative care. But even in South Africa, there is a growth in the number of unregistered homes[48]. There is, in addition, no consolidated information available in the four countries on the children being cared for in each home in relation to their age, sex, home contact, length of stay and reasons why the children are there. If there were it would be easier to identify those who could be reunified or where other substitute family arrangements should be considered. This is an important information gap that should be relatively manageable to fill with a system of case recording and data entry.

The children's homes are divided into categories of registered and unregistered. A minority of homes are run and managed by the state. Registration implies that the children's home is registered as an NGO and the government knows of and agrees its operation and purpose. The government may or may not manage the formal placement of children in these homes. Furthermore, registration may be carried out by different bodies with different criteria and after a home is operational. In addition, there seems seldom to be any inspection to check that they keep to the requirements of their registration so there is no consistency of standards. Zambia has a system of regulations and minimum standards and 101 homes have been visited for monitoring by the Ministry in the course of the last few years. However, they are hard pressed due to manpower and other constraints to make further follow up visits to those not frequently used by the state social workers for placements.

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[48] Home Truths; The Phenomenon of Residential Care in the time of AIDS, Children's Institute UCT 2007

The proliferation of children's homes across Africa during the last decade appears to have been considerable and not only in this region. In Swaziland, 80% of children's homes were established between 2000-2004.[49] Many of these homes are not registered, are externally funded and appear to self-select their resident children usually with agreement of the previous carers.

Numbers of Registered and Non-Registered Homes and their residents.

398 homes were registered across the four countries but a significant number are not. The homes that are known accommodate 24,340 children which out of an under 18 population of 30.5 million children is 0.08% of the child population which does not seem excessive, when compared to eastern Europe where in some countries 1 in 100 children were in homes[50].

Precise figures as to age are not available but it seems that a considerable number of the children placed are babies, who need more maternal care and individual stimulation than a home is able to provide. Out of the 40 homes located in Malawi, 7 were 'babies' homes'.[51] In the 20 homes in Swaziland with 679 children studied by UNICEF in 2006, the breakdown of ages was as follows:

- 0-5 years   - 18%
- 6-10 years - 31%
- 11-15 years - 34%
- 16+ years - 17%

Established in 1988, Christian Alliance of Zambia runs 3 Homes for the following age ranges:
- 0 – 18 months called House of Moses
- 18 months – 3 years
- 4 to 12 years – then children are transferred to SOS Children's Village or similar homes

The home admits babies and tries to work with families to return children home after 6 month stay. Referral is from hospitals, DSW, police and churches. Although the home has good facilities and nursing staff there are still deaths from HIV & AIDS. The home said it enjoyed good liaison with DSW and shared decision making. The figures are not very precise, but we were informed that: 560 children have passed through the 3 homes. 100 to 200 have been adopted, 70 to 80 fostered with a view to adoption, with 20 – 30 transferred to other homes.

St Vincent's Children's Home. Marianhill, KZN: Church managed. Presently accommodates 103 children but has a capacity of 110. The home is accommodating 20 babies. Placements are made by the state and NGO-designated social workers equally. Children stay from 1 to 10 years.

Information obtained during visit by A Dunn to the homes in 2007

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[49] Assessment of Alternative Care for Children without Parental Care, UNICEF Swaziland, 2006
[50] The Last Resort, Save the Children
[51] Malawi Human Rights Commission, A Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006

Abuse, neglect and abandonment are major immediate reasons for children entering homes in South Africa but poverty and HIV and AIDS are usually "part of the causal pathway rather than dominant factors".[52] South Africa is the only country that uses places of safety for short term admission and assessment. In the other countries where admission procedures are not monitored, there may be different groups of children in the homes; some children may be admitted as a means to receive education. There do not appear to be many orphans resident in homes except in Malawi. A number of unaccompanied children and protection cases are detained in custody. There is a cultural practice in an area of Malawi where if a mother dies the family prefers to send the child to a children's home rather than to a father willing to care for his child[53]. From a quick sample during a visit to a home in Kafue[54], Zambia, children would seem to be in the homes for poverty reasons, poor parenting/neglect, orphanhood and abuse.

In the South Africa study sample,[55] 16% of children had a HIV+ status as against 1.9% in the general population.   From observation, HIV infected children appear to form a larger proportion of the children in residential care than they do in the general population.

Numbers of Children's Homes and Children Resident in them in the 4 Countries

	Malawi	South Africa	Swaziland	Zambia	Total
Government Homes	0	5	1		6
Places of Safety		36 (of which 7 are managed by NGOs)			36
Registered Homes	38 which includes 7 babies homes	238 children's homes	19	101	398
Unregistered Homes	2 + more not yet located		1	many	unknown
Children	2507	13,984 capacity 2578 places of safety available	679	4592	

Process and Case Management.

The entry of children into homes, with the exception of where children are assessed and have court orders, is largely unregulated as home administrators may go out 'harvesting' i.e. looking for children to fill places or receive them direct from their carers or on the authorisation of local leaders as well as officially from social workers or the court.

Where there is no standardised process for admission, there can be no vetting as to whether (with assistance) other solutions could be found to allow the child to stay with parents or relatives. As some children from the residential homes actually go home for holidays, e.g.

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[52] Home Truths; The Phenomenon of Residential Care in the time of AIDS, Children's Institute UCT 2007
[53] Malawi Human Rights Commission, A Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006
[54] Mwana Maria Home
[55] Home Truths; The Phenomenon of Residential Care in the time of AIDS, Children's Institute UCT 2007

Hawane Lighthouse Children's Home, Swaziland, it would seem likely that with assistance many could be reunified with their families.

Most homes seem to keep minimum records but there is little indication of detailed assessments, regular care planning (only 3 homes out of 20 had written care plans in Swaziland) and case management, except in South Africa. The fact that many South Africa homes are not full is probably because gate-keeping is practiced by the state or authorised social workers and by the homes themselves as funding for the placement is provided by the State. Elsewhere, the absence of care planning and reviews result in children staying longer than is necessary. With the exception of South Africa, social workers tend only to visit homes to place children. The lack of monitoring could lead to the risk of children being trafficked.[56]

Length of Stay in the Homes

An unrepresentative sample[57] of children's homes from 4 study sites in South Africa gives the following figures; 57% of the children had been in homes for over two years, 35% for over four years and 7% had been in homes for more than 10 years. The UNCRC is explicit that all placements of children should be periodically reviewed.

Reunification and returning to live with family

The paucity of liaison by social workers with the homes means that reintegration is not a managed process. However, where carers live locally, some babies' homes, after returning a baby home, keep in contact with the family, e.g. Mother Teresa's Children's Home, Malawi. Kafue[58] DSW staff in Zambia thought they might be able to reintegrate 50% of the 169 children from the 8 homes in their district with the proviso that financial resources for DSW and the children were available from government or NGO sources.

Government Support, Standards and Monitoring.

NGOs and FBOs are the main owners of homes; e.g. there is only one government home in Swaziland and none in Malawi. In Malawi, 75% are foreign owned and the community have little or no involvement with them. Unlike in South Africa, where a government grant towards the cost of placement is given to the home along with the court order, the NGO-run homes in Zambia and Malawi receive no government financial support, while only 3 of 19 non-government homes in Swaziland receive government funding. Most children's homes in effect provide a free service to government, and as a consequence of not funding placements or the homes governments appear reluctant to intervene on behalf of the child unless there is obvious abuse in the children's home.

National minimum standards exist in South Africa and Zambia, although in Malawi there are regulations, they appear not to have been circulated to the homes. In Swaziland, there are no standards or rules. Inspections to ensure that standards or rules are adhered to have taken place in Zambia but do not take place in Swaziland and have only just begun in Malawi and are not yet carried out systematically. A comment about some homes by the Malawi Human Rights

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[56] Malawi Human Rights Commission, A Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006
[57] Home Truths: The Phenomenon of Residential Care in the time of AIDS. Children's Institute UCT 2007
[58] MCDSS Zambia

Commission is that "these institutions are run in a very haphazard manner with no idea as to the minimum standards that must be met."[59]

Issues concerning Residential Care

- The data on children's homes and children living in them is incomplete and needs improving for successful monitoring. Where there is insufficient information on children in the homes, then a study of age, sex, home contact, length of stay and reasons why the children are there would make it easier to identify those who have been inappropriately admitted and can be reunified.
- There is still some uncertainty with regard to the various registration requirements for homes. For example, in Zambia, homes which register with The Ministry of Home Affairs, the legal authority, to operate as an NGO, may then fail to register with the social welfare department for authority to look after children.
- Nationally legally binding minimum standards or regulations should be in place with regular inspections carried out to ensure they are being met. In addition, to raise standards higher than a minimum, quality standards should be identified by the homes in conjunction with the social work department for all homes to aspire to.
- A gate-keeping process operated by government or independent field/designated social workers is essential if homes are to be a last resort rather than the immediate option. This would require social assessments to be carried out before the decision is made as to which placement is in the child's best interests. After this, a formal process is needed by which children are admitted, preferably by order of the court.
- Children in residential care require care planning and reviews to plan for their reintegration to prevent them overstaying.
- NGOs need to be persuaded to redirect their resources to care in the community rather than to residential care.
- Consideration needs to be given to providing district social workers with funds to meet placement costs. Government would then become more accountable and responsible for the children in residential care. Currently, apart from in South Africa, residential care placements involve no cost to the state or the community as all the funds appear to be externally raised. If a proper gate-keeping process is operated and district social workers were given funds and were obliged to pay for placements then they might use the expensive resource of a home more sparingly. They would also have greater control of the child's length of stay and be more likely to consider cheaper community care placements. Such a scheme needs to be costed and piloted in selected districts. Having control of such funds could have a transformative effect on their morale and activity and be more protective of more children.

FOSTER CARE

Across Africa, 'fostering' as a term has a number of meanings in different societies, but as a type of formal alternative care with non-relatives, foster care is little used in the 4 countries except, to a limited extent, in South Africa. In the west, it is usually a temporary care

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[59] Malawi Human Rights Commission, A Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006

arrangement for a child while other more permanent solutions are found, such as return to the child's biological family, placement with relatives or adoption. This can be with relatives or non-relatives and often attracts allowances. It reflects the child care priorities of protecting children from neglect and abuse.

Children in Foster Care with Relatives and Non-Relatives (Number and % of Children**)**

	Malawi	South Africa	Swaziland	Zambia
Formal foster care with relatives	Not formalised	449,009 41% GM 30% Aunt 12% other relative 12% non-relatives[60]	Not formalised	Not formalised
Formal Foster care with non- relatives	Few	50,000	Few	155 but mainly as precursor to adoption

Apart from in South Africa, there is little formal fostering by non-relatives. In the other 3 countries; the 155 cases in Zambia are prior to adoption and this may well also be the case in Malawi. As can be seen from the table above, by our calculations, South Africa has 12% of 449,009 fostered children in formal non-relative fostering. South Africa has thus formalised part of the 'the extended family care system' whereby when children are deemed to be 'in need of care' and are cared for by relatives, they are subject to court orders and statutory supervision as well as entitled to a foster care grant. It is a tremendous burden on the social workers' caseloads. There are difficulties in fulfilling the administrative requirements for the grant; currently grants and orders are lapsing after 2 years and processing times can be considerable. A further issue is that magistrates/commissioners are differentially interpreting the 'need for care'; some magistrates feel that it is the duty of family members to care without orders or grants. There is a general consensus in South Africa that this is a positive scheme to provide care and financial support for orphans. There is the noted concern from the Children's Institute[61] that children may potentially become 'commodities' as relatives are more interested in the grant than in providing good care. This needs to be monitored by the authorities in South Africa but the "in need of care test" should reduce the opportunity for this to happen. There is also the issue of whether the formal court order with supervision, is overburdening the child protection system.

Currently fostering by non-relatives is not common in the four countries; but it would be a useful addition to the range of services offered for babies and young children who are otherwise destined for residential care. It could also be developed to provide care for children who have been abused temporarily or permanently. It does however need to be regulated and supervised which may be beyond current country capacity, except in South Africa. It does not seem advisable or manageable to extend formal 'foster care' with all the attendant court orders and social work supervision to children being cared for by relatives and the responsible ministries in Malawi and Zambia have no wish to do this. The need to ensure care of children within the family would seem better addressed by cash transfers or some other form of social

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[60] South Africa; the first profile of social security grant beneficiaries. Jan Forster 2007
[61] Children "in need of care" or in need of cash? Social security in the time of AIDS. Children's Institute, UCT

assistance. The issue of children cared for informally by non-relatives needs further investigation.

PERMANENT CARE

ADOPTION

Adoption is relatively little used in the 4 countries studied. In Swaziland and Malawi there were no national statistics on adoption available, though some had taken place. The Department of Child Development in Malawi only provides the guardian *ad litem* to the court, as there is no other officially registered independent adoption body. Figures from different years for the 4 countries indicate there might be about 830 adoptions a year; the vast majority of these 727 were in South Africa and 50% of these were probably to step-parents. There is no breakdown easily obtainable on the numbers of domestic compared to inter-country adoptions.

Adoptions

	Malawi	South Africa	Swaziland	Zambia
Number Adoptions	Probably under 10 in 2006	727 in 2003 but 50% Step parents[62] CWSA rendered services to 1,280 adopted children in 2005	About 30 in 2005	69 in 2006

Adoption as a permanent care solution is under-utilised. For abandoned babies it is an important solution if the mother cannot be found as research indicates that the longer babies stay in a home, the more their emotional, cognitive and physical development suffers[63]. There are quite a number of babies' homes (Malawi has 7), so where appropriate this needs to be investigated and assisted. The Abandoned Babies for Christ Home in Swaziland has had 55 babies adopted since 1999 - 50 to Swazi families and 5 to expatriate families. All these adoptions take place after 6 months and under 3 years, only one of these was an inter-country adoption.

Issues.
- There are many issues that make families reluctant to adopt a child that is unknown to them, which need to be better understood.

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[62] Child Welfare South Africa Figures
[63] Mapping the number and characteristics of children under three in institutions across Europe at risk of harm (First Revision 13th July 2005) - EUROPEAN COMMISSION DAPHNE PROGRAMME DIRECTORATE-GENERAL JUSTICE AND HOME AFFAIRS In collaboration with WHO REGIONAL OFFICE FOR EUROPE & THE UNIVERSITY OF BIRMINGHAM, UK

- Some informants wanted to see adoption marketed in African society because they felt myths had grown up that Africans do not adopt children from outside the family. Improved marketing techniques should be researched and considered.
- The option of relatives adopting a relative's child when the parents have both died could be promoted as a way of securing and legalising the child's situation in that family.
- There is very little support for women who want to have their child adopted. With the availability of pre-adoption counselling, the practice of abandoning children could be reduced.
- To protect the rights and safety of the child the legal and social work processes with regard to adoption must be followed. If adoptions are to be increased more social workers will be needed to oversee the processes. Governments need to produce guidelines on how adoption should be conducted and promoted especially for abandoned babies and to be clear about the rights and protecting those rights of children who are HIV+ as regards testing, treatment and disclosure.
- A data bank of both domestic and inter-country adoptions to be held by the department responsible for children.
- Ratification of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption 1993 (Hague Convention) by Malawi, Swaziland and Zambia will make adoption a more accountable process. In East and Southern Africa only Burundi, Kenya, Mauritius and South Africa have ratified the Hague Convention.

POLICY AND LEGAL FRAMEWORKS

South Africa is a diverse country undergoing transformation in the provision of services[64]. Policies, laws, strategies and standards are being put in place to achieve a more equitable and improved delivery of services. After 9 years in the making, the Children's Bill has been passed by the Assembly and is likely to be in force by May 2008. This law is important as it modernizes child care and protection practice. The legislation will deal with the provision of:
- Partial care (This includes day care and other forms of care where a child is formally looked after for part of the day)
- Early Childhood Development
- Child Protection System with emphasis on prevention and early intervention

Important facets of the legislation are the obligations placed on national and provincial government to write strategies, report and monitor and ensure provision. For all provisions the government must put in place norms and standards. The Bill legalizes the status of child headed households which enables them to be beneficiaries of the grants in their own right.

In the other three countries there is evidence of policy development through National Plans of Action or OVC Frameworks with regard to alternative care. In Malawi, the National Policy on

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[64] The White Paper for Social Welfare 1997 - www.polity.org.za/govdocs/white_papers/social971.html.

Orphans and Other Vulnerable Children (2003) sets out 10 Principles to guide practice when working to assist OVC and there is also a National Plan of Action for OVC (2005-9). Swaziland has adopted the National Plan of Action for OVC (2006-10), the National HIV/AIDS Policy and 2nd Strategic Plan (2006-8). The National Policy on Children including Orphans and Vulnerable Children (2003) is a well constructed document but has not as yet been adopted by MoHSW. A Social Welfare Policy has been in draft since 1996 and currently includes generalised principles and a list of activities. The National Child Policy of Zambia made by Ministry of Sports Youth and Community Development is an overarching policy for children and as such has insufficient detail on child protection. A specific policy for the department of Social Welfare is still being worked on.

In Zambia, a Law Reform process is underway but has not made much progress since the Conceptualisation Meeting in 2006. An Advisory Committee is appointed as per the meeting recommendations. Reviews are taking place and TORs drafted. It is the view of stakeholders that the review and reform process be all inclusive, involving line ministries, traditional rulers, children, NGOs, with support from development partners. It was also recognized that the process should extend to other statutes that have a bearing on child welfare. In order to effectively and exclusively undertake this process, a Secretariat was set up under the Department of Social Welfare, coordinated by the Zambia Law Development Commission.[65] Swaziland is working on a Children's Bill and Children's Justice Bill, they still need further work. Malawi has drafted a raft of new Bills concerning children, these are the:
- Child (Care, Protection, and Justice) Bill
- Birth Registration Bill
- Wills and Inheritance Bill
- Family Bill

Apart from in South Africa the policy making has not kept pace with the changing socio-economic environment or the HIV and AIDS pandemic. Without clear up to date policy it is difficult for law reformers or the service providers to change priorities or direction. The reasons for the absence of policy could range from low political commitment to shortage of investment in human resources. It is an area that would benefit from research being commissioned by UNICEF or partners.

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[65] The Child Law Reform Secretariat was set up with the support of Save the Children (Norway)

SERVICE DELIVERY

Social welfare services are delivered to children in need of alternative care by government and NGO service providers. In all countries apart from South Africa the departments responsible for delivering alternative care are poorly funded and staff underpaid. These departments appear to be understaffed and priorities appear to be work on Juvenile Justice or effecting social welfare/security payments, while in South Africa staff are leaving government and NGO services to work abroad. In South Africa's Western Province, in the DSW, there are 49 social work supervisors and 441 social workers, plus 1,216 social work posts funded by Government working for child protection organizations. Child Welfare South Africa (CWSA) has written that it estimates between 16-19,000 extra social workers will need to be recruited in South Africa to manage the responsibilities under the new children's law. However, across the whole of Zambia, current social welfare staff number a total of 180; the target level set by Public Service is 200. Recruitment is now in process to achieve this quota. To manage the social cash transfer when/if it is rolled out, it was thought by DSW that a further 140 staff would be needed. Most of the 73 Districts now have one social welfare officer. In Malawi, out of an official staff complement of 395, only a third are in post, leaving 267 posts vacant. In Swaziland, the DSW has only 12 staff, though negotiations are underway to recruit 55 more.

In Zambia, District Social Welfare staff were coordinating the work of NGOs and the system by which the Public Welfare Assistance was allocated. For the Kalomo Cash Transfer Pilot[66] the DSW office was the weakest link in the scheme during the test phase, the main problem being the irregular, unpredictable and rather sporadic availability of the DSWO at the office.

In South Africa, NGOs generate money internally from government grants and local sources; it appears that the system of grants and reporting assists accountability and coordination when coupled with service delivery standards. Elsewhere, the provision of government grants or subventions to NGOs are rare and NGOs are mainly funded from external sources.

Departments of social welfare are under staffed, under resourced and seemingly struggling to work for the most vulnerable groups in a weak policy environment. The resourcing of social protection by government and donors does appear to be improving social welfare morale and is giving them impetus to show what they can do in the field of cash transfers. The ability of South Africa to fund both government and the NGO sector through a scheme of grants gives greater state ownership of the problems and the services. In the other countries it seems that the children's homes and OVC programmes are primarily externally funded and so perhaps the problems of the children concerned are seen as being outside the reach of government.

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[66] From KALOMO SOCIAL CASH TRANSFER SCHEME Ministry of Community Development and Social Services (MCDSS) GRZ, Vol 6 Models of Care, Orphans and Vulnerable Children in Zambia 2004 Situation Analysis. MSYCD

COUNTRY CAPACITY TO MANAGE ALTERNATIVE CARE

There is strong evidence that South Africa can manage alternative care as evidenced by:

- Constant policy and strategy development
- Modernising law reform with attendant guidelines and regulations
- Transition and transformation processes to bring about equity and social justice
- Public and Private/NGO sector partnerships with grants paid to the NGOs to deliver services
- Social cash transfers namely child support grants and foster care grants to prevent family breakdown and support relatives to care for children.
- Service delivery model plus standards for casework and care.
- Qualified social workers designated to act by government and professional bodies
- 'Best interest' decision making is being applied through legal authority, court orders, assessments, care plans and reviews, and casework
- Research, documentation plus monitoring and evaluation are undertaken by government and academic institutions.

In the other countries insufficient financial and human resources affect the capacity to manage alternative care.

RECOMMENDATIONS

Having assessed the alternative care systems for children in the four countries there are specific recommendations that would improve the alternative care for children for each of the countries.

MALAWI

Improving Knowledge Management, Information, Research, Monitoring and Evaluation

Informal Care: a method is required to determine and register how many of the 20% of children who are not living with their biological parents are in non-kinship care. The upcoming secondary data analysis of the multi indicator cluster Survey (MICS,) and DHS data being done by the MoWCD supported by UNICEF provides an opportunity to gain this information, which can be a basis for decision-making.. Another approach could be questions in the next census or through the village development committee (VDCs) as suggested in the MoWCD guidelines for OVC. This information would be both of practical value in identifying those who should be visited to check their circumstances are satisfactory but also in advocacy for more resources.

Formal Alternative Care outside Children's Homes: there is little data on fostering and adoption. It would be helpful if district and national registers were kept by DCD staff. The Adopted Children Register held by the Registrar General of Births and Deaths apparently only registers Europeans.

Children's Homes; The research completed by the Malawi Human Rights Commission (MHRC) is a preliminary assessment of the homes. It is recommended that a follow-up study is made on the children in each home, to include an assessment of reasons for admission, duration of residence, contacts with family and an assessment of the capacity of the family to care for each child. This would provide a base-line study for the Department of Child Development (DCD) and others, to build on regarding a full assessment, care planning and reintegration..

Regular, coordinated inspections of Homes will assist the DCD in building a national picture of the situation of children in the Homes and what is being done with regard to reintegration.

Data Management: It would be helpful if when the data is collected it is published in an annual report. This will require cooperation and analysis at district and national level.

Determination of Roles and Responsibilities

There is ambiguity over some roles and responsibilities with regard to assessments, planning and review for the care and protection of children; this is affecting 'best interests' decision making with regard to placement of children. The current law is silent on these matters and no guidelines have been produced. Clarity is needed with regard to:
- The process for admission of a child to a children's home
- Responsibility assignment for case management and planning for the reintegration of a child and follow up visits;
- Foster care: the law only uses the term 'fit persons' and gives no guidance as to selection of parents, assessment and supervision and which children should benefit;
- Inter-country adoption processes.

Standards in Alternative Care Practice with regard to Children's Homes

The unregistered homes need to be investigated, registered and monitored or closed.

DCD staff have little involvement in placement and gate-keeping of admissions, case management or review of children in children's homes. There appears to be little by way of after-care and reintegration follow-up when a child returns to the community.

The government's Children's Homes and Orphanages – Rules and Regulations, 2005 lays down a set of minimum standards; these need to be circulated and explained to each home. Monitoring and inspection of children's homes needs to be carried out. Inspections are to ensure that regulations are not being broken, or that serious efforts are being made to improve the standards. It has been helpful elsewhere for there to be a designated inspector who is supported by a small committee of respected persons to reinforce the inspectorate capacity. Through an inspectorate, the DCD can work with the homes to agree on improvements that can be made to meet agreed quality standards.

Social Work Practice

The promotion of foster care and adoption as alternative care strategies have not been a priority of DCD. Temporary placement foster care is particularly appropriate for keeping babies and young children in a stimulating family environment. It could also provide a more caring

environment for girls who have been sexually abused at home. Formal foster parents should be paid a monthly fee, both for the costs they incur and so as to require that standards are kept.

The promotion of domestic adoption should be considered. Adoption provides a permanent solution particularly for abandoned children where no extended family can be traced. When no placement is available in Malawi inter-country adoption is an alternative. It is recommended that Malawi ratifies the Hague Convention.

Policy, Law & Guidelines

The current laws do not cover important areas of alternative care. Until new laws are passed it will be policies and the development of guidelines that will direct the department's work in alternative care.

The Children's Home Rules and Regulations, 2005 would be improved if they included rules on admission which would ensure Homes conform to a standard procedure on gate-keeping.

The draft Child Bill is a great improvement but could benefit from further review; some of the areas for this are elaborated on in the section on legislation in the Malawi country report annexed to this report. The policy for OVC outlines important principles. The National Plan of Action (NPA) for OVC needs to be a working tool and priorities decided on.

Social Service Delivery and Social Protection

The department at present has insufficient staff and technical capacity to undertake the current tasks and the constraints on the department's human resources are likely to grow with the scaling up of social protection and the cash transfer scheme (the Government is considering scaling up of the cash transfers project from the original 3 districts to 7 more) so some balance and coordination with family support and alternative care strategies seems essential. If to be properly provided, family support, fostering, adoption and residential care require more trained and skilled manpower and management at district level.

The MoWCD has learnt from the development of cash transfers in Mchinji that the transfer scheme at district level goes through a number of different stages which make different demands on staff time. This appears to be particularly high in the initial phase of beneficiary identification. It is estimated that one staff member needs to be dedicated to the cash transfer scheme in each district. Documentation on the use of DCD staff time over the roll out of the scheme for a whole district would give guidance on the staffing implications. This would also assist in highlighting the need for the extra staff to fulfil this work and the human resource funding that should be integral to the scheme's budget.

The shortage of professional staff needs to be addressed and salaries increased so as to constitute a reasonable living wage. With developments in social protection and donor interest in MoWCD capacity, the Ministry could press for funding to address human resource development to help its work with the million plus OVCs.

The Director of DCD suggested that the department draw up a 5 Year Work Plan to establish a Care and Protection Unit at HQ and District care and protection specialists with guidelines and

set targets. The upgrading of the qualifications of staff who have had very little formal social work training would improve service delivery. If Magermero, the ministry's social work training centre, were to offer a diploma in social work this would be of immense assistance to the department. Some DCD staff are already involved in distance learning and it seems likely that Malawi will be a pilot for the UNICEF Regional Psychosocial Support Initiative (REPSSI) children at risk certificate course (long distance learning); UNICEF in Malawi will have a vital role in its promotion.

If MoWCD wants to push an alternative care strategy based on prevention through family support then it should consider the establishing of a Care & Protection Unit at HQ to promote best practice in residential child care, family support, fostering and adoption. Once the mechanisms for a Care & Protection Unit are in place the DCD would be in a better position to work to reduce the number of children in the children's homes; to monitor admissions to the homes; to promote temporary foster care placements for babies prior to adoption and to promote the permanent solution of adoption.

The management of district staff in relation to prioritisation, task effectiveness, commitment, advocacy, budgets and mobility are all areas that require addressing by DSWOs and District Assemblies to improve work with families and children at risk and they would in turn benefit from clear policy guidelines and support from MoWCD.

SOUTH AFRICA

From discussions with Department of Social Development (DoSD field and residential care staff, a list of issues was developed that they would like to see worked on:

- There is a need to retain staff as many feel overstretched; particularly by foster care work;
- They would like to see improvements in workload management and case management; This could be improved by more training for first line managers;
- Creating a specialisation in child protection work within the DoSD at local levels, or a specific department where there are larger team;
- Improving and extending drop in/community care capacity;
- Training for residential care staff;
- Data collection and knowledge management; monitoring tools.

In view of the short period for the assessment and time constraints in looking at any issue in depth, the areas below are suggested as having merit for further exploration and potential cooperation between UNICEF (ESARO and South Africa) and the South African government. It is suggested that the UNICEF Country Office and DoSD begin discussions regarding the areas where cooperation may be most useful to DoSD.

Residential Care:

The current data is not complete. It is suggested that this situation is reviewed. Recommended areas for further exploration involve residential care processes; reasons for admission, length of

stay; outcomes for children. How to manage and regulate unregistered facilities is an issue also needing clarification.

Methodologies for reducing use of residential care for children under five.

In Eastern Europe, studies have revealed reduced brain development in under stimulated babies[67]. Consideration needs to be given to the care and protection provided to children under 5 and preventing abandonment. Processes and procedures could be reviewed with respect to preventing abandonment, using foster care for the temporary care of young children instead of babies' units and increasing the number of adoptions particularly among black South Africans.

Keeping mothers alive and keeping families together.

People working in drop in and community centres thought that greater coverage is needed with regard to home based care, family support and integrated services for improved uptake of VCT and adherence to ARTs. It is recommended that South Africa considers again ways of improving prevention of family separation, service delivery and coverage at local level: looking at best practice in keeping children in communities with their family.

Protecting children and women from violence and abuse.

This is becoming an increasing part of the social work caseload. Many girls need to stay in places of safety and children's homes because of lack of protection in the home and community environment. It is recommended that South Africa look at the best practice that exists in other countries i.e. USA or Europe to examine methodologies of safeguarding women and children from violence in the community and economically empowering them to move away from abusive households.

Spatial Organisation

The new legislation demands improved strategy and planning processes for services at province and regional level. This provides an opportunity to look at spatial design factors like housing and unemployment that contribute to protection risks. At the same time methods could be looked at to improve the coverage of services provided by NGOs and Non Profit Organisations (NPOs)

SWAZILAND

Knowledge Management, Information, Research, Monitoring and Evaluation

Informal Care: over a third of all children (34%) are not living with one or both parents; this is considerably higher than any other of the countries visited. Informal care arrangements are usually made by the family without reference to the social welfare officer's (SWO) or to the chief as in the past. The majority (estimated anecdotally to be 70-80%) of alternative care placements are with the family. However, the whereabouts of 10-20% of children apparently not living with relatives needs researching. It would be worth investigating if an informal care

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[67] Browne, K.D, Hamilton-Giachritis, C.E., Johnson, R. and Ostergren, M. (2006). Overuse of institutional care for children in Europe. *British Medical Journal*. 332 485-487 (25/02/06)

child placement register could be developed by the headman at the *sigozi*/village cluster level. This could then be followed up by regional health motivators and where necessary referred to the SWO.

Data Management: There is a need to compile national/district data on fostering, adoption, supervision, probation, all children in children's homes (why there, whether relatives alive, etc.), and the exact number of homes. It would be helpful if these were published in an annual report. This will require an emphasis on data collection and analysis at both the regional and national level and cooperation between them.

Formal Alternative Care outside Children's homes

Although foster care is recognised by law (CCSO, section 11), there seem to be no foster placements through the courts, where it takes place it is administratively, through the SWO. In 2005, there were 25 domestic adoptions in two regions but there appears to be no central register. There are very few inter-country adoptions and the Hague Convention has not been ratified. Recommendations:

- The apparent historical/local resistance to the use of adoption needs to be addressed.
- The Hague Convention should be ratified
- The use of formal fostering (possibly leading to adoption) needs to be developed especially for babies and young children currently residing in children's homes and for girls who have been sexually abused at home.

Children's Homes

Of the 20 registered homes, only one is run by government; the rest are managed by NGOs. Unregistered homes need to be investigated and if they conform to the standards and are necessary, then be registered, or otherwise closed.

Swaziland places more children in children's homes as a percentage of its children at 0.13% than the average of 0.08% for the four countries visited for this assessment. A further study to take place on the children in each home to include an assessment of why they are there, what contacts they have with their families (such as are they visited and do they go home for holidays), how long they have been there, the children and the homes' plans for each child's reintegration and other matters as set out in an assessment form would provide a base-line study for the Department and the homes as to whether it is really necessary for these children to stay there. Regular inspections of homes would show whether they are working to reintegrate their children.

Standards in Children's Homes: The law (CCSO sect.10 & 15) sets out the right of the state to regulate the homes. Currently **t**he draft Minimum Standards 2007[68] also contains quality standards. It is advisable that the Department separate the quality standards from regulatory requirements and work with the homes to draw up and agree quality standards and regulations. It would be best that the homes are involved in the final drafts as they will be inspected. Additional regulations would be appropriate for homes looking after babies.

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[68] MoHSW, Final draft Minimum standards of care for the operation of residential homes and orphanages housing children, K Dlamini, 2007

Determination of Roles

There is ambiguity over some roles, in part because the current law does not cover new practices and developing issues in child care. Improvements are required with regard to:

- The procedures for the admission of a child to a children's home. The placement of a child in a home should be by an authorised person or the court guided by an assessment and criteria for admissions.
- The SWOs and the homes' need to plan for the reintegration of a child back into the community with the child's active participation as soon as is possible.
- Reintegration needs to be followed up by the homes or Social Welfare.

Social Work Practice

The Department of Social Welfare has set out some brief guidelines on fostering stressing the court's role but implementation appears weak. It is recommended that formal fostering should be viewed primarily as a temporary arrangement until the baby/child can be returned to its family or adopted and considered for girls who are sexually abused at home. In these cases, formal foster parents should be paid a monthly fee, both for the costs they incur and to require certain standards are kept.

The department's guidelines on adoption need to be expanded to include inter-country adoption using the Hague Convention as a guide until it is ratified. Domestic adoption as a permanent solution for those abandoned where there is no one from the extended family available needs to be promoted.

Law, Policy & Guidelines

Further work is required on the Children's Bill and Children's Justice Bill. In comparison it would be worth looking at the Malawi Law Commission Child Bill Report and the reports prepared in Uganda and Ghana which set out their underlying principles, the rationale for each section and clear legal requirements.

In the same way as the Department has compiled guidelines on foster care and adoption, its staff would benefit from guidelines on their role in monitoring children's homes.

The National Policy on Children including Orphans and Vulnerable Children (2003) has been finalised pending the approval by cabinet. As a well constructed document it will hopefully be adopted by MoHSW. The 1996 draft Social Welfare Policy still has some generalized principles and is more a list of activities. It needs to be revisited.

Service Delivery

The department is overburdened with social assistance. It has 12 staff to carry out payments to the elderly, public assistance for the under 60s, ex-serviceman's payments and negotiating maintenance and school payments for OVC, which leaves little time for child protection. Currently one third of staff time is taken up with payments to the elderly. The extent to which staff have a living wage should be addressed.

The Department currently has an application with the Civil Service Commission for 55 staff and would benefit from the support of donors, UN bodies and United Nations Development Assistance Framework (UNDAF,) influential Swazi agencies, INGOs and others for this application and the subsequent in-service training. The specialization outlined in the new departmental structure at Head Office is a positive step including that of establishing a Child Care & Protection unit to promote best practice in family support, fostering, adoption and concerning Children's Homes. The job descriptions of all staff including Head Office specialisations need refinement. The districts would benefit if their staff were trained in the care and protection of children and started networking with other staff, such as the 3-4,000 regional health motivators, neighbourhood care point caregivers in the 625 Neighbourhood Care Points (NCPs,) Domestic Violence & Care & Protection Section of the police and the 7,000 child protectors that have been trained. The provision of motorbikes to field staff after appropriate training and understanding of maintenance would make their task easier.

The upgrading of the qualifications of staff who have had very little formal social work training would improve service delivery. It would assist standards if the University of Swaziland ran a diploma and degree course in social work. Distance learning would be another way of staff upgrading their skills. UNICEF in Swaziland may wish to investigate how it can promote the uptake by DSW staff of the UNICEF REPSSI children at risk certificate course through distance learning.

Once the mechanisms for a Care & Protection Unit are in place the Department would be in a better position to work to reduce the number of children in the children's homes; to monitor admissions to the homes through inspections; to promote temporary foster care placements for babies prior to adoption and to promote the permanent solution of adoption.

Social Assistance

The quicker payments to the elderly can be efficiently made through institutions such as the banks or post offices the sooner department staff can concentrate on the task of assisting children in difficulty and need. The encouragement of this through UNDAF, donors and INGOs would assist the Ministries involved in promoting the speeding up and reducing the transaction costs of social cash transfers.

Once there is free primary school education as the Constitution affirms in 2008(?) it might in the longer term be useful to see if a version of household cash transfers to the poorest might not simplify some of the current payments and thereby assist the most vulnerable children.

ZAMBIA

Knowledge Management, Information, Research, Monitoring and Evaluation.

Although Zambia is making efforts to rectify the situation there is insufficient information or analysis of informal and formal alternative care. It is recommended that a database is developed to help DSW manage:
- Data on children's homes
- Information from inspection visits. It is recommended that an assessment form be developed to assist the monitoring of homes

- Information on children in the homes, reasons for admission, length of stay, capacity of the (extended) family to provide care for the child and what level of resource or supervision would be needed to ensure the child's good care
- Informal care: There is little national data on informal care. Research could be undertaken to study whether the informal family placements are always in the child's best interests. There are some concerns voiced that many grandparents may not have the capacity to look after all the children they are taking in.

Improving Quality Standards in Child Care and Protection

Residential Care

It is suggested that both NGOs and DSW in Zambia come together to look at quality care standards that include developing outcomes for children in line with the CRC, standards and practice indicators. These would be standards that are to be worked towards by the NGOs. They would complement the existing guidelines and its is recommended that the DSW produce a set of short ministerial regulations that are enforceable and deal with homes who refuse to comply and work towards the standards. There also needs to be some increased advocacy that takes place with the external funders of the children's homes. This could be in the form of guidance to donors but this in unlikely to reach down to the smaller faith based organisations in Europe or North America. There could be an important advocacy and communications role played here by UNICEF National Committees.

Social Work Practice
- Currently children, especially babies appear to be missing out on adoption and remaining in residential care. The adoption process should be examined and if necessary amended so that it meets international standards and safeguards the rights of the child.
- Fostering and not residential care should be practised for babies and young children.
- Generally, required improvements are indicated in prevention, assessment and case management (care plans, periodic review of placement, reintegration) to reach minimum standards.

Policy and Law

There are developments in the making of policy and planning for children. The policy remit of the present ministries involved in child protection and development would benefit from more clarity which would then enable Ministers to present legislation relevant to their Ministries. The reform of children's law is ambitious but still in the early stages. The process appears to lack momentum which may be a result of trying to undertake reforms across many current issues. It is suggested in child protection that the reformers look at current Zambia social work practice against international standards and best practice.

Service Delivery

The DSW has a considerable workload that it is currently struggling to manage. It has insufficient human and financial resources to manage juvenile offending, and child protection (especially the growth in reported sexual abuse) in urban areas. Adding the managing of social cash transfers to the workload needs careful consideration and planning.

If Departments who have to work within staffing limits have to disburse more resources incoming from donors or government they may wish to examine the role of public private partnerships and NGOs sub-contracted after due process to deliver child protection services over the short term.

SOCIAL PROTECTION AND SOCIAL POLICY

Social cash transfers can be used in a transformative way to help families develop, care for their children and to prevent family breakdown (due to migration for work, residential care or children going onto the streets to work, etc.) A method of targeting children and families at risk might be very helpful towards this end.

Overall it is difficult to discuss improving child protection capacity without reference to the capacity of a country to develop and implement social policy and social protection. This appears particularly relevant with regard to prevention where cash transfers and access to basic services and ART can contribute to keeping children safe. Below are a set of general recommendations pertinent to Southern Africa but possibly applicable to other countries in Africa. The recommendations concern improvements to social policy, social protection and child protection.

INFORMATION COLLECTION

There are two particular areas where information appears to be inadequate in all countries:

Residential Care – there is no real systematic collection of information on children's homes and in particular the children who are resident. There is no data on reasons for admission, length of stay and how the decision was made to place a child in the home. It is suggested that the information systems are improved and some method be found of getting information on unregistered homes. Collecting information on children in residential care is important because it shows up inadequacies of the care and protection and social protection systems if these homes are not being used as a last resort

Informal Care – while care by relatives appears to be the most appropriate form of care for children if it cannot be provided for by the parents, there have been concerns voiced that grandmothers are really struggling to provide care and that some relatives take advantage of these children for domestic labour. Secondly, it is apparent that not all children are being looked after by parents or relatives. Research is needed into the informal care provided by non- relatives.

Similar to the group described by the phrase "orphan and vulnerable children" where there are no precise definitions, especially in regard to vulnerability, the children in "alternative care" are unquantified in terms of both numbers and there needs. While it can be envisaged that cash

transfer systems will benefit this group of children and budgets can be drawn up on poverty criteria this will be insufficient to meet the needs of a group of children who need both social work and financial support coupled with community programmes to remain with their families in their communities or to be reunified from residential care.

Without more comprehensive data collection and monitoring it is difficult to make evidence based policy or to develop plans for service delivery. It is recommended that UNICEF, with Government and other partners discuss the country recommendations and look at means of improving data collection and analysis.

PREVENTION

It appears that insufficient attention and resources are devoted to prevention. If resources are used for social protection cash transfers, and improving housing, health and education, it is arguable that the need for social services for providing care and protection for children would be much reduced. It is important that resources are used to:

Keep mothers alive:

Generally mothers are the best people to provide care for their children. The provision of quality health care, including where necessary ART, is essential to prevent mothers from dying. As part of this strategy it is necessary to provide:

- **Family & community centres** that can support mothers to go for voluntary counselling and testing and adhere to ART. It is still necessary to provide this local support and de-stigmatise HIV. Women need support to overcome community and family prejudices with regard to taking active steps to protect themselves. These centres are needed in more communities, especially large townships, or informal peri-urban settlements where it is difficult to provide services to large populations.
- **Early childhood development**: these services not only support the growth and development of young children but also provide support to mothers of young children.

Keep families together

In all of the countries, but especially in South Africa and Swaziland, many children are being cared for by extended family members. Some of these family placements appear to be made because parents have insufficient resources to care for their children and either the parents migrate for employment or the children move. To be effective in preventing families splitting up, the cash transfer systems could have criteria for helping these families who are at risk.

Generally, there is insufficient social work or financial support targeted at preventing children entering children's homes, going on to the street or being abandoned. To this end, district social welfare offices could be provided with 'at risk' money to distribute to prevent family breakdown and enable mothers thinking of abandoning their children to look after them, which could be part of a broader social assistance programme.

To give better effect to keeping families together and mothers alive the following strategies could be considered:

- **Cash Transfers to poor households**, especially single parent households, are important and this needs to be done not just for families caring for orphaned children but also for single mothers and for families where adults are too ill to be productive. It is important to transfer <u>sufficient</u> amounts of money to single mothers to enable them to care for their children and facilitate school fee and health charge exemptions.
- **NGOs and state providers to facilitate community vigilance and enable their support role**. If cash transfer systems rely upon community assessors it should be possible for these same people to receive basic training in child protection and for them to act as first line of contact for families and children at risk. i.e. a functioning referral system grounded in social assistance but linked to child protective services
- **Coordination between agencies** is critical if children are to be protected. In some communities it seemed as if the issues raised through the support work done by home based care teams (e.g. concerns with regard to alcohol abuse, violence, isolation or dying parents) as well as interventions by health workers and newly developed ancillary child protectors are not being shared with the state social workers in a coordinated manner. There needs to be some mechanism developed where children at risk can be monitored by the relevant agencies.
- **More research is needed into poverty and spatial organisation** and its links to HIV and AIDS. From discussions in the field it appears that HIV and AIDS affect families and communities differentially. Can improvements to spatial organization have an impact?

PROTECTION

Here consideration is given to child protection services and social protection strategies that need to be in place to help children identified as being at risk because of inadequate care, an abusive environment or placements in children's homes or in families that are not in a child's best interests:

Improved protection for women and their children.

Generally there are very few places of safety available to women to escape violence or for mothers to shelter their children from abusive males in the household. More places of safety are needed for women and children that give emergency protection while they are seeking justice but also they need support including economic support to become independent and move out of abusive environments.

Protecting and supporting children in extended family care

After looking at the formalizing of extended family care through foster care orders and grants in South Africa – it is not envisaged that a similar system is either necessary or could be managed in Malawi, Swaziland or Zambia. However there are issues that would benefit from research, discussion and resolution:

o Are there criteria like the age of the carers or the distance in relationship that would suggest a need to review the placement? Would the development of guidelines be helpful to social workers and other interested parties?
o Would a simple method of awarding guardianship to relatives caring for children be helpful for protecting children's rights? It can also be envisaged that if cash transfer means-testing becomes more sophisticated that some method of proving parental responsibility may become necessary.

Finding New Families

New families are needed to provide both temporary foster care or permanent homes through adoption. In all the countries it should be possible to provide foster care to at least babies and young children who need individual attention. Departments of social welfare and NGOs could work together to recruit and pay foster parents. New methods of marketing adoption need to be explored with simple, less costly but unimpeachable processes. This should go together with providing pre-adoption counselling to mothers not wanting or unable to raise their child.

Reunification Programmes

Reunification programmes need to be established or improved: The absence of documentation, assessments and court orders in Malawi, Swaziland and Zambia suggests that the existing placement of children in the homes needs to be carefully reviewed and children reunified with parents or relatives where this is in their best interests. Working with children's homes and district social welfare staff on reunification of children can be a very good entry point for UNICEF and other organisations wanting to understand and work with the care and protection system.

Improving Child Care Services at District Levels

If children are to be better protected, then cash transfers will be of considerable benefit, but equally critical is the need to improve child protection services at district level. Apart from in South Africa, district social welfare staff are not earning a living wage. . It is important if social welfare staff are to deliver quality services that they receive adequate salaries, improved staffing ratios with better communication and transport. In districts where there is sufficient manpower it is recommended that specialisations in child protection are created with the requisite management of workload and caseload.

Giving Districts control of resources; paying for care placements.

At the present time neither central government nor the districts have much control over the externally funded children's homes. The resources provided for residential care need to be redirected towards reunifications, family and community care and away from the children's homes. This will be difficult to achieve quickly because of resistance from homes and their staff's reluctance to lose employment so in the meantime it is suggested that along with donor/government money for cash transfers that funds are sought to enable district social welfare teams to pay for placements of children in homes. This will place district social welfare in charge of placement funding including paying and taking over responsibility for residential care placements. It will also give districts greater leverage in enforcing the quality care standards and reduce the control of the external funder.

TRANSFORMATIVE STRATEGIES

These are strategies that will provide the enabling framework for the 'prevention' and 'protection' elements and assist children and families to take part in development.[69]

Enabling Policy and Legal Framework

An enabling policy and legal framework is necessary to guide the activities at district and community level. In common with other sub-Saharan African countries, Malawi, Swaziland and Zambia are still working with outdated legislation that has not taken into account the AIDS pandemic and other social changes. It is recommended that social welfare ministries strengthen their information collection and knowledge management systems to provide data on which to develop policy and law. Amending laws that deal with immediate issues such as control of placements in children's homes and facilitating community care are essential and could be done quite quickly without undertaking wholesale reforms. As part of social protection assistance, donors should be asked to consider strengthening the policy, planning, monitoring and evaluation functions of the social welfare sector ministries.

Redirecting resources

There is still insufficient control by countries over the type of assistance provided by NGOs through external funding. In effect, external funding has established residential care as the alternative placement for children who cannot live with their families. States need to take control through policies, laws and planning of the type of care they wish to promote. The South African Government is able to manage the essential services provided by NGOs through grants and asking NGOs to tender for providing the services. If governments have the ability to fund services through the provision of grants to providers they will have more ability to manage and monitor those services. South Africa with the new children's legislation will have improved strategies, local planning and coordination of NGO services.

Social Welfare Ministries are seriously under funded and understaffed

During the visits to Zambia and Malawi in particular it was uncertain whether there were constraints being placed on the recruitment of staff by the civil service and local government in the social welfare sector. It is recommended that UNICEF clarify with government whether or not this is a result of the highly indebted poor country (HIPC) agreements or other policies or whether in fact staff can be recruited. INGOs felt in Zambia that at the present time the government would struggle to effectively disburse the money coming into the country for the social protection sector. The advent of cash transfers and transformative social protection will highlight the constraints under which these ministries operate. If cash transfers and child protection systems are to be effective then staff need to have a living wage and the tools to do the job as well as training and capacity building. Consideration should be given to discussing long term technical assistance to these ministries. Lastly, in view of the growth of cash transfers and social protection consideration needs to be given as to whether splitting 'social welfare' into social services and social security functions would be advantageous. This has begun in South Africa with the creation of South Africa Social Security Agency (SASSA.)

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[69] IDS Working Paper 232 Transformative social protection Stephen Devereux and Rachel Sabates-Wheeler October 2004, IDS, Brighton, Sussex, UK

Advocacy, Research and Coordination

Advocacy is central in raising the profile for action to prevent family breakdown and protect children through ensuring effective social welfare services and social protection systems. It is required at many specific points as outlined in this report from legal and systems frameworks, to priority interventions for family and child support, to studies on non-relative informal fostering and spatial organization and how that affects the ability of people to protect themselves from violence, crime and HIV, to the enlargement of the understanding of social protection to include non-economic aspects particularly the role of social welfare, to data collection and analysis, research and coordination .

The profile of child protection has increased within the policies of UNICEF, donors and INGOs over the last ten years. There is also a growing realization of the importance of raising the effectiveness and status of ministries of social welfare as a way to better protect children, enhance human capital and reduce child poverty. Discussions are beginning to take place globally over the information needs for increasing investment and quality in social welfare services, particularly in respect to integrated social protection, e.g. cash transfers and social welfare services, as a way to address child poverty. One way to obtain the necessary political buy-in to strengthen social welfare services is 'to frame services within the context of global policy priorities, in particular: poverty and human development…Child wellbeing outcomes should be quantified as an asset, to demonstrate the benefits of social welfare services on human development and to quantify the costs of non-delivery'[70] A number of research studies are in progress to which non-economic social protection measures such as prevention, protection and transformational aspects as outlined in this paper could be advocated for inclusion. The African Union is evaluating progress on the Livingstone Call for Action in 2008 and with Human Sciences Research Council (HRSC) is doing a study on social protection in member countries which will involve consultations with Ministries of Social Welfare, culminating in a Ministry of Social Welfare (MSW) meeting in Addis Ababa in June, 2008. President's Emergency Plan for AIDS Relief (PEPFAR) and IDS are also involved in social protection advocacy via meetings and the designing of a tool for evaluating social protection mechanisms respectively and might be persuaded to look at non-economic aspects of social protection within these. UNICEF and other UN bodies may be able to assist this process.

For the United Nations donors and governments too, with the Livingstone Declaration 2006, social protection is emerging as an important strategy for poverty reduction and the rights of the child. ILO, UNDP, UNAIDS have roles to play as well as UNICEF. Perhaps through the UNDAF processes there can be a review and an assessment to look at current and future roles which would have benefits of coordinating UN roles and responsibilities vis a vis social policy and social protection.

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[70] S. Giese, 'The role of social welfare services in social protection: towards a policy- relevant research agenda', briefing paper commissioned by the Better Care Network for the BCN, SCF, UNICEF & CARE meeting November 29-30th, 2007, London.