ALTERNATIVE CARE FOR CHILDREN IN SOUTHERN AFRICA:
PROGRESS, CHALLENGES AND FUTURE DIRECTIONS

SEPTEMBER 2008

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SOCIAL POLICY AND SOCIAL PROTECTION SECTION
EASTERN AND SOUTHERN AFRICA REGION

WORKING PAPER

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Acknowledgments

We wish to thank the many people in Malawi, South Africa, Swaziland and Zambia for sharing their knowledge and understanding of the issues related to this assessment which contributed to the quality of this report. The departments responsible for social welfare in each country were pivotal in directing us to the right people. They shared their insights on child protection issues in their country, and how the issues were being addressed. Staff of social welfare departments gave their time to accompany us, for which we are also very grateful.

Last but not least, we extend our gratitude to those at UNICEF Regional Office for their enthusiasm and support, and also to the Child Protection Officers and administrative staff in the country offices, who responded cheerfully to our many requests, stimulated our thinking, and often accompanied us on our research.

The following assessments are built on the many contributions of you all.

Acronyms

AIDS	Acquired Immune Deficiency Syndrome
ART	Anti-Retroviral Therapy
C&YPA	Children and Young Persons Act
CCSO	Child Care Service Order (Swaziland)
CHH	Child Headed Household
CRC	Convention on the Rights of the Child
CSG	Child Support Grant (RSA)
CWSA	Child Welfare South Africa (RSA)
DCD	Department of Child Development (Malawi)
DoSD	Department of Social Development (RSA)
DSW	Department of Social Welfare
DSWO	District Social Welfare Officer
FCG	Foster Care Grants (RSA)
HIV	Human Immunodeficiency Virus
IDS	International Development Studies, University of Sussex
INGO	International Non-Government Organisation
KZN	Kwa-Zulu Natal
LL	Lihlombe Lekukhalela (*a shoulder to cry on*, Swaziland)
MCDSS	Ministry of Community Development and Social Services (Zambia)
MGDS	Malawi Growth and Development Survey
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
MSYCD	Ministry of Sports, Youth and Child Development (Zambia)
NCP	Neighbourhood Care Points (Swaziland)
NGO	Non-Governmental Organisation
NPO	Non Profit Organisation
OVC	Orphans and Vulnerable Children
PLW(H)A	Persons Living with (HIV) AIDS
REPSSI	Regional Psychosocial Support Initiative
SCOPE	Strengthening Community Partnerships for Empowerment
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
UNCRC	United Nations Convention on the Rights of the Child
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
USD	United States Dollar
VCT	Voluntary Counselling and Testing (for HIV/AIDS)
VDC	Village Development Committee (Malawi)
WFP	World Food Programme
YWCA	Young Women's Christian Association

Definitions

The following are frequently-used child care and protection terms.

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." State 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

A private arrangement in a family environment whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care). The initiative is that of the child's, the child's parents, or another relevant person. The arrangement is not ordered by an administrative or judicial authority or a duly accredited body.

Formal care

Care provided in a family environment that is ordered or authorised by a competent administrative body or judicial authority. This includes all care provided in residents, including private facilities, regardless of administrative or judicial measures.

Alternative care situations include:

Kinship care

Family-based care in the child's extended family or with family close friends who are known to the child, whether formal or informal in nature.

Foster care

A competent authority places the child with a family other than the children's own family. The family is selected, qualified, approved and supervised for providing such care.

Residential care

Care provided in a non family-based group setting (discussed below).

Residential care[3]

"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." Today the definition of residential care is more inclusive. It includes "children's homes" that are run as family-type group homes, and accommodate a number of children of no relation to the person running the home. The staff may be volunteers or related to the person in charge. Some of these homes are not registered with a government department.

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[1] UNICEF, Innocenti Research Centre
[2] UN Draft Guidelines for the Appropriate Use and Conditions of Alternative Care for Children. June 2007
[3] Tolfree, David, *Roofs and Roots: The care of separated children in the developing world.* London, Save the Children UK (1995).

Adoption

A judicial process that conforms 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 usually are not naturally related. The adopted child is given the rights, privileges, and duties of a child and heir by the adoptive family.[4] Under the draft United Nations Guidelines on Alternative Care, adoption is understood as permanent care.

Kafala

Under Islamic law, kafala 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.[5]

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[4] www.legal-dictionary.thefreedictionary.com
[5] UNICEF, Innocenti Research Centre

Executive Summary

This report, prepared for UNICEF East and Southern Africa Regional Office (ESARO) assesses the capacity in Malawi, South Africa, Swaziland and Zambia to manage alternative care systems for children. It is a timely report for the East and Southern African countries as UNICEF and other key stakeholders are developing frameworks and strategies for social protection, and as countries in the region begin to pilot and assess cash transfers to poor families with the potential to reinforce extended family care.

In general, it is difficult to obtain information on alternative care in the assessed countries. There is limited to no systematic, central data collection or collation on children living in informal or formal alternative care situations.[6] Without systematic data, it's difficult to discern trends, and many observations rely on interviews and anecdotal evidence. The information gathered is not always comprehensive; it is rarely thorough enough to disaggregate by gender or age. This scarcity of data complicates efforts to estimate the required costs for a comprehensive social protection system that will address 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.

The draft United Nations Guidelines on Alternative Care[7] emphasize government's role in child protection and alternative care. The guidelines link government policies with activities in social protection that promote extended-family child care, or that seek permanent solutions such as adoption or kafala.

Key findings

The are many issues in the assessed countries that influence the need for alternative care and alternative care practices such as widespread poverty; high HIV-prevalence; poor access to services; large townships and peri-urban settlements that give rise to violence and crime; and also populations in remote areas that have limited access to education and health care.

The percentage of children who live with both parents ranges significantly among the four countries: from 62% in Zambia to 22% in Swaziland. In each country, however, few children (3 to 6%) live with their fathers alone. An average of 22% of children live with their mother in Zambia and Malawi, to 38% in South Africa and Swaziland. Children who live in a household with neither their mother nor father varied between 12% in Zambia, 19% in Malawi, 22% in South Africa, and 34% in Swaziland.[8]

In each country, the practice of informal placement of children is widespread and well accepted, even when one or both parents are alive. The number of children who are placed with extended family far exceeds the estimated 3% to 4% of double orphans in these countries. The reasons for child placement in relatives' homes are many, but in general the decision may be driven by factors such 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 informal orphan placements are with grandparents. Only in South Africa are extended family

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[6]   South Africa does collect and analyse more data that the other countries.
[7]   Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 presented by the Government of Brazil
[8]   See latest Demographic Health Survey Reports for these countries

placements formalised by social work assessments and the courts, and when confirmed, a foster care allowance is paid. South Africa also pays child support grants to children of poor families. Malawi, Swaziland and Zambia have limited capacity to manage informal care, but are gradually developing cash transfer schemes which, when fully implemented, will target poor families.

Residential care is the most prevalent type of alternative formal care. Sadly, many placements are with unregistered children's homes that lack oversight from the state social work service or the courts. There are no precise figures on the number of unregistered homes, the number of residents, the reasons for admission, or the average length of stay.

An estimated 396 children's homes are registered in the four assessed countries, accommodating 24,340 children. It seems that in general children enter residential care out of abandonment, abuse, neglect and poverty. Apart from Malawi, there are relatively few double orphans in the children's homes. In South Africa, the placements are regulated through the courts and are reviewed. The main issue concerning the children's homes are not their physical standards but (apart from South Africa) the absence of formal processes of prevention, assessment, 'best interest' decision making,[9] care planning, review,[10] and reunification. It is recommended that governments, with support from UNICEF and NGOs, reunify and support children who are inappropriately placed in homes to live with parents and relatives.

There are few recorded cases of formal fostering with non-relatives, and relatively few children are formally adopted.[11] There is a particular issue with abandoned babies and young children being placed in residential care and remaining there. Research shows that infants 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 less than three years old, with or without disability, should not be placed in residential care.[12] It is preferable that these children are fostered and then placed, through the proper process, for adoption.

In South Africa, policy and laws are being modified to address social change, but in the other countries the reform processes are less advanced and require acceleration. There is a role here for UNICEF and other agencies: to provide long-term technical support to information collection, knowledge management and monitoring, and advising on policy and legal frameworks.

Malawi, Swaziland and Zambia's social welfare ministries, and also Malawi's decentralised district offices, are under-resourced and thus stretched by the additional management required for cash transfer payments. There is a danger that child protection will be relegated to a secondary status. It is recommended that these ministries are properly funded and that staff receive better salaries to manage new social protection systems and child protection. District social welfare offices need more funds to pay for proper residential care placements. 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.

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[9] Article 3, UNCRC, The best interests of the child: **"A**ll decisions taken by states and other organizations regarding the care and protection of children should be in the child's best interests."

[10] Article 25, UNCRC.

[11] Figures were not available for national or inter-country adoption. Without comprehensive data or better oversight on adoptions, there will always be concerns about trafficking.

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

Recommendations to Government, UNICEF and Other Agencies

- Strengthen the resilience of children and their families, to prevent extreme vulnerabilities due to AIDS and to an ill or dying parent on the growth, heath and development of a child;
- Place more emphasis on prevention, particularly keeping mothers alive (e.g. improved health care and expanded access to ART) and keeping families together;
- Promote investment in human resources of social welfare systems to increase the size, competency and reach of staff at both national and sub-national levels from government and non-governmental service providers;
- Protection systems must be improved, with an emphasis on family- and community-care, and residential care as a last resort;
- UNICEF's and other key stakeholders advocacy can help ensure that government and donor funds for social protection are also used to build the social welfare ministries to undertake child protection as well as cash transfer work.

Introduction

Introduction

This assessment report, *Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions*, prepared for UNICEF ESARO, provides information about the capacity of Malawi, South Africa, Swaziland and Zambia to manage alternative care systems for children. The report is timely as East and Southern African countries begin to pilot and assess cash transfers to poor families who struggle to raise their children and the children of relatives who have died. The report is also timely for UNICEF ESARO as it is developing a regional framework and strategy for social protection,[13] and realigning its management systems and structures to accommodate cash transfer systems and transformative social protection.[14]

The report has the following objectives:
- To assess the extent and quality of alternative care provision and informal care;
- To assess and analyse a sample of residential care;
- To critically analyse policy, law, standards and practice of the provision of alternative care;
- To critically assess the capacity to implement, monitor and report by government at all levels; and
- To develop a country-by-country model of minimum capacity requirements and resources to manage systems of alternative care.

The report covers these objectives by assessing the capacity of each country within the current draft ESAR social protection framework and strategy. UNICEF[15] had concluded that the number of children in poverty, the extent of food insecurity exacerbated by HIV and AIDS, and the extent of recurring emergencies and weak governance make it essential to focus on lifting the income of the poorest households with children, while also investing in the human capital of children.

Each country assessment (Annex One through Annex Four) is placed in the country's present social and economic context, taking into account the HIV and AIDS pandemic that 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 countries; the extent of informal family placement; and the present provision of alternative care (a situation dominated by unregulated, unmonitored, NGO-managed residential care).

Recent concerns shadow the current trend to expand social protection: that the trend may stress the government ministries of social welfare who are responsible to deliver cash transfers and improve policy, laws and quality of alternative care.[16] However, the extent of reliance on residential care, and governments' weak capacity to manage this phenomena, as well as widespread family alternative care practices, support the practice of offering cash transfers to families in order for them to tend to their children and ultimately keep families together.

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[13] Social Protection in ESAR: A Framework and Strategy for UNICEF, Draft 22 August 2007

[14] Devereux , Stephan and Rachel Sabates-Wheeler, IDS Working Paper 232: "Transformative social protection", IDS, Brighton, Sussex England (October 2004)

[15] Social Protection in ESAR: A Framework and Strategy for UNICEF, Draft 22 August 2007.

[16] Temin, Miriam. The Better Care Network, "Expanding child-sensitive social protection through institutional strengthening: learning from experience, work in progress."

The Current Context for Alternative Care

The reasons that children require alternative care and protection are constantly shifting in the rapidly changing environment in Southern Africa. The authors of *Home Truths,* a paper on residential care in South Africa, deduced that poverty and HIV and AIDS were often both background factors though not always the direct cause of admission into residential care.

Despite differences in wealth, population, and historical legacy between South Africa and the other three countries, the context for those children who require alternative care is similar among the countries. But the policy frameworks and the contributed resources are much stronger in South Africa than in Malawi, Swaziland and Zambia where laws, policies and services are inadequate to deal with child protection, especially from violence and abuse.

1.1 Living arrangements of children, by country[17]

	Malawi[18]	South Africa[19]	Swaziland[20]	Zambia[21]
Number of children	6 million	18+ million	530,000	4.8 million
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%[22]	19%	8.1%
Double orphans	3.5%	3.5%	4.4%	2.9%

HIV and AIDS

The HIV and AIDS pandemic has affected the populations in each of the four countries in a similar way. To choose Malawi as an example, the HIV prevalence rate among adults (15 to 49 years old) was 14% in 2005.[23] The 2004 Malawi Demographic Health Survey estimated that 86,000 to 100,000 people die from AIDS annually, the majority belonging to the most productive age group (15 to 49 years). The number of people living with HIV and AIDS (PLWHA) was an estimated one million; of whom 83,000 were children (2005 estimate). Mother-to-child transmission accounted for close to 30,000 infections annually.[24] Of all the children infected, about 10,000 were receiving ART.[25]

The figures in Table 1.2 are not always comparable among the four countries, but illustrate trends such as the effect of HIV and AIDS on family life. Fathers, followed by mothers, are still becoming ill, non-productive, and dying from AIDS. There is still mother-to-child transmission infecting babies, some of whom are receiving care in babies' homes.

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[17] Be attentive to figures. The reference years vary, and Zambia figures apply to children 0-14 years rather than children 0-17 years.
[18] Malawi DHS, 2004
[19] General Household Survey 2004; General Household Survey 2005. Pretoria, South Africa
[20] Swaziland DHS 2006-7 (figures are for under 18 year olds)
[21] OVC Situation Analysis Vol 3 Data Review, Unicef Zambia 2004.
[22] This figure is higher for black African families, General Household Survey
[23] Sentinel Surveillance Report, National AIDS Commission
[24] Unicef, draft Country Programme Document, Malawi, 2006
[25] M.Chipimo,M. HIV/AIDS Manager, Unicef

Table 1.2 Estimate figures on orphans for Malawi, South Africa, Swaziland and Zambia

	Malawi[26]	South Africa[27]	Swaziland[28]	Zambia[29]
Number of Children	6.4 million	18,086,530	530,000	4.8 million (age 0-14)
Paternal Orphans	12%	12% (2,221,156)	13.5%	12%
Maternal Orphans	6%	3% (512.987)	5%	6%
Double Orphans	4% (256,000)	3.5% (626,362)	4.4%	2.9% (116,000)
All Orphans	21% (over 1,000,000)	19% (3,360,505)	18% (95,000)	20.9%

In South Africa, NGO staff and government social workers report that the loss of the economically-productive adult is more difficult than the loss of a caregiver for a family to manage in the long term.

There are reasons beyond issues of health service delivery that parents do not attend VCT, or receive or adhere to ART. Fear of stigma remains an issue---the fear of disclosure, complex family relationships, and resulting disempowerment of women. Evidence from a group of programmes in Zambia (RAPIDS), and anecdotal evidence from drop-in/community centres in Kwa-Zulu Natal, support the take-up of ART and other means that keep mothers alive. Coverage by NGOs and community centres is currently insufficient. Mothers and fathers are dying from AIDS, and this has a major impact on the ability of extended family systems to provide care and support for the children----one that is not abating with time. Extended families are already strained by poverty, limited space, and old age, which means many of the children (with a high ratio of HIV-infected children) are admitted into children's homes.

Poverty

Poverty is a major factor that undermines parents' and relatives' ability to care for children and makes them resort to residential care. Grandparents, who frequently care for their grandchildren, are too old to work and earn an income. Although South Africa is a middle income country, poverty still affects 60% of the population and poor housing leaves an estimated 4.8 million children living in overcrowded conditions.[30]

Poverty reaches each country uniquely, but none are exempt. In Zambia, for example, 67% of the population is defined as poor, and 46% live in extreme poverty.[31] ("Poor" refers to a population that can meet basic nutritional needs, but are unable to meet additional necessities such as health care, shelter, clothing, and education. People in "extreme poverty" are unable to meet basic nutritional requirements, and suffer from poverty across generations). Among the poorest of the poor, 25% of households are headed by an elderly person, and 27% by women. Poor children begin school at an older age with attendance rates for seven to 13 year olds at 75% across the country, and 68% for the extremely poor.

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[26] Malawi DHS, 2004. All Malawi figures are for children under 18 in households.
[27] Child Gauge Children's Institute, University of Cape Town 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.
[28] Swaziland Demographic Health and Health Survey 2006-7. All figures are for under 18 years
[29] OVC Situation Analysis Vol. 3 Data Review, Unicef Zambia, 2004.
[30] Child Gauge, Children's Institute, University of Cape Town
[31] Zambia *Living Conditions Monitoring Survey Report*, 2002-3, Central Statistics Office

Spatial Organisation

Across southern Africa, large populations are migrating to urban areas to seek employment. Many people find themselves living in large, unplanned peri-urban settlements such as Kabwe in central Zambia. Kabwe is a well-established city, but lacks basic infrastructure and children often make their way from here onto the streets of Lusaka.

Poor populations, particularly in South Africa, historically suffer from family separation because of employment practices and being contained in townships. The staff of Ubumbano Drop in Centre, Umlazi, Kwa Zulu Natal, 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. The facility managers who work to provide food parcels, VCT, partial care, and home-based care are convinced that community support and encouragement is vital to keep families together, and to improve take up and adherence to ART.

The spatial factors that affect poor remote communities in rural areas are different having more to do with the lack of access to services and limited or costly transport.

Access to Services

In all the countries except Swaziland, primary education tuition is universal and free. However there are frequently hidden school charges imposed locally (e.g. for Parent-Teacher's Association), building maintenance and improvements, and school uniforms. In Malawi, despite the abolition of school fees in 1994, over 10% of eligible children are not in school; and 60% of those who enroll in standard 1 have dropped out by standard 4; girls remain more vulnerable to this trend than boys.[32]

Hidden education costs and health care user-charges deter the poor from access to these services and make it especially difficult to provide quality care for relatives' children. 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. Free education is often cited as a pull factor with regard to residential care admission,[33] particularly with unregistered homes.

Violence, Abuse and Children as Victims of Crime

Abuse against children is a serious underlying issue on the subject of alternative care. In each assessed country, it is an important child protection and justice issue. In Swaziland, according to the records of the Domestic Violence and Child Protection Section of the police, of the 801 reported rapes of females in 2006, 472 were girls, i.e. 59% were under 18 years old. Swaziland Action Group Against Abuse (SWAGAA) reported that rapes of children were two-thirds of the total reported rapes (172 of 269). The High Court hears 20 rape cases per week against children under 16 years old. The hotline to Ministry of Education identified headmasters (25%) and teachers (20%) as the main rape perpetrators.

Reported violence and abuse committed against children follows a similar, or even worse, pattern in South Africa (though whether children are victims at schools as frequently is not reported). In South Africa, an estimated 25% of children live in households where there is violence.[34] This is frequently exacerbated by alcohol abuse. In the Polokwane Place of Safety, out of 77 admissions, 21 girls were admitted for protection against sexual abuse

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[32] Draft Country Programme Document, Unicef Malawi, 2006.
[33] "Last Resort" Save the Children
[34] Child Gauge, Children's Institute University of Cape Town

perpetrated within the family. Othanweni Children's Home was caring for 20 children, of which five girls were admitted because they had been raped.

The "One Stop Centre" model where women and girls can report abuse is being developed. The centres are staffed by police, social workers and health staff. South Africa also has a child protection register which helps keep track of the children at risk of abuse, but there is no corresponding register of abuser. The One Stop Centre in Lusaka offers counselling and organises medical, legal and protection services all under one roof. It can receive up to five child abuse cases a week. This and two similar centres work to ensure justice for children, and conviction of perpetrators. Often a child will spend months at the Young Women's Christian Association (YWCA) shelter so that her testimony/witness capacity is not interfered with.

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 and even children's homes to protect abused children; as do Zambia, Swaziland and Malawi to a lesser extent. Alternative care issues, such as plans, budgets and regulations, must accommodate the potential of a growing number of foster and residential care placements for children who are abused and cannot immediately return home.

Alternative Care for Children in Southern Africa

Alternative Care for Children in Southern Africa

Alternative care of children is divided into informal care and formal care (residential care and foster care). Each component of alternative care is discussed here, drawing from field work, interviews, and available research in each assessed country (Malawi, South Africa, Swaziland and Zambia).

The draft *UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children* do not include adoption or sentences of detention for children who have committed offenses in the definition of "alternative care". Adoption, discussed here as well, is considered permanent care.

Informal Care

Informal care is defined as "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."[35]

Gleaned from discussions in each country, in both custom and practice children are the responsibility of the parents *and* of the extended family. It is accepted and seen as beneficial when children live with relatives to improve their opportunities whether the parents are alive or deceased. Such placements may also be the result of factors such as migratory work, the location of a secondary or better schooling, the inability of parents to provide for their children, or family illness. Apart from South Africa, laws place no restrictions on family placements, and most informants acknowledged the potential for abuse and neglect in these situations. Elsewhere, particularly in West Africa,[36] research has showed that outcomes for children in these placements may not all be positive in terms of growth and development.

There are a significant number of children being cared for by single mothers or relatives. The responsibility for caring for orphans is frequently passed to grandparents, many of whom do not have incomes to support these children. For example:
- **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% are headed by females. There is no information as to the proportion of carer givers that are mothers, aunts or grandmothers.
- **South Africa -** 41% of 421,000 foster care[37] cases are with the grandmother, 30% with aunts, 12% with other relatives and 12% with non-relatives[38].
- **Swaziland -** Estimated 47,000 children stay with grandmothers or alone, but it's not known if they are orphans.

Child-headed households and street children are evidence of societal neglect to provide protection, family care and alternative care to children. In Malawi, the Vital Registration System determined that in nine districts there were 373 child-headed households out of 409,227 households surveyed, or nearly one child-headed household of every 1,000

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[35] Draft UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

[36] Bledsoe et al. 1988; Schmutzhard et al. 1986

[37] South Africa formalises extended family care through the courts, which also allow carers to claim a foster care allowance.

[38] Forster, Jan. *South Africa: the first profile of social security grant beneficiaries*. 2007

households. In South Africa, there are six child-headed households per 1,000 households. (When new children's legislation is in force in South Africa, children in child-headed households will be able to claim allowances.) In Zambia, there are an estimated 13,500 street children (of which 15% are girls) and approximately 25% of children who are on the streets by day, sleep on the streets at night.[39]

Social Protection: Cash Transfer Schemes
Well-developed cash transfer schemes can assist relatives to meet the costs of caring for children. In each of the surveyed countries, cash transfer schemes, targeted at the poorest of the poor and based on income, are either established or are being piloted in selected districts.

In Malawi, cash transfers are operating on a pilot basis in three districts (Likoma district, in four traditional authorities in Mchinji, and in certain traditional authorities in Machinga) with the aim to financially assist those who are both:[40]

- **Ultra poor:** live below the lowest expenditure quintile and below the national ultra-poverty line (take one meal per day, and own no valuable assets) and
- **Labour constrained:** a household that has no able-bodied member between 19 and 64 years old fit for work (i.e. household members are chronically sick, disabled, elderly, or the household is child-headed); or has a member who is fit but has a dependency ratio of more than three dependents per producer.

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

South Africa has three schemes that provide assistance:

- **Foster Care Grants** (FCG) are paid to families and currently reach 449,009[41] children at the rate of Rand 620 a month (US$80). The grant is limited to six children per household. Courts determine grant recipients with a 'in need of care' test, and social work supervision with a 'care order' that is renewable every two years. In effect, this system formalizes informal family placements for children.
- **The Child Support Grant** (CSG) (means tested) is R200 per month (US$26) paid per eligible child. 7,930,807[42] children receive this grant. The take up of the grant is an estimated 71% to 90% of eligible children, depending on the province. There are difficulties in fulfilling the administrative procedures for families without identity cards or birth certificates.
- **Care Dependency Grant** and the **Disability Grant** are paid to children and adults (respectively) who have low CD4 counts.

In Zambia, the Public Welfare Assistance Scheme (PWAS) targets the poorest 2% of the population. In 2006, 166,559 clients were assisted. Social cash transfers were delivered to 64,700 beneficiaries. The Kalomo Cash Transfer Pilot has been a successful model and cash transfer systems are being developed in selected districts.[43]

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[39] 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

[40] GoM, NAC, Unicef, Social Cash Transfer Pilot Scheme Malawi, www.socialcashtransfers-malawi.org

[41] SAASA   http://www.sassa.gov.za/ Sept 2007

[42] GoM, NAC, Unicef, Social Cash Transfer Pilot Scheme Malawi, www.socialcashtransfers-malawi.org

[43] From KALOMO Social Cash Transfer Scheme, Ministry of Community Development and Social Services (MCDSS) Zambia, Vol 6 Models of Care, Orphans and Vulnerable Children in Zambia.

In Swaziland, there are a number of social assistance safety nets that benefit children. Some are more comprehensive in coverage than others:

- **Elderly Grant** for those 60 years and older (E. 300 or US$43 per quarter) collected personally at a local payment centre on a quarterly basis. This is the most comprehensive payment and often benefits elderly carers of children. However, it currently occupies one third of Social Welfare Officers' (SWOs) time.
- **Public Assistance/Family Support Grant** for people under 60 years old (by cheque E 240/US$34 per quarter). Recipients are identified by Ministry of Health and Social Welfare (MoHSW) as destitute families, most frequently child-headed households and under-60 year old grandmothers and female carers looking after children.
- **OVC school fees** paid by both MoHSW and the MoE at different rates.

In Swaziland, SWOs shared their opinion that direct financial assistance to poor households looking after OVCs is the most beneficial way to assist OVCs, and recommend adopting some form of cash transfer. Increasingly, donors, NGOs and governments are using cash transfers or considering the mechanism to support poor families to care for children. This should assist both parents and relatives, particularly the elderly, to continue to provide family care. It does not appear advisable for countries, both in principle and because of resource constraints, to follow South Africa and develop a foster care system for relatives.

Research and Regulate Informal Care?

"... 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."[44]

According to the UN Draft Guidelines, governments should recognise the *de facto* responsibility of informal carers, and encourage all informal carers to register. The government should provide support and offer access to services and benefits that assist informal carers. Governments should devise special and appropriate measures to ensure that children in informal care are effectively protected against abuse, neglect, child labour and 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 recommend that a child's welfare is monitored, including 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 extended families do not have the benefit of regulations, supervision or support to help them care for and protect relatives' children. The government and NGOs in Swaziland, Malawi and Zambia have limited capacity to regulate or manage this type of family care or placement. In Malawi and Zambia, there was also a limited desire to regulate.

Precise statistics on the numbers of children who are exposed to abuse, child labour and other exploitation, as well as those who do not receive food, health care, education, etc. are not known. More research might better reveal the situations where children are at greater risk, and from which criteria for supervision could be developed. Research should assess the situation of children who reside with non-relatives.

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[44] Draft UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

Formal Care

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."[45]

Residential Care

Residential care is the main type of formal care used in the four assessed countries. It is difficult to acquire precise information on children's homes (such as the number of homes, the number of children resident, and reasons for admission), especially unregistered homes that do not have a formal agreement with government. In South Africa, information was more accessible at the provincial level that manages this type of alternative care. But even in South Africa, the number of unregistered homes is growing.[46]

There is no consolidated information on resident's age, sex, home contact, length of stay and reasons for living there. Such information would ease identification of those who could be reunified, or where other substitute family arrangements could be considered. This is an important information gap that should be relatively manageable to fill with a system of case recording and data entry.

Children's homes are divided into two categories, registered and unregistered. The minority of homes are run and managed by the state. A registered home means that the children's home is registered as an NGO and the government is informed and agrees with its operation and purpose. The government may or may not manage the formal placement of children in these homes. There are seldom inspections that follow-up on home requirements of registration so there is no consistency of standards. In Zambia, which has a system of regulations and minimum standards, 101 homes have been visited in the last few years. But even Zambia is hard-pressed due to limited manpower and other constraints.

The proliferation of children's homes across Africa during the last decade is considerable. In Swaziland, 80% of children's homes were established between 2000 and 2004.[47] 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 Residents

In the four assessed countries, 398 homes are registered (many more are unregistered). The registered homes accommodate 24,340 children, which is 0.08% of the under-18 population of 30.5 million.

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[45] Draft UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

[46] Home Truths; The Phenomenon of Residential Care in the time of AIDS, Children's Institute University of Cape Town 2007

[47] Assessment of Alternative Care for Children without Parental Care, UNICEF Swaziland, 2006

Table 1.3 Numbers of children's homes and children residents, by country

	Malawi	South Africa	Swaziland	Zambia	Total
Government Homes	0	5	1		6
Places of Safety	-	36 (7 managed by NGOs)	-	-	36
Registered Homes	38 (7 baby homes)	238 children's homes	19	101	398
Unregistered Homes	2 + more not yet located	-	1	many	unknown
Children	2,507	13,984 capacity 2,578 places of safety available	679	4592	

Precise figures as to ages of residents are not available, but it seems that a considerable number of the placed children are babies who need more maternal care and individual stimulation than a children's home is able to provide. Out of the 40 homes located in Malawi, seven are 'babies' homes'.[48]

In one example, in 20 homes in Swaziland (679 children) that were studied by UNICEF in 2006, the breakdown of ages were as follows:
- 18% were under five years old;
- 31% were six to ten years ol
- 34% were 11-15 years old
- 17% were over 16 years old

A longitudinal study in Bucharest Romania by a consortia of universities led by Harvard shows that young children in institutions suffer loss of brain functionality that cane become permanent. If placed in family foster care, or in a family, the child can recover.

Christian Alliance of Zambia: Zambia
Established in 1988, Christian Alliance of Zambia runs three homes: one for babies under 18 months (House of Moses); another for 18 months to three year olds; and one for four year olds to 12 years, who are then transferred to SOS Children's Village or similar homes.

The home admits babies and works with families when possible to return children home after a six month stay. Referral is from hospitals, DSW, police and churches. The home has good facilities and nursing staff, but there are still deaths from HIV & AIDS. The home claims to enjoy a good liaison with DSW and shares decision making. The figures are not precise, but we were informed that 560 children have passed through the three homes: 100 to 200 were adopted, 70 to 80 fostered with a view to adoption, and 20 to 30 were transferred to other homes.

St Vincent's Children's Home. Marianhill, KZN: South Africa
Church managed, this home presently accommodates 103 children but has a capacity for 110. The home is accommodating 20 babies. Placements are made by the state and NGO-designated social workers equally. Children stay from one to ten years.
Information obtained during A Dunn's visit to the homes in 2007.

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

In South Africa, abuse, neglect and abandonment are the major immediate reasons for children entering homes, and poverty and HIV and AIDS are usually "part of the causal pathway rather than dominant factors".[49] 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. As noted, there are relatively few double orphans in the homes (beside Malawi). Some children may be admitted as a means to receive education. 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.[50] From a quick sample during a visit to Mwana Maria Home in Kafue, Zambia, children were resident for poverty reasons, poor parenting, neglect, orphanhood and abuse.

In the South Africa study sample,[51] 16% of children had a HIV+ status compared to 1.9% in the general population. From observation, there seemed to be a greater proportion of HIV-infected children of the children in residential care than in the general population.

Admission Process and Case Management of Children's Homes
The entry of children into homes is largely unregulated (with the exception of assessed children or children with court orders). Home administrators may go out 'harvesting' (looking for children to fill places), or may receive children directly from carers, on the authorisation of local leaders, officially from social workers, or from the court.

When there is no standardised process for admission, there can be no vetting whether alternatives are possible, such as for the child to stay with parents or relatives. In some cases (e.g. Hawane Lighthouse Children's Home, Swaziland) children from residential homes actually go home for holidays. It seems likely that with assistance such children could be reunified with their families.

Most homes keep minimum records, but there is little evidence 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 African children homes are not full is probably because gate-keeping is practiced by the state, an authorised social worker, or 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 necessary. With the exception of South Africa, social workers tendto visit homes only to place children. The lack of monitoring can also lead to children being trafficked.[52]

Length of Stay in the Homes
An unrepresentative sample[53] of children's homes from four 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% for more than ten years.

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[49]   Home Truths; The Phenomenon of Residential Care in the time of AIDS, Children's Institute, University of Cape Town 2007

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

[51]   Home Truths: The Phenomenon of Residential Care in the Time of AIDS, Children's Institute, University of Cape Town 2007

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

[53]   Home Truths: The Phenomenon of Residential Care in the time of AIDS. Children's Institute University of Cape Town 2007

The UNCRC is explicit that each placement is periodically reviewed.

Reunification with Family

Social workers' limited liaison with children's homes means that there is no managed reintegration 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. DSW staff in Zambia thought they might be able to reintegrate 50% of the 169 children from the eight 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 faith-based organizations are the most prevalent owners of children's homes. There is only one government home in Swaziland, and none in Malawi. In Malawi, 75% of children's homes are foreign-owned and the community have little or no involvement with them. In South Africa, a government grant toward the cost of placement is given to the home along with a court order, but the NGO-run homes in Zambia and Malawi receive no government financial support. Only 3 of 19 non-government homes in Swaziland receive government funding. In effect, many children's homes provide a free service to government and as a consequence of not funding placements or the homes, governments are reluctant to intervene on behalf of the child unless there is obvious abuse in the children's home.

National minimum standards exist for children's homes in South Africa and Zambia. In Malawi, there are regulations, but they do not appear to be circulated to the children's homes. In Swaziland, there are no standards or rules. Inspections to ensure that standards and rules are adhered to have taken place in Zambia and have just begun in Malawi and are not yet carried out systematically. The Malawi Human Rights Commission commented that "these institutions are run in a very haphazard manner with no idea as to the minimum standards that must be met."[54]

Residential Care: Conclusions

- The data on children's homes and the children living in them is incomplete. Updated, thorough data is required for successful monitoring. Data that covers children's age, sex, home contact, length of stay and reasons for residence could help identify those who are inappropriately admitted and who can be reunified.
- The registration requirements for children's homes are unclear. For example in Zambia, homes that register with the Ministry of Home Affairs, the legal authority to operate as an NGO, may fail to register with the Social Welfare Department for the authority to look after children.
- National, legally-binding, minimum standards and regulations must be established, with regular inspections carried out to ensure compliance. To raise standards above the minimum, the children's homes should meet quality standards in conjunction with the social work department.
- 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

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

reintegration to prevent them overstaying.

- NGOs need to be persuaded to redirect their resources to care in the community rather than to residential care.
- District social workers need funds to meet placement costs. Government would then become more accountable, and responsible, for children in residential care. Currently, with the exception of South Africa, residential care placements pose no cost to the state or the community, as most funds are externally raised. With proper gate-keeping, if district social workers were given funds and were obliged to pay for placement, 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.

Foster Care

Across Africa, the term 'fostering' has various meanings in different societies. In the west, foster care is a temporary care arrangement for a child while 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. As a formal, alternative care with non-relatives, foster care is rare in the assessed countries, except to a limited extent in South Africa.

Table 1.4 Children in foster care with relatives and non-relatives

	Malawi	South Africa	Swaziland	Zambia
Formal foster care with relatives	Not formalised	449,009 • 41% grandmother • 30% Aunt • 12% Other relative • 12% Non-relatives[55]	Not formalised	Not formalised
Formal Foster care with non- relatives	Few	50,000	Few	155 (mainly as precursor to adoption)

Apart from South Africa, formal fostering by non-relatives is rare. The 155 cases in Zambia are those prior to adoption, which may be the case in Malawi as well.

By our calculations, 12% of the 449,009 fostered children of South Africa are formal non-relative fostering. South Africa has thus formalised part of the 'the extended family care system,' whereby children who are deemed 'in need of care,' and are cared for by relatives, are subject to court orders and statutory supervision as well as entitled to a foster care grant. It is a tremendous burden on social workers' case loads. There are difficulties in fulfilling the administrative requirements for the grant; and currently grants and orders lapse after two years, and processing times can be considerable.

A separate issue is that magistrates/commissioners interpret the 'need for care' differently. Some magistrates feel that it is family members' duty to care for children, 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. The Children's Institute of Cape Town expresses concern that children could become 'commodities' if relatives are more interested in the grant than in providing good care.[56] This needs to be monitored by the authorities in South

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

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 assessed countries, but it would be a useful addition to the range of services offered for babies and young children destined for residential care. It could also provide care for children who are vulnerable to abuse. Such services do require regulations and supervision that may exceed a country's current capacity, except in South Africa. It's not advisable or manageable to extend formal foster care, with all the attendant court orders and social work supervision, to children cared for by relatives; and the responsible ministries in Malawi and Zambia have no wish to do this. The care of children by the family would be better addressed by cash transfers or other social assistance. The issue of children cared for informally by non-relatives needs further investigation.

Permanent Care: Adoption

Adoption is rare in the four assessed countries. Swaziland and Malawi do not have national statistics on adoption. 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. Across the four countries there are an estimated 830 adoptions a year; but the vast majority of these (727) are in South Africa, and half of those were likely to step-parents. There is no breakdown on the numbers of domestic adoption compared to inter-country adoption.

Table 1.5 Adoption estimated figures for Malawi, South Africa, Swaziland and Zambia

Malawi	South Africa	Swaziland	Zambia
Less than ten (2006)	727 (2003) 50% to step-parents[57] CWSA rendered services to 1,280 adopted children in 2005	Estimated 30 (2005)	69 (2006)

Adoption as a permanent care solution is under-utilised. For abandoned babies it's an especially relevant option. Research has shown that the longer babies stay in a home, the more their emotional, cognitive and physical development suffers.[58] There are a number of babies' homes (Malawi has seven), 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 six months and under three years. Only one of these was an inter-country adoption.

Adoption Issues

The issues that keep families reluctant to adopt an unknown child need to be better understood.
- Some informants felt that adoption should be marketed in African society because myths have 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 child whose parents have both died could be promoted as a way of securing and legalising the child's situation in that family.

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[57] Child Welfare South Africa Figures
[58] 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, and The University of BIRMINGHAM, UK

- There is very little support for women who consider putting their child up for adoption. Pre-adoption counselling would reduce the practice of abandoning children.
- To protect children's rights and safety, legal and social-work adoption processes must be followed. If the number of adoptions increase, more social workers will be needed to oversee the processes. Governments need to produce guidelines on how adoption should be conducted, especially for abandoned babies and on the rights of children who are HIV+ regarding testing, treatment and disclosure.
- A data bank of domestic and inter-country adoptions established and 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 the adoption process more accountable. In East and Southern Africa only Burundi, Kenya, Mauritius and South Africa have ratified the Hague Convention.

Policy and Legal Frameworks for Alternative Care, Service Delivery for Alternative Care, Country Capacity to Manage Alternative Care

Policy and Legal Frameworks for Alternative Care

South Africa is a diverse country undergoing a transformation in service provision.[59] Policies, laws, strategies and standards are being established to achieve more equitable and improved delivery of services. After nine years in the making, the Children's Bill, a law that modernizes child care and protection practice, was passed by the Assembly and is likely to be in force by May 2008. The legislation covers the provision of:

- Partial care (including day care and other care of a child, formally looked after for part of the day).
- Early Childhood Development.
- A child protection system, with emphasis on prevention and early intervention.

The legislation places obligations on the national and provincial government to write strategies, report and monitor, ensure provision and establish norms and standards. The bill also legalizes the status of child-headed households so they can be grant beneficiaries.

In the other three countries, policy development with regard to alternative care is happening through National Plans of Action or OVC Frameworks. In Malawi, the National Policy on Orphans and Other Vulnerable Children (2003) sets out ten principles 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 Ministry of Health and Social Welfare (Swaziland). 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. An Advisory Committee is appointed as per the meeting recommendations. Reviews are taking place and TORs drafted. Stakeholders prefer that review and reform processes be all inclusive, involving line ministries, traditional rulers, children, NGOs, and with support from development partners. The process should also 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.[60]
Swaziland is working on a Children's Bill and Children's Justice Bill.

Malawi has drafted a raft of new bills concerning children, including:
- Child Bill (care, protection, and justice)
- Birth Registration Bill
- Wills and Inheritance Bill
- Family Bill

Apart from South Africa, however, policies have not kept pace with the changing socio-economic environment or the HIV and AIDS pandemic. Without clear up-to-date policies, 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 and other key stakeholders.

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[59] The White Paper for Social Welfare 1997 - www.polity.org.za/govdocs/white_papers/social971.html.
[60] The Child Law Reform Secretariat was set up with the support of Save the Children (Norway)

Service Delivery for Alternative Care

Government and NGO service providers deliver social welfare services to children who need alternative care. In the assessed countries, apart from South Africa, the departments responsible for delivering alternative care are poorly funded and the staff underpaid. The departments are understaffed and priorities veer toward juvenile justice or effecting social welfare/security payments.

In South Africa, qualified staff are leaving government and NGOs 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 government-funded social work posts for child protection organizations. Child Welfare South Africa (CWSA) estimates between 16,000 to 19,000 additional social workers will need to be recruited in South Africa to manage the responsibilities under the new children's law.

In 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, DSW estimated a further 140 staff would be needed. Most of the 73 districts have one social welfare officer.

In Malawi, out of an official staff complement of 395, only one-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, DSW staff coordinate the work of NGOs and the system by which the Public Welfare Assistance was allocated. For the Kalomo Cash Transfer Pilot[61] 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 DSW officer 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 struggle to work for the most vulnerable groups in a weak policy environment. Government and donor resourcing to social protection is beginning to improve social welfare morale, and is giving 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, where children's homes and OVC programmes are primarily externally funded, perhaps children's problems are perceived as beyond the reach of government.

Country Capacity to Manage Alternative Care

South Africa can manage alternative care, evidenced by the following:

Constant policy and strategy development;

- Modernising law reform with attendant guidelines and regulations;
- Transition and transformation processes to bring about equity and social justice;

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[61] 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. Ministry of Sports, Youth and Child Development

- Public and Private/NGO sector partnerships with grants paid to the NGOs to deliver services;
- Social cash transfers, i.e. child support grants and foster care grants to prevent family breakdown and support relatives who 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 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.
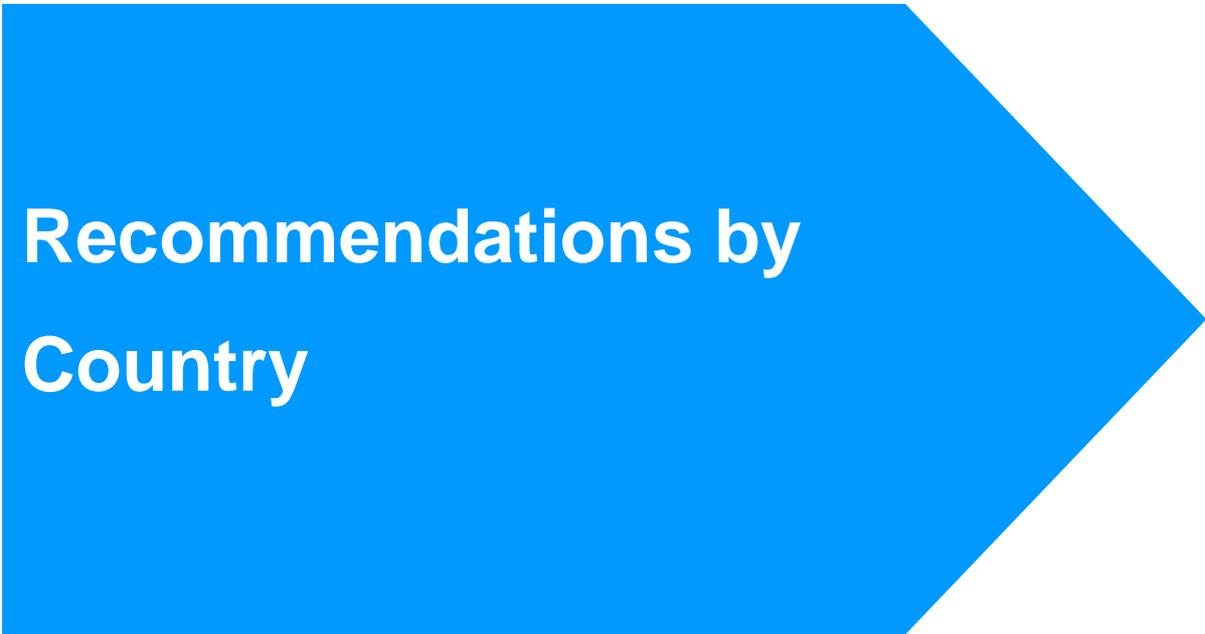
Recommendations by Country

Recommendations by Country

Based on a thorough assessment of the alternative care systems for children in the four countries, the following recommendations are proposed by country.

Malawi

Improving Knowledge Management, Information, Research, and M&E

Informal Care
Establish a method to determine how many of the 20% of children who are not living with their biological parents are in non-kinship care. The secondary data analysis of the Multi-Indicator Cluster Survey (MICS) and DHS data by the MoWCD supported by UNICEF, can provide this information as a basis for decision-making. Also, the next census could include relevant questions; and village development committee (VDCs) could provide information, as suggested in the MoWCD guidelines for OVC. This information would have practical value to identify who requires visits to check their circumstances, and also support advocacy to rally for more resources.

Formal Alternative Care Outside Children's Homes
There is limited 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 Malawi Human Rights Commission (MHRC) has completed research on a preliminary assessment of the homes. It is recommended that a follow-up study is conducted on the children in each home, to include an assessment of reasons for admission, duration of residence, contacts with family as well as of the capacity of the family to care for each child. This would provide information for the Department of Child Development (DCD) and others to build on for care planning and reintegration.

Regular, coordinated inspections of children's homes would assist the DCD to determine the national situation of children in homes and what is being done with regard to reintegration.

Data Management
Collected data would be more accessible and of better use if published in an annual report. This will require cooperation and analysis at district and national level.

Determination of Roles and Responsibilities
The ambiguity that continues about the roles and responsibilities of assessments, planning and review for the care and protection of children affects the 'best interests' decision-making with regard to placement of children. The current law overlooks these matters and no guidelines exist. Clarity and continuity is required for the following:

- The admission process to a children's home;
- The assignment of responsibility for case management, and planning for the child's reintegration and follow-up visits;
- Foster care: The law uses the term 'fit persons' and gives no guidance as to selection of parents, assessment and supervision advisors; and
- Inter-country adoption processes.

Standards in Alternative Care Practice

Children's Homes
- Unregistered children's homes need to be investigated, registered, and monitored, or closed down.
- DCD staff have little involvement in placement, admissions gate-keeping, case management or review of children in children's homes. There is limited formal after-care and reintegration follow-up when a child returns to the community.
- The government's *Children's Homes and Orphanages 2005 Rules and Regulations* established minimum standards that now need to be circulated and explained to each home. Monitoring children's homes is essential. Inspections ensure that regulations are adhered to, or that serious effort is made to improve standards. Elsewhere, a designated inspector, supported by a small committee of respected persons, works 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
Promoting foster care and adoption alternatives as care strategies is not a DCD priority. Temporary-placement foster care is beneficial for keeping babies and young children in a stimulating family environment. It also provides a caring environment for girls who are sexually abused at home. Formal foster parents should be paid a monthly fee for the costs they incur and also as a requirement that standards are kept.

It is recommended that Malawi consider promoting domestic adoption. Adoption provides a permanent solution especially for abandoned children whose extended family can not be traced. When no placement is available within 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 topics of alternative care. Until new laws are passed, policies and developing guidelines direct the department's work in alternative care.

The *Children's Home Rules and Regulations, 2005* would gain stature if they included a section on rules of admission, to guide children's homes on a standard procedure on gate-keeping.

The draft Child Bill is a very hopeful step but would benefit with further review (elaborated on in the Malawi Annex, under "Legislation"). 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 DCD is insufficiently staffed and has limited technical capacity. The department's human resources' constraints will hinder scaling-up social protection and the cash transfer scheme. (The government is considering scaling-up the cash transfers project from the original three districts with seven additional). A certain balance and coordination with family support and alternative care strategies seems essential. If done properly, family support, fostering, adoption and residential care will require more and better trained and skilled manpower and management at district level.

The development of cash transfers in Mchinji revealed that the transfer scheme at district level has a number of different stages, imposing different demands on staff time, particularly

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. To determine and document the required DCD staff time for the scheme roll-out of the programme in a district would imply staffing demands, highlight the need for additional staff and the human resource funding integral to the scheme's budget.

Staff salaries must be enough to constitute a living wage. With developments in social protection, and with the current donor interest in MoWCD capacity, the ministry could press for funding for human resource development that would help its work with the million plus OVCs.

The DCD Director proposed that the department draw up a five-year work plan to establish a Care and Protection Unit at headquarters and to provide district care and protection specialists with guidelines and targets. Upgrading qualifications for staff who currently have limited formal social work training would improve service delivery. If Magermero, the ministry's social work training centre, offered 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 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 establish a Care & Protection Unit at HQ to promote best practice in residential child care, family support, fostering and adoption. With mechanisms for a Care & Protection Unit in place, the DCD could better work to reduce the number of children in 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 District Social Welfare Officers (DSWOs) and District Assemblies must manage district staff to prioritize, task effectively, commit, advocate, deal with budgets and with mobility in order to improve work with families and children at risk. They would in turn benefit from clear policy guidelines and support from MoWCD.

South Africa

Based on discussions with Department of Social Development (DoSD) field and residential care staff, the following issues require attention:
- The need to retain staff. Many are overburdened, particularly by foster care work;
- Workload management and case management need improvement, starting with better 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;
- Extending or improving drop-in/community care capacity;
- Training residential care staff; and
- Data collection and knowledge management; monitoring tools.

Due to the limited time for the assessment, no one issue could be explored in depth. The topics below are merited for further exploration, with potential cooperation between UNICEF (ESARO and South Africa) and the South African Government. It is recommended that the UNICEF Country Office and DoSD begin to discuss and determine where cooperation will be most useful to DoSD.

Residential Care
The current data on residential care is incomplete. It is recommended that the residential care situation is reviewed including: residential care processes; reasons for admission; length of stay; and outcomes for children. How to manage and regulate unregistered facilities also needs clarification.

Reduce Residential Care for Children Under Five: Methodologies
In Eastern Europe, studies show that brain development is slower for under-stimulated babies.[62] The care and protection for children under five years old is an important subject. Processes and procedures that prevent abandonment must be reviewed, e.g. foster care for the temporary care of young children instead of babies' units, and increasing the number of adoptions particularly among black South Africans.

Keep Mothers Alive and Keep Families Together
Staff and volunteers at drop-in and community centres said that greater coverage is needed for home-based care, family support, and integrated services for improved up-take of VCT and adherence to ARTs.

Protect Children and Women from Violence and Abuse
Defending women and children from violence is a growing demand of the social work case load. Many girls seek places of safety and children's homes because of lack of protection in their home and community. It is recommended that South Africa look at existing best practices within and elsewhere (i.e. USA and Europe) to examine methodologies that safeguard women and children from violence in the community, and how to economically empower them to move away from abusive households.

Spatial Organisation
New legislation demands improved strategy and planning processes for services at province and regional level which is an opportunity to examine spatial design factors, such as housing and unemployment, that contribute to protection risks. At the same time methods that improve NGO and Non Profit Organisations (NPOs) service coverage should be discussed.

Swaziland

Knowledge Management, Information, Research, Monitoring and Evaluation

Informal Care
One third (34%) of children in Swaziland do not live with one or both parents. In general, families make informal care arrangements without reference to the Social Welfare Officer (SWO) or to the chief as in the past. The majority of alternative care placements (estimated anecdotally at 70 to 80%) are with extended family. But the remaining 10 to 20% of children who do not live with relatives must be addressed. It's possible that an informal care child placement register is developed by the headman at the *sigozi*/village cluster level, followed-up by regional health motivators and, when necessary, referred to the SWO.

Data Management
There is a need to compile national and district data on fostering, adoption, supervision, probation, the number of children's homes and the children in children's homes (reasons for being there, if relatives are alive, etc.). It would be helpful if the information was published in

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[62] 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).

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 (Child Care Service Order/CCSO, section 11), there are limited to no foster placements through the courts. Foster placement is carried out administratively by the SWO. In 2005, there were 25 domestic adoptions in two regions, but it seems there is no central register. There are very few inter-country adoptions. The Hague Convention has not been ratified.

Recommendations

- Address the history of and local resistance to the subject of adoption;
- Ratify The Hague Convention and;
- Develop a system of formal fostering (that better leads to adoption), especially for babies and younger children who reside in children's homes and for girls who are or were sexually abused at home.

Children's Homes

Of the 20 registered homes, one is run by government. The rest are managed by NGOs. Unregistered homes must be investigated. If they serve a demand and also conform to standards, they can be registered; otherwise they should be closed.

Swaziland places more children (as a percentage of the child population) in children's homes (0.13%) than the average of the assessed four countries (0.08%). This warrants a further assessment/study covering the children's reason for residence; contact with family (i.e. visits? home for holidays?); duration of stay; and plans for reintegration. This base-line study would help determine whether it is really necessary for the children to be at these residences. 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) supports the state to regulate children's homes. The draft Minimum Standards 2007[63] 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 on 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.

Determination of Roles

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

- Admission procedure to children's homes. A child's placement in a home should be done by an authorised person or the court, guided by an assessment and criteria for admissions;
- Reintegration plans by a Social Welfare Officer and the children's home, with the child's participation as far as possible; and
- Children's homes or Social Welfare follow-up of reintegration.

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[63] Ministry of Health and Social Welfare (Swaziland), Final Draft Minimum standards of care for the operation of residential homes and orphanages housing children, K Dlamini, 2007.

Social Work Practice
The Department of Social Welfare (DSW) sets out brief guidelines on fostering that stress the court's role, but implementation remains weak. Formal fostering should be used as a temporary arrangement until the baby or child can be returned to the family or adopted. It's also an option for girls who are sexually abused at home. Formal foster parents should be paid a monthly fee for the costs they incur and to assure the standards are respected.

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 is proposed 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. It is worth the time to study the Malawi Law Commission Child Bill Report and the reports prepared in Uganda and Ghana. These reports set out underlying principles, a rationale for each section, and clear legal requirements.

As with the department's guidelines on foster care and adoption, the staff would benefit from guidelines on how to monitor children's homes.

The National Policy on Children including Orphans and Vulnerable Children (2003) has been finalised and is pending cabinet approval. It will hopefully be adopted by Ministry of Health and Social Welfare (Swaziland). 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 by its social assistance role. Twelve staff carry out payments to the elderly; public assistance for those under 60 years old; and ex-serviceman's payments. They also negotiate care and school payments for OVC. All this leaves little time for child protection. Currently one-third of staff time is taken up with payments to the elderly.

The Department currently has an application with the Civil Service Commission for 55 staff. Support for this application and subsequent in-service training from donors, UN agencies and United Nations Development Assistance Framework (UNDAF), influential Swazi agencies, and NGOs is key. A new departmental structure at Head Office---including a Child Care & Protection Unit to promote family support, fostering and adoption--- is a positive step. The job description of each staff member, including Head Office specialisations, however should be refined. District staff should be trained in the care and protection of children.

They should network with other staff, such as the 3,000 to 4,000 regional health motivators; the neighbourhood Care Point caregivers in the 625 Neighbourhood Care Points (NCPs); the Domestic Violence & Care & Protection Section of the police; and the 7,000 trained child protectors. The provision of motorbikes to field staff who are trained and understand maintenance would make their task easier.

To improve service delivery, it is advised to improve staff qualifications, especially those with limited formal social work training. For example, the University of Swaziland could offer a diploma and degree course in social work, and distance learning is an accessible way that staff could work on their skills. UNICEF Swaziland can promote the uptake by DSW staff of the UNICEF REPSSI children at risk certificate course through distance learning.

Once a Care & Protection Unit is in place, the Department would have a structure to work within to reduce the number of children in 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
When elderly payments are more efficient through the use of institutions such as banks or post offices, the department staff can focus on assisting children in difficulty and need. With UNDAF, donor and I-NGO encouragement, the ministries responsible to expedite and reduce transaction costs of social cash transfers could speed up their work.

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; and
- 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 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 NGOs work together with DSW in Zambia to examine quality care standards that include developing outcomes for children in-line with the CRC and practice indicators. NGOs must also work toward standards that complement the existing guideline. It is recommended that the DSW produce a set of short, ministerial regulations that are enforceable and deal with homes that refuse to comply with standards. Also, external funders of children's homes can increase advocacy. Guidance to donors is unlikely to reach the smaller FBOs in Europe and North America, which could create an important advocacy and communication role for the UNICEF National Committees.

Social Work Practice
- Currently children, especially babies, are missing out on the adoption option and remaining in residential care. The adoption process should be examined and if necessary amended to meet international standards that safeguard a child's rights.
- Fostering, not residential care, should be practised for babies and young children.
- In general, improvements are needed in prevention, assessment and case management (care plans, periodic review of placement, reintegration) to reach minimum standards.

Policy and Law
Policy developments are underway for children. The policy remit of the present ministries involved in child protection and development would benefit from more clarity, enabling ministers to present legislation relevant to their ministries. The reform of children's law is ambitious, but still in the early stages. The process lacks momentum, perhaps a result of trying to undertake reforms across many current issues. Child protection reformers should examine current Zambia social work practice against international standards and best practice.

Service Delivery
The DSW has a considerable workload that it struggles to manage. There is insufficient human and financial resources to manage juvenile offending and child protection (especially the growth in reported sexual abuse) in urban areas. Adding more responsibility to managing social cash transfers will require careful consideration and planning.

Departments that work with staffing limits must disburse additional donor and government resources they may wish to examine the role of public-private partnerships, as well as NGOs that are sub-contracted after due process to deliver child protection services over the short term.

Social Protection and Social Policy
Social cash transfers can transform families to better care for their children and to prevent family breakdown (e.g. avoiding work migration, residential care, or child labour). A method that targets children and families who are at risk might be very helpful towards this end.

General Recommendations

General Recommendations

Overall, it is difficult to discuss improving child protection without discussing the country's capacity to develop and implement social policy and social protection. This is particularly relevant with regard to prevention based on cash transfers, or access to basic services and ART. Below are a set of general recommendations pertinent to Southern Africa but possibly applicable to other African countries. The recommendations concern improvements to social policy, social protection and child protection.

Information Collection

There are two areas where information is inadequate in all of the assessed countries.

1.   Residential Care

There is no systematic collection of information on children's homes nor of the resident children. There is no data on reasons for admission nor length of stay. Information systems must be improved and a method determined to collect information on unregistered homes. Such information reveals inadequacies in the care and protection of children, and in social protection systems.

2.   Informal Care

For a child, often the best option is care by relatives when the parents are unable to provide. There are concerns, however, that grandmothers truly struggle to provide care, and that relatives can take advantage of the children as domestic labour. Research is needed into the informal care provided by non-relatives.

As with the term "orphans and vulnerable children" (that lacks precise definition, especially concerning 'vulnerability'), children who are in "alternative care" are not quantified in terms of numbers nor their needs. Though cash transfer systems will benefit these children and budgets drawn-up on poverty criteria, this is insufficient to meet the needs of children who need social work, financial support, and community programmes to remain with their families or to be reunified from residential care.

Without 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

If resources are directed to social protection cash transfers and improved housing, health and education, the need for social services that care and protect children would probably be reduced. It is important that resources are used to:

Keep mothers alive

Generally mothers are the best people to 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 and community centres** that can support mothers to go for voluntary counselling and testing and adhere to ART. Women need support to overcome prejudice, and to take active steps to protect themselves. These centres are needed in more communities, especially large townships and 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 assessed countries, but especially in South Africa and Swaziland, many children are cared for by extended family. Some family placements are made because parents have insufficient resources to care for their children, and either the parents migrate for employment or the children move. To prevent families splitting up, cash transfer systems could be directed to these families who are at risk.

In general, there is insufficient social work or financial support that works to prevent children from entering children's homes, going to the street, or being abandoned. If district social welfare offices were provided with 'at risk' money, they could distribute it to mothers thinking of abandoning their children, which could be part of a broader social assistance programme.

To keep 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 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 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, issues raised by home-based care teams (e.g. alcohol abuse, violence, isolation or dying parents) and interventions by health workers and newly developed ancillary child protectors are not shared with the state social workers in a coordinated manner. There needs to be a mechanism 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

Child protection services and social protection strategies help children at risk because of inadequate care, an abusive environment, or placement in children's homes or with families that are not in a child's best interests. The following elaborates on protection issues.

Protect 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. They need support, including economic support, to become independent and move out of abusive environments.

Protect and support children in extended-family care

After examining the formalizing of extended family care through foster care orders and grants in South Africa, a similar system is neither necessary nor could be managed in Malawi, Swaziland or Zambia. However, there are issues that would benefit from research, discussion and resolution:

- Are there criteria, such as 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?

- Would a simple method of awarding guardianship to relatives caring for children be helpful for protecting children's rights? If cash transfer means-testing becomes more sophisticated, some method of proving parental responsibility may become necessary.

Find Families

Families are needed to provide temporary foster care or permanent homes through adoption. In each assessed country, it should be possible to provide foster care to at least babies and children who need individual attention. DSW 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 when in their best interests. Working with children's homes and district social welfare staff on reunification of children is a good entry point for UNICEF.

Improve Child Care Services at District Level

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 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.

Give Districts Resource Control; Pay for Care Placements

Currently, neither the central government nor the districts have much control over externally-funded children's homes. The resources provided for residential care need to be redirected to reunifications and 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. In the meantime, along with donor/government money for cash transfers, funds can be 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

Transformative strategies are strategies that provide a framework for 'prevention' and 'protection' elements, and assist children and families to take part in development.[64]

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

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

and Zambia still work 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 quickly without undertaking wholesale reforms. As part of social protection assistance, donors should 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: Underfunded 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 if this is a result of the highly indebted poor country (HIPC) agreements or other policies, or if in fact staff can be recruited. (I)NGOs reported that in Zambia, currently 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. Long-term technical assistance to these ministries must be discussed as an option. Lastly, in view of the growth of cash transfers and social protection, splitting 'social welfare' into social services and social security functions might be advantageous. This has begun in South Africa with the creation of South Africa Social Security Agency (SASSA.)

Advocacy, Research and Coordination
Advocacy is central for action to prevent family breakdown and protect children by ensuring effective social welfare services and social protection systems. It is often required, 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 .

Child protection issues are more in the forefront in UNICEF, donor and INGO policies over the last ten years. There is greater awareness that better effective and higher status of ministries of social welfare is a way to better protect children, enhance human capital and reduce child poverty. Discussions are happening globally about 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 that will 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.'[65] Studies are underway to determine which non-economic social protection measures (i.e. 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 International Development Studies, University of Sussex are also involved in social protection advocacy via meetings and the designing of a tool for evaluating social protection mechanisms respectively. They 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 for governments, with the Livingstone Declaration 2006 social protection is emerging as an important strategy for poverty reduction and the rights of the child. International Labour Organisation (ILO), United Nations Development Programme (UNDP), and 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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[65] 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.

Annexes – Case Studies

Annex One : Malawi Case Study

Alternative Care for Children in Malawi: Progress, Challenges and Future Directions

Malawi Case Study

John Parry-Williams
UNICEF ESARO, *consultant*

Introduction

Context

Over 50% of Malawi's 12.6 million people are children. In the Integrated Household Survey 2004/5, 52% of the population was below the poverty line (earn less than 33 cents (US) per day) and 22% were extreme poor (earn less than 20 cents (US) a day). Malawi is listed 166 of 177 countries on the 2006 Human Development Index. Life expectancy fell from 46 years to 37 years between 1987 and 2005. Maternal mortality per 100,000 births increased from 620 in 1992 to 960 in 2004. Protein-energy malnutrition is very high in Malawi: 50% of children under five years old are stunted, a figure that has remained unchanged since 1992, caused by household food insecurity (Malawi Growth and Development Survey, MGDS).[66] Childhood immunizations have returned to their 1992 level of mid-80%. There has recently been a decline in the infant mortality rates, and especially in the under-five mortality rates from 84 and 166 per 1000 live births respectively in the period 1992-96 to 69 and 118 for the period 2002 to 2006. (MICS, 2006)

Despite the abolition of school fees in 1994, over 10% of eligible children are not in school. 60% of those who enroll in standard 1 have dropped out by standard 4; this is particularly the case with girls.[67] There is only a slightly higher percent of non-orphaned children (91%) who attend school compared to orphaned children (89%, 10 to 14 years)

There are estimated to be over one million orphans in Malawi, which is about 14% of all children. Of these, an 240,000 are double orphans (3.5%). An additional 70,000 children are orphaned each year. Half of Malawi's orphans are orphaned because one or both of parents died from AIDS. 20% of Malawian households take care of one or more orphans, 49% of which are female headed (MGDS). In the Vital Registration System's study of nine districts, of 409,227 households included 373 were child-headed (about one per 1,000 households).

One fifth (20%) of children do not live with either parent, although only 3.5% are double orphans. 11% of children are not living with their parents although both parents are alive.

Table 2.1 Household living arrangements of children in Malawi[68]

Number of children younger than 18 years old	6 million
Living with father only	3%
Living with mother only	20%
Living with both parents	58%
Both parents alive but living elsewhere	11%
Double orphans	3.5%

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[66] Malawi Growth and Development Survey, 2006/7-2010/11
[67] Unicef, draft Country Programme document, Malawi, 2006
[68] Malawi: DHS, 2004 - Final Report (English)

Table 2.2 Orphans in Malawi (estimate)[69]

Number of children	6.4 million
Paternal orphans	12.0%
Maternal orphans	6.0%
Double orphans	256,000 (4%)
All orphans	1,000,000+ (21%)

HIV AND AIDS

The HIV prevalence rate (for 15-49 year olds) was 14% in 2005.[70] The Malawi Demographic Health Survey 2004 estimated 86,000 to 100,000 people die from AIDS annually, the majority belonging to the most productive age group (15-49 years). The number of PLWA is an estimated one million; of these 83,000 were children (2005). Mother-to-child transmissions accounts for an estimated 30,000 infections annually[71]. Of the children infected, about 10,000 receive ART.

Abuses of Child Protection

Child Labour

About 29% of children aged 5 to 14 years are involved in paid or unpaid work in or outside the home for over four hours a day. The percentage is almost the same for both boys and girls. (MICS, 2006)

Sexual Abuse

The Victim Support Services and Child Protection Unit of the Community Policing Services Branch have started collecting data on sexual offences per district but, with the exception of defilement of girls under 13 years old, the data is not disaggregated by age and sex.

Between 2005 and 2006, there was an increase nationally in reporting defilements (from 151 to 273 cases). The general consensus is that there are many more cases of sexual abuse than those that surface. For example, in Kasungu District the Victim Support Services and Child Protection Unit had recorded a total of 39 and 40 cases of defilement over the first nine months of 2005 and 2006 respectively. In response a free national child-line will be set up in 2008 which may give a more realistic idea of incidence.

Early Marriage

Over 10% of girls in Malawi are married before 15 years of age, and 50% by 18 years of age. Girls who marry are more likely to drop out of school, experience domestic violence and be victims of maternal mortality.

Harmful Cultural Practices

The Malawi Human Rights Commission has reported on harmful cultural practices in Malawi[72]. They record many abuses that are most often a local custom rather than widespread practice, for example girls given in marriage to wealthy men as payment for their parents' debt; or girls having sexual intercourse with a man as part of initiation into womanhood at puberty.

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[69]   Malawi: DHS, 2004 - Final Report (English); all Malawi figures are for children under 18
[70]   Sentinel Surveillance Report , National AIDS Commission
[71]   Unicef, draft Country Programme document, Malawi, 2006
[72]   Malawi Human Rights Commission, Cultural practices and Human Rights, 2006.

Child Trafficking

There have been incidents of trafficked children stopped at the border to Mozambique (53 children) and to Zambia (42 children). Some girls have reported being taken to UK for sexual purposes. It is thought that some children are taken to work on tobacco and cotton plantations and in domestic work. However, there is a lack of specific data on the subject.

Birth Certificates

Few children in Malawi have a birth certificate, so their exact age is hard to determine. Thus authorities such as the police and judges must decide a child's age---whether he/she is considered a child or adult----and how thus s/he should be treated. This can result in children being sent to adult prisons.

Preventing Family Breakdown

The first priority for families with children at risk should be family support, for example for the 11% of children who have both parents alive are not living with them. There is currently no national safety-net for vulnerable families. Currently support targets particular groups, for example:

- 85,000 people were on free ARVs from the National AIDS Treatment Programme, reaching 50% of all people who were in need of treatment (UNICEF 2007);
- There are 5,000 Health Surveillance Assistants (HSA) with the responsibility for the care of 1,000 households each. There are plans to increase the number to 11,000 HSAs, thus one HSA to 250 households;
- About 6,000 Community-Based Childcare Centres are set up offering care to 522,000 children, largely by way of food;
- Bursaries are given to some OVCs who qualify for secondary schooling;
- NGOs support vulnerable families with child school sponsorship (WVI alone sponsors 110,00 children), crèches and pre-schools, IGAs, vocational training and voluntary testing centres and home-based care;
- In three districts (of Malawi's 32), there is piloting of cash transfers that reach about 10,894 OVCs;
- Support also comes from the Ministry of Health and Social Welfare (MoWCD), with 84 staff in the district supplemented by 359 Community Child Protection Workers, 240 about to be trained, and a planned total target figure of 800 by the end of 2008;
- 552 Children's Corners have been set up in 13 districts which have an enrollment of about 44,000 children aged 2-18 years, but they are only open on weekends.

Alternative Care for Children in Malawi

Informal Family Care

Twenty percent of all children (about 1.3 million) do not live with their biological parents according to the DHS 2004, of these only 3.5% have lost both parents (see Table 2.1 page 4). The reasons are complex: parents may be involved in migratory work, or want to access a better or higher level of school for their child, or parents can not manage due to illness, etc.

It is unclear what percentage of the 49% female-headed households that look after orphans are made up of mothers, aunts, grandmothers, informal non-kinship female carers or formal foster mothers. There is no data available of the number of children who live outside their extended families in non-kinship care.

It seems that most informal care decisions are made by families. There are currently no controls that monitor who parents give their children's care to. A comment was made that nowadays informal extended family fostering is no longer out of choice but out of necessity.

Issues

- Analysis is required on the carers of children who are not the biological parents. This would identify grandmothers or destitute carers and enable an assessment of their needs. Is there any study that could be a source for this information? Is this a task that should be the Village Development Committee (VDC) responsibility and required of them?
- Can districts ensure that child protection is an integral part of each VDC and zonal villages mandate; that the headman is informed of each child placement outside the biological family; and that he registers it as extended family member or a non-relative carer? (This would be difficult when an arrangement is made outside the Traditional Area or district.)
- If a child is placed with a non-relative carer, the headman should alert the MoWCD or Health Surveillance Assistants (HSA) to ensure that the placement is in the child's best interest; to register the placement at the district; and to ensure supervision by the department and the VDC.
- Promote village coordination, led by the headman, to uphold the protection of children. Include where available the CCP worker, HSA, teacher, Victim Support Services and Child Protection Unit, a boy and a girl, elected parents and extension workers.
- What will happen when the elderly carer dies? Will there be other family members willing to take over the care? This highlights the importance of supporting elderly carers.

Formal Care

Family Fostering

Fostering has no legal status and little priority in Malawi. It is not mentioned in the Children and Young Persons Act, though it is in the Adoption Act which states that prior to adoption an interim two year period of fostering may be ordered. The NPA on OVC obj. 2.1.2 states that fostering and adoption require action. It is extensively referred to in the Child Bill.

No national data is available on the number of formal family foster placements. Mchinji District had one foster placement between 2005 and 2007. Yet between 2003 and 2005, it received 100 applications from prospective foster parents and 20 foster parents received training.

Guidelines on fostering exist but seem to not be dispersed to children's homes and require more technical attention. There are seven babies homes, with 204 babies. There are no special guidelines to determine that babies, when possible, are placed with foster parents until it is appropriate to return to parents/relatives. Temporary fostering should also be considered in child abuse cases when it's best that child is removed from home until a permanent solution is found.

Issues

- There is no current activity to promote fostering in the Department of Child Development. A leader should be appointed to collaborate with technical expertise and refine the fostering guidelines; promote fostering; establish the training required for staff and prospective foster parents; and assist DSWOs to operate a fostering programme with relevant district registers that feed into a national data bank.
- With the department's limited staff, fostering---which requires intensive staff time for follow-ups, etc---can begin for babies and abused children to keep it manageable and effective.

- Formal foster parents usually receive a form of payment. How possible would this be in Malawi?
- Formal fostering should not be an alternative to supporting the family care of a child. Family care is the priority as it is most often in the best interests of the child.
- After extensive investigation, if there is no extended family support available fostering is an alternative to sending a child to a children's home. To ensure the best interests of the child and to counter fears of fostering being abused, regular visits by departmental staff are required.

Adoption

Adoption is not alternative care, but a permanent solution for a child who has no available or willing extended family carer.[73]

No national data on adoption is available, although the Registrar General of Births and Deaths is meant to keep an Adopted Child Register according to the Adoption Act. It is apparently is kept only for international adoptions[74]. As there is nothing in the Adoption Act about inter-country adoption, there is no separate register for such adoptions. Only the Department of Child Development can provide the guardian ad litem to the court as there is no other officially registered independent adoption body. However, no guidelines exist on how adoption should be conducted by the department.

Adoption would be relevant for the seven babies homes. Research indicates that the longer babies are in an institution, the more their emotional, cognitive and physical development suffers. The Mother Teresa's Babies Home in Lilongwe has 20 babies and 40 infants under five years. It tries to restore the baby to full health and then return the baby to his/her family. When this is not possible, they try adoption. One baby has been adopted and they are trying for two others, all three through District Social Welfare Officer (DSWO). The Malawi Human Rights Commission report states that at least four other babies homes have had children adopted through the DSWO and the courts.

Recommendation: A closer liaison by the Department with the seven babies homes might enable more babies whose families are unwilling to care for them to be placed for adoption.

Issues

- As with fostering, there is no specialised unit in DCD with a person responsible for providing guidance on the operation of adoption.
- Adoption is not yet acknowledged by the department as an alternative care method when the extended family is not willing or able to offer a home.
- Ratification of the Hague Convention on Inter-country Adoption has yet to take place.

Residential Care

There are an estimated 40 children's homes with 2,507 children resident. The Malawi Human Rights Commission has carried out a study of children's homes in Malawi as a result of complaints from the public.[75] They first visited the central region in 2005 and recorded eight homes. It was thought to be an under-estimate with up to ten more existing. In 2006, they visited children's homes in the northern and southern regions where 32 homes were located.

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[73] Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil
[74] Communication from K. Manda, Head, OVC & Child Protection, Unicef, Malawi
[75] Malawi Human Rights Commission, A Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006

Key findings by the Commission include:
- Homes taking children under two years old were registered with the MoWCD and Confederation of NGOs;
- Homes were adequately staffed and equipped to take a range of children from 0-18 years.; and
- A few were not registered and others are in the process of registration but have been operational for some time. For example, the Agape Home in Blantyre was started in 2001, but was in the process of registration in 2006 when visited by Malawi Human Rights Commission.

Of the 40 registered homes mentioned in the report:
- Seven were baby homes that cared for children under two years (204 babies);
- Three were homes for street children (100 children);
- 11 homes were for children from 0-18 years;
- 22 homes were for children from 2-18 years;
- Occupancy ranges in the homes were 3 to 330 children (11 homes had over 100 children);
- There is a concentration of homes in the south (in Blantyre there are 15 homes); and
- None of the children's homes were owned or managed by government and there was no government subvention to any of the homes.

According to the report, 29 of the 40 homes were owned by foreigners who the community perceived to have money and showed little interest. This lack of community involvement is a general conclusion of the report.

Children brought to the homes are not necessarily screened by the DSWO before admission, often a letter from the chief is sufficient. The report noted that there has been little monitoring of the children's homes by the DSWOs and points out a risk of children being trafficked. Recently inspections have begun but the time frame is unclear as is whether someone has been deputed to overall management.

The report indicates that school-aged children are receiving education but that most had no special measures for children with disabilities. It raised concern that "the placement of children (in) children orphanages/homes that have mushroomed throughout the country has ceased to be the last resort in matters of childcare. Instead it has become an income generating venture for some guardians." It goes on to state that "these institutions are run in a very haphazard manner with no idea as to the minimum standards that must be met." Although most homes have a management committee the report notes various abuses such as the names of children being changed to that of the owner.

Issues
- A set of Rules and Regulations cited as the *Children's Homes and Orphanages Rules and Regulations 2005* exist but have not been circulated to the homes. The rules clear up many issues raised in the Malawi Human Rights Commission report. However, they do not emphasize children's home as a last resort and for the shortest possible time. The rules do not set out a clear system for the gate-keeping of admissions by the DSWOs or the court.
- The regulations stand as a set of Minimum Standards for Children's Homes. In order to determine standards and children's best interests, collectively the homes and the department could develop Quality Standards for children's homes. These would not be legally binding but would involve homes in working to achieve quality targets for children and raise important issues as to how this is to be done.

- Many children return home for their holiday, which indicates that some return home if the family is given the right counselling and assistance.
- It's recommended to conduct a study to determine why children are there and to gather data on the children. This needs to be undertaken as soon as practicable. In view of the time this will involve, it is recommended that the task be undertaken by a consultant in collaboration with DCD staff and supported by UNICEF. It would be useful to assess whether a child's placement in a home was necessary; the children's feelings about being in a home; and the work to place them back into a family setting.
- The practice of 'Chikamwini' prevents a father from looking after his child when his wife dies, as culturally the child belongs to the wife's family. There are cases where the family prefers to send the child to a children's home rather than to a father willing to care for his child.[76] This issue needs to be addressed through traditional and religious leaders.
- If the government gives no support to the homes, it will need to tread carefully in obtaining their compliance. Capacity-building of residential care staff, through possibly an NGO, might not only show they are valued but could explain the DCD's thinking on child rights and good child care practice.

Reformatory Centres

The UN Draft Guidelines determine that detention for children who have committed offenses is beyond the definition of alternative care. However, a few of those held at the two reformatory centres are there for care and protection and many more for survival offenses which may not have been addressed in the probation officer's social inquiry report.

Two reformatory centres exist for boys at Chilwa (15-18 year olds) and Mpemba (7-14 year olds). Chilwa has 82 boys, most do not have SIRs. Mpemba has 34 boys and of the 26 files examined, nine had SIRs, 17 did not. Both places have a mix of sentenced, remands and Care and Protection. The Principal at Chilwa thinks that most of the offences are survival ones. Of the 129 children held so far in 2007, 103 were held for property offences; 84 of the 129 children had been transferred from adult prisons. In the principal's opinion all six of the defilement offences were consensual sex.

The Board of Visitors is currently meeting almost monthly and has granted a considerable number of early releases (12 in January and 16 in February 2007). Although previously quite a number of children were held in adult prisons, those who had been sentenced were transferred primarily to Chilwa.

In the two years the principal has been at Chilwa, no probation officer has visited a boy there. Although the papers are sent to the DSWO, they suspect that little is done by way of follow-up.

Issues

- No child should be sent to the reformatory centre for care and protection.
- It is uncertain how much community sentencing is used. For survival offences, where a child steals out of economic necessity (s/he cannot obtain food in any other way), community sentencing should be the priority.
- A regular review of those sent to reformatory schools would reveal whether they are there for care and protection or survival offending; and for the latter whether alternative community sentencing was proposed.

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[76] Malawi Human Rights Commission report, ibid

Policy

The National Policy on Orphans and Other Vulnerable Children, 2003 and the NPA for OVC are the response framework for OVC in Malawi. The Overall Goal of the NPA is: 'To build and strengthen family, community and government capacities to scale up response for the survival, growth, protection and development of orphans and other vulnerable children (OVC) by 2009.'

Strategic Objective 1

To enhance access for OVC to essential quality services such as education, health, nutrition, water and sanitation and birth registration with increased support from social safety nets.

Strategic Objective 2

To strengthen the capacity of families and communities to care for OVC by providing support to enhance their economic security, social and emotional well-being and to protect OVC from abuse, exploitation, property dispossession, stigma and discrimination in respect of gender equality.

Strategic Objective 3

To protect the most vulnerable children through improved policy and legislation, provision of leadership, efficient coordination at all levels and through equal and meaningful child participation by both boys and girls.

Strategic Objective 4

To strengthen and build the technical, institutional and human resource capacity of key OVC service providers.

Strategic Objective 5

To raise awareness at all levels (Community, District, National) through advocacy and social mobilisation to create a supportive environment for children and families affected by poverty and HIV/AIDS.

Strategic Objective 6

To continuously monitor and assess the situation of OVC and measure the gaps between what is being done and what must be done to adequately fufill the rights and needs of OVC.

The NPA is a comprehensive approach to improve the situation of OVCs. It requires major planning, commitment, coordination and reorganisation within the MoWCD to achieve those objectives for which it is responsible. Many of the issues raised in this report are addressed in the NPA. The question is whether the department has the political clout, human and financial resources to address them. The time frame for action set in the NPA has, in many cases, come and gone. It seems necessary to revisit the planning and to realistically decide what can and will be done, to set times and to monitor progress.

Rules and Guidelines

As mentioned, rules and guidelines do exist, such as the Children's Homes Rules and fostering guidelines, but none have been disseminated. The MoWCD in 2006 produced 'Guidelines for the Care, Protection and Support of Orphans and Other Vulnerable Children'. This is an important document that gives guidelines arising out of the National Policy on OVCs and the NPA. With regard to alternative care, it sets out briefly the process for placing a child in foster care, for national and inter-country adoption and institutional care. These guidelines are very important to departmental staff but they need elaboration with regard to alternative care. There is nothing about gate-keeping of admissions; regular staff visits; plans

for children's reintegration; nor follow-up in the community. If fostering and adoption are to be more used then leadership to promote them is required from the department.

Legislation

Malawi has drafted a raft of new bills concerning children, including:
- Child (Care, Protection, and Justice) Bill
- Birth Registration Bill
- Wills and Inheritance Bill
- Family Bill

No adoption bill has been drawn up but there is a proposal that inter-country adoption be placed within the act as an amendment (see the Ninth Schedule of the Child Bill).

The Child Bill is undergoing further review. It has many assets, such as emphasis on diversion for child offenders. There are a number of issues concerning alternative care which those reviewing the Bill might like to consider.

Issues

- The issue of fostering in the Child Bill[77] could be clearer. It does not differentiate between the children's homes referred to as 'foster homes' and the foster-parents who foster children in their own home.
- The role of the Review Board---responsible for the Reformatory Schools, Safety Homes and also Children's Homes--is too demanding. Section 70 refers that it supervises staff recruitment to children's homes and monitors homes' compliance with the Bill. It would be more manageable for the board to oversee the places where offenders are detained, while children's homes are monitored at the district level and by the MoWCD.
- It would be helpful to the MoWCD if the Child Bill emphasised that children's homes are a last resort and that all other alternative care options are considered first.
- Does the Child Bill want to promote the use of the Child Panels and Secretary for Children's Affairs at Village Development Committee level? Thus providing the possibility of localising some administration of justice. If so, this should be emphasised.

Social Protection

As mentioned, there is no national safety net for the most vulnerable in Malawi. What is provided by NGOs is on a local basis.

Cash Transfers

Cash transfers are operational in Malawi on a pilot basis in three districts: all of Likoma island; four traditional authorities in Mchinji; and certain traditional authorities in Machinga.[78] The aim of the cash transfers is to assist financially the:
- **Ultra poor***: living below the lowest expenditure quintile and below the national ultra poverty line (only one meal per day, no valuable assets); and
- **Labour constrained:** a household is labour-constrained when it has no able bodied household member in the age group 19 to 64 years who is fit for work (chronically

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[77]   Draft Child (Care, Protection, and Justice) Bill in the Report of the Law Commission on the Review of the Children and Young Persons Act, 2005,

[78]   All information taken from: GoM, NAC, Unicef, Social Cash Transfer Pilot Scheme Malawi, www.socialcashtransfers-malawi.org

sick, disabled, elderly, child-headed) or when a household member who is fit but has a dependency ratio of more than three dependents.

The levels of cash transfers per month are as follows:
- 1 person household: MK 600 / approx. US$4
- person household: MK 1,000 / approx. US$7
- person household: MK 1,400 / approx US$10
- person household: MK 1,800 / approx. US$13

There is a bonus for primary school-going children of MK 200 and for secondary school going children of MK 400.

Table 2.3 Coverage as of October 16, 2007

	Mchinji	Likoma	Machinga	TOTAL
Households	3,094	194	332	3,620
Beneficiaries	14,332	732	1,109	16,773
Children	9,734 (68%)	483 (68%)	677 (61%)	10,894
Orphans	7,868 (81%)	370 (77%)	524 (77%)	8,762
Child-headed Households	37 (1.2%)	1 (.5%)	2 (.6%)	40
Elderly-headed Households	2,018 (65%)	137 (71%)	243 (73%)	2,398

At year end, the aim is to reach 6,000 households in the four pilot districts of Mchinji, Likoma, Machinga and Salima. Cash transfers had not begun in Salima at the time of this visit.

Results After a Year
- More than 60% of the beneficiaries are children;
- A social cash transfer programme focusing on ultra-poor, labour constrained households is at the same time a child welfare programme. By adding a child education bonus, the programme can benefit children and be an investment in human capital;
- High effectiveness of targeting (94% correct), payments being made reliably and cost-effectively;
- Reduced operational costs: 1.2% in May for the cash payments;
- Preliminary results show clear impact on meeting the basic needs such as food, clothing, access to education (18% increase to primary school) and (12% improvement in school performance) and increased access to health services;
- Many households have invested in their shelter: 75% of households report to have enough blankets for all household members, and livestock (61% household's chickens, 46% goats). Household's harvested on average 12 bags of maize (50kg's each) as well as groundnuts and soya beans as they used improved seeds and fertilizer;
- Nutrition of persons living with HIV improved;
- A year ago only 2% of households had three meals a day, now 75% have three meals a day.

Government has requested a rapid scale-up to seven additional districts by the end of 2008. Malawi is in the process of designing a Social Protection Policy and Programme. An external evaluation of the pilot project is in progress.

Service Delivery

Malawi has gone a considerable way in decentralizing authority at district level with four municipal districts based on the four largest towns (Lilongwe, Blantyre, Zomba and Mzuzu). The districts are run by District Assemblies assisted by the Executive Committee of the District Assembly made up of the District Commissioner and the Heads of Departments . The other major district committee is the District AIDS Coordinating Committee (DACC). The District Assembly can make by-laws.

The District Development Plan is made up of a consolidation of the Village Action Plans from each Village Development Committee (VDC) which goes via the Area Level or Traditional Authority to the District Assembly and then is brought together with the district departments sectoral plans. The District Social Welfare Officer (DSWO) is the prime mover in compiling a District Action Plan for OVCs in conjunction with DACC. Twenty-seven of the 28 districts produced one of these in 2007. The District Development Plan and the District Action Plan for OVCs (DAP) are put together in the District Annual Investment Plans and consolidated by the Ministry of Local Government (MoLG) for Ministry of Finance funding. The chief economist in MoLG said that in his reviewing DPPs and reading the DAPs, which he described as focused, he had come to appreciate the problems of OVCs.

Department of Child Development

The department is meant to have 395 'Professional Staff' but only 128 posts are currently filled (21 of these at headquarters). Thus two-thirds of the department's staff allocation, 267 posts, are vacant. This averages out as just over three staff per district. The majority of staff in post (83%) only have a secondary school certificate; some after two years with a Junior Certificate Examination (JCE) (11%) others after four years with a MSCE (72%); 6% have a diploma and 11% have a degree. There are also 359 Community Child Protection Workers distributed through the districts with a wide range of duties according to job description. To argue the department's case for resources, promote networking and advocate on policy is challenging with a limited educational background and capacity. As a consequence, staff may lack the authority required to be convincing at the district level. There is a need for upgrading the qualifications of the department's staff so that they may be more confident in their role.

The few district staff have many duties that require specific skills, and they face many competing demands. Their duties include: care and protection issues, care of OVCs, probation and court duties, supervision of staff, NGO coordination, training Home-Based Carers and Community Child Protection Workers, monitoring the children's homes and the children in them, assessing the functioning of Community-Based Childcare Centres, attending district meetings, deputed regional duties, compiling the District Action Plan for OVC, ensuring budget allocation, organise bursaries, and operate public assistance. When cash transfers come, the DSWO and his staff have a major role in implementation. In this situation there is little time for child-risk assessments, counselling and home visits. Although there is some specialisation at headquarters, there is little in respect to alternative care.
Staff salaries are low. A District Social Welfare Officer (DSWO) earns net salary per month of K12,000/US$80; and a DSWA of K6,000/US$40. Community Child Protection Workers earn US$10 a month, plus a few perks. A DSWO who earns US$2.50 per day requires a very committed person to fulfill all the tasks expected of them. This is made harder with the transport constraints that exist in Malawi.

Issues

- Apart from the Catholic University which has just started a four year social work degree course, there are no institutions teaching a social work degree in Malawi. Magermero, the government social work training centre that most staff attend only offers a course for a certificate in social work. It is important for assisting the upgrading that it is encouraged to develop a social work diploma course.
- Staff wages should be reviewed.
- If staff are to fullfill all their functions then the department should receive its full staff complement.
- If DCD is to continue involvement in cash transfers, consideration should be given to a separating of roles between those involved in social protection/cash transfers from child protection.

NGOs

Of the NGOs interviewed, neither Plan, WVI nor Every Child undertake fostering or advocate adoption. However, they all work either directly or indirectly to prevent family breakdown. WVI operates its sponsorship programme nationally, the others specialise in particular districts and take an integrated development approach. They are often involved in District Executive Committees in the areas they work.

General Issues and Recommendations

The following are recommendations for UNICEF and MoWCD to assist in the improvement in alternative care.

Knowledge Management, Information, Research and M&E

Informal Care

A method is required to determine and register the 19% of children who are not living with their biological parents, who are in non-relative care. MoWCD could benefit by linking with UNICEF's current analysis of the MICS, DHS and IHS data. Also the next census could include relevant questions. The VDCs could contribute, but would need sensitisation of local communities, committees and headmen. The information would have practical value, identifying the children who need supervision and follow-up, and also be of use to advocate for more resources.

Formal Alternative Care Outside Children's Homes

There is no data on fostering and adoption; district and national registers should be kept by DCD staff. In relation to adoption figures, the Adopted Children Register held by the Registrar General of Births and Deaths should provide some information.

Children's Homes

The Malawi Human Rights Commission research is a preliminary assessment of children's homes. A follow-up study on the children that included an assessment of reasons there; their contact with family (Are they visited? Do they go home for holidays?); length of stay; and the homes' plans for each child's reintegration would provide a base-line study for the DCD and others.

Regular inspections of children's homes will contribute to understanding the children's situation in the homes, and what is being done to assist them in their reintegration. It would build on the research proposed above and would be useful both for national and district DCD staff in deciding approach.

Data Management

Compile national/district data on fostering, adoption, supervision, probation, children in children's homes, exact number of homes, and review cases of care and protection in Reformatory Centres. 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 district and national level and cooperation between them.

Determination of Roles

There is ambiguity over 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 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

Children's Homes

Unregistered homes need to be investigated, registered and, if found unfit, closed. The Children's Homes Regulations should be circulated and explained to each home. Inspections will help ensure that these regulations are either met or that serious efforts are being made to do so. Where standards are not met, the home must agree to changes within a time frame, and know that it is liable to closure. One method of success elsewhere is an inspector who is supported by a committee of respected persons to back up the inspection team's judgment.

The DCD should work with children's homes to establish the quality standards----which are working for the best interests of each child in the children's home rather than just the minimum standards---and what they need to do in order to achieve them.

Social Work Practice

- The promotion of foster care as alternative care and adoption as permanent care strategies are not a priority of DCD. Formal foster care is a temporary solution, particularly helpful for babies and keeping children in a family environment. Formal foster parents should be paid a monthly fee not only for the costs they incur but insure that standards are met. To limit expenditure, this could be for a capped maximum amount per year for the first three years and then reviewed.
- Adoption is a permanent solution for abandoned children who have no extended family available. The promotion of domestic adoption should be considered, and when no such placement is available inter-country adoption as an alternative (best done under a ratified Hague Convention).
- There appears to be little use of probation and supervision as ways of keeping children in the community rather than in institutions.
- DCD staff have little involvement in detention institutions or children's homes. There is little by way of after-care and reintegration follow-up when a child returns to the community.

Law, Policy & Guidelines

The current laws are silent on important topics of alternative care. Until new laws are passed, policies and guidelines will direct much of the department's work. The exception is the Children's Home Rules, though they should include admission rules that would ensure homes conform to a set procedure in gate-keeping. The draft Child Bill is a great improvement but could benefit from further review. The policy for OVCs outlines important principles. The NPA for OVC needs to be a working tool and priorities decided on. In the current situation, guidelines are vital. If they have not been circulated they should be reviewed and disseminated through workshops and monitored.

Service Delivery

The department is overburdened, grossly understaffed and lacking in technical skills. The shortage of professional staff must be addressed and salaries increased so they receive a living wage. MoWCD could involve donors, UN bodies, influential Malawi agencies, INGOs and others in pressing for those improvements so as to better address this issue. If the MoWCD wants to push forward an alternative care strategy based on prevention through family support then it should consider the establishing of a Care & Protection unit at headquarters to promote best practice in family support, fostering, adoption and in children's homes. For this there would need to be some well qualified staff as resource persons who would also advocate best practice in the use of these interventions. The districts would benefit if there were staff trained in these areas in the districts.

Family support, fostering, adoption and homes are (when well-monitored and organised) intensive demands on staff time. If such a strategy is to work there will need to be greater defining of staff roles in some form of rationalisation at district level. Alternatively the off-loading of some work could be investigated but that too would require monitoring. The constraints on the department's human resources are likely to grow with the scaling up of the cash transfer scheme so some protection of family support and alternative care strategies seems essential.

The Director of DCD suggested that the department draw up a Five Year Work Plan to establish a Care and Protection Unit at headquarters and district care and protection specialists, with guidelines and set targets. Once the mechanisms for a Care & Protection Unit are in place, the DCD would be in a better position to reduce the number of children in 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.

As mentioned, it is time to upgrade staff qualifications to improve service delivery. If Magermero training centre offered a diploma in social work in addition to a certificate this would be of immense assistance to the department.

To enable district staff to undertake their work more efficiently, provide motorcycles with the appropriate training and understanding of maintenance.

Social Protection

Government requested the scaling-up of cash transfers projects from the original three districts to seven more. The implications for the DCD are enormous. The project demands a great deal of staff time covering four of the Traditional Areas in Mchinji; nine of the Traditional Areas in the district will be a great burden. How DCD staff will manage statutory and other work as well is an issue that the department will have to review.

The MoWCD might determine the extent of staff time involved in cash transfers in Mchinji to use as a guide in scaling-up. Dr. Miller, a researcher from Boston University, is evaluating the project and could specify where the department's staff has proved critical to project success, and where staff might not be needed and others could undertake the work.

To determine roles concerning cash transfers for the staff of district departments of MoWCD, especially as the programme develops, allocate certain DCD district staff to the DCD's Cash Transfers Unit. The staff who are undertaking cash transfers and those in child protection need to be extremely close to provide a combined service to children at risk. The DCD district department in Mchinji has gained respect and visibility in the district and outside from its effective work in cash transfers. The advantages of a fine profile for the DCD combined with proper advocacy and practice will benefit the department's child protection strategies.

Conclusion

With Malawi's AIDS epidemic, high levels of poverty, lack of a national safety net, inadequate state services, high levels of child labour and child sexual abuse and other abuses of children's rights, children in many families live in a state of risk. But assistance to families does exist. For example, free tuition in primary school; free ARVs; a growing number of child advocates such as the Child Protection Workers in DCD; and pilot cash transfers in three districts.

Social Work Officers (SWOs,) the main providers of child protection interventions, are tremendously understaffed and under-trained. Of the 128 staff, 83% have only secondary school education. Yet with decentralization, many initiatives in District Assemblies for child protection will rest with them. UNICEF and other key stakeholders need to continue their efforts with MoWCD to upgrade the ministry's training centre so it can train social workers. There is also an opportunity to explore the distance learning (e.g. UNICEF's children at risk course). Those who excel with their social work studies and practice should be assisted to apply for university scholarships for a degree. The UN and donors should advocate for government to support trained SWO recruitment as sought by the MoWCD and the need for a living salary.

With regard to informal care, it is important to establish a system to follow-up with non-relatives who care for a child and to check that the child is satisfactorily looked after.

MoWCD, UNICEF and other key stakeholders should consider the following issues:
• Review and implement the Children's Homes Regulations to include admission procedures, care planning and reintegration.
• Support a regular inspection of the homes so that they are in line with regulations.
• Train homes' care staff.
• Conduct research for a report on the children in each home (reasons for admission, length of stay, extent of contact with parents or relatives, feasibility of reunification) to make care plans for Social Welfare Officers.
• Support a reintegration process which involves each child and the child's family with support.
• Promote adoption of abandoned babies and infants.
• Promote fostering as a temporary care solution until a child can return to parents or relatives.
• Provide special provision for sexually abused girls.
• Work with homes on Quality Care Standards.
• Establish a Child Protection Unit at headquarters to work on family support (to link closely with the Cash Transfer Unit), fostering, children's homes, and adoption.

- Establish an MIS to collect data that show the scale of the issues, and inform planning and analysis of effectiveness. At the district level, one Social Welfare Officer can be responsible to manage and supervise child protection, assign Child Protection Workers, and ensure necessary capacity building.

Acknowledgments

Thanks are due to many people who contributed to this report through their views and knowledge, and gave so generously of their time. These include government officials, UNICEF staff, members of NGOs and children's homes, researchers, community activists, child caregivers and the children themselves. Particular thanks to the staff of the Department of Child Development: the Director and his staff both at headquarters and in the districts. Special thanks to Harry Satumba, who accompanied the consultant on various visits, and to the UNICEF Representative and the OVC and Child Protection Team, administrative staff and drivers. Special thanks to Jaqueline Kabambe in UNICEF for all her work in organizing the itinerary and for her support during this visit.

People and Organizations Met

- Mr Eric Kilembe, Director Department of Child Development in MoWCD
- Mr Harry Satumba, Desk Officer for OVC
- Mr Moyo, M&E, MoWCD
- Ms Norris Mangulama, Principal Child Rights Officer & Mr Crispin Sibande, MHRC
- Mr Mbang'ombe, Acting Chief, Mr Msiska & Mr Chiniko, Lawyers, Law Commission
- Mr Richard Chakhame, Chief Economist, Ministry of Local Government and Regional Development
- Ms Florence Kagambo, Head of Policy, Support & Development; Miriam Kaluwa, National AIDS Commission
- Mr Martin Nkuna, Rights of the Child Adviser, Plan
- Mr Brussels Mughogho, Programmes Manager, Every Child
- Mr Elton Mtwana, Child Protection, Gender & Advocacy Manager, World Vision Malawi
- Mr Ernest Chukumi, District Social Welfare Officer (DSWO), Mchinji
- Members of the District Executive Committee (six present), Mchinji
- Executive Committee of Community-Based Childcare Centre (26 present), Chinteka, Mchinji
- Ms Mardine Chirwa, Principal, Chilwa Reformatory Centre, Zomba District
- Justice Nyakwawa Usiwa-Usiwa, CJ Magistrate & ex-National Coordinator National Juvenile Justice Forum (NJJF)
- Mr Steve Solomon, Administrator NJJF
- Mr Moses Chione, Chisomo Children's Home for Street Children, Blantyre
- Ms Florence Avsigye, VSO OVC Adviser, Blantyre
- Mr George Phiri, Community-Based Child Protection Worker, Blantyre
- Mr Komwa, Mpembwa Reformatory Centre, Blantyre
- Child Headed Household, Blantyre
- Mr Mwanyula & Mr Matt Colin, Ministry of Finance
- Cash Transfer meeting, chaired by District Commissioner (c.30 present), Mchinji
- Dr Candace Miller (evaluator of the pilot cash transfer system in Mchinji), Asst. Professor, Centre for International Health & Development, Boston University
- Payments of cash transfers in Nduwa Village Development Committee, Mduwa Traditional Authority, Mchinji & interviewed two recipients
- Dep. Commissioner Mrs Ngauma & Asst. Superintendent Noel Kayira, Victim Support and Child Protection Unit, Police
- Kasungu District Child Protection Committee (six present), Kasungu

- Ms Malla Mabona, OVC Expert, seconded to MoWCD
- Santhe Traditional Authority, Child Protection Committee (five present)
- Met mother and child in a defilement case
- Mother Teresa's Babies Home, Lilongwe
- Unicef:
  - Aida Girma, Representative
  - Karen Manda, Head OVC & Child Protection
  - Jaqueline Kabambe, OVC Manager
  - Mayke Huijbregts, Social Cash Transfers
  - Seamus Mac Roibin, Child Protection Specialist, Children in Conflict with the Law
  - Miriam Chipimo, Health & HIV/AIDS
  - Chalizamudzi Matola, Early Childhood Development
  - Linda Lisa Kabwila-Kalenga, Child Protection Officer
  - DCD & Unicef (nine present) for consultant's presentation

Sources

- Cash Transfer papers, Dept. of Poverty & Disaster Management Affairs, MoWCD, District Assemblies Likoma, Machinga and Mchinji, Unicef
- *Designing a Pilot Social Cash Transfer Scheme for Malawi*
- Evaluation of Mchinji Social Cash Transfer Pilot, 2007
- Guidelines for Establishing Linkages
- Manual of Operations for the Malawi Social Cash Transfer Scheme
- Mchinji District Assembly Monitoring Report for May, 2007
- *Piloting the Scale-up of the Malawi Social Cash Transfer Scheme, 5th report,* Jan.-June 2007
- Project Profile and Q&A paper on the Social Cash Transfer Pilot
- Child Protection Sector Group Minutes, July, 2007
- Committee on the Rights of the Child, Concluding Observations: Malawi, 2002
- Community Policing, information paper, undated
- Guidelines for Education Support to OVCs, MoGWCS, 2006
- Malawi Demographic Health Survey, 2004
- Malawi HIV & AIDS National Action Framework (NAF), 2005-9
- Government of Malawi, Malawi Growth and Development Strategy, 2006/7 – 2010/11
- Guidelines for the Establishment & Management of CBOs in Malawi, MoGCW&C, undated
- Laws of Malawi:
- Children & Young Person's Act, Cap 26:03, 1969 revised up to 1992
- Adoption Act, Cap 26:011949 revised up to 1981
- Affiliation Act, Cap 26:02, 1946 revised up to 1997
- Malawi Human Rights Commission, Cultural Practices and Human Rights, 2006
- Malawi Human Rights Commission, Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006
- Malawi Law Commission, Report of the Law Commission on the Review of the C&YP Act and draft legislation for proposed Child (Care, Protection and Justice) Bill
- Ministry of Women and Child Development, Job Description for Community Child Protection Workers/Volunteers, undated
- Ministry of Women and Child Development, Report on OVC & Child Protection Activities in Mchinji District 2005-6

- Ministry of Women and Child Development, Guidelines for the Care, Protection and Support of OVCs, 2006
- Ministry of Women and Child Development, Position Paper on Children's Issues, undated
- National Inventory of Community-Based Child Care Centres in Malawi, A. Munthali, P.Mvula and L.Silo, 2007
- National Statistical Office & Unicef, Malawi Multiple Indicator Cluster Survey, Preliminary Report, 2006
- Republic of Malawi, Constitution, 2004
- Republic of Malawi, National Plan of Action for OVCs, 2005-9
- Republic of Malawi, National Policy on Orphans and Other Vulnerable Children, MoG&CS, 2003
- Republic of Malawi, Children's Homes and Orphanages Rules and Regulation, 2005
- Unicef Annual Report, 2006
- Unicef, Draft Country Programme Document to Executive Board, Feb., 2006
- Unicef, Malawi Fact Sheet, Justice for Children, undated
- Victim Support Unit data centrally and from Kasungu district, 2005 and 2006

Annex Two: South Africa Case Study

Alternative Care for Children in South Africa:
Progress, Challenges and Future Directions

South Africa Case Study

Andrew Dunn
UNICEF ESARO, *consultant*

Introduction

This assessment was organised with short notice, and it is acknowledged that OVC issues and care and protection issues in South Africa are complex and, especially in the context of alternative care, are difficult to relay in a short period. The three provinces visited offered a snapshot of South Africa's capacity to manage alternative care.

Context

In 2005, there were over 18 million children in South Africa, making up 39% of the total population. A majority of this population of children (68%) live in four of South Africa's nine provinces:

- KwaZulu-Natal 21%
- Eastern Cape 18%
- Gauteng 15%
- Limpopo 14%
- Free State, Mpumalanga, North West, Northern Cape and Western Cape[79] 32%.

In South Africa, traditional patterns of child care have been disturbed. Fathers are often absent due to migration for employment. Children are moved between extended family members to improve their well being, opportunities and education, or because of family illness or death. Poverty affects 60% of households, reaching each ethnic group differentially. Housing conditions are generally poor and an estimated 4.8[80] million children live in overcrowded conditions. Overall, 96% of children under 17 years old attend an education facility.

HIV and AIDS

There is a comprehensive policy framework for OVCs in South Africa, the National Plan of Action for OVC, which coalesces many policy papers and strategy documents written on HIV/AIDS, OVCs and child protection/social development over the last decade. This plan has been costed.[81]

The six key strategies to develop comprehensive, integrated and quality responses for OVC at programme level are:

- Strengthen and support *the capacity of families* to protect and care;
- Mobilise and strengthen *community-based responses* for the care, support and protection of orphans and other children made vulnerable by HIV and AIDS;
- Ensure that legislation, policy; strategies and programmes are in place to protect *the most vulnerable children;*
- Assure access for orphans and children made vulnerable by HIV and AIDS to *essential services;*
- *Raise awareness and advocate for the c*reation of a supportive environment for OVC; and
- *Engage the civil society sector and business community* in playing an active role to support the plight of orphans and children made vulnerable by HIV and AIDS.

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[79] Facts about 'Invisible' and Excluded Children (2006) Children's Institute. Source: General Household Survey 2004. Analysis by Debbie Budlender .

[80] 2006 Children's Institute, University of Cape Town accessed at: www.childrencount.ci.org.za

[81] Building a Caring Society: National Action Plan For Orphans And Other Children made Vulnerable by HIV and AIDS, South Africa 2006-8

Under the National HIV/AIDS/STD Strategic Plan,[82] the Department of Social Development (DoSD), the lead department for children, was allocated a number of functions:
- To develop alternate models of care and design marketing strategies to promote acceptance from communities around new forms of care.
- To de-stigmatise those suffering from HIV/AIDS.
- To investigate legislation to ensure legal recognition or status for child-headed households (CHH).
- To encourage/subsidise private fostering of children.

HIV prevalence rate[83] of children under five years old is 3.6%; 1% of children 6 to 12 years old are HIV-positive; and 1.1% of young adults 13-17 years. ART is available for 30% of these children, though the figure varies among provinces. There is a National Integrated Plan (NIP) for Children infected and affected by HIV and AIDS. The three components of this plan are:
- Life skills programme delivered by education;
- Voluntary counselling and testing (VCT) through health services;
- Home- and community-based care and support delivered by departments of health and social development.

Orphans[84]
In 2005, the total number of orphans was 19% on average, with up to 25% in Eastern Cape.
- 3.5% of children in South Africa were orphans with neither parent alive;
- Maternal orphans accounted for 3%; and
- Paternal orphans accounted for 12%.

Violence and Abuse
There is a reporting system for violence and abuse of children, especially sexual abuse of girls and boys.

Table 3.1 Crimes against children[85]

Crimes against children under 18 years	1999	2000	2001	2002
Sexual: rape, sodomy, indecent assault, sexual offences	24 456	24 228	21 227	21 388
Assault: attempted murder, assault with grievous bodily harm, common assault	9 989	9 366	7 747	6 362
Removal: kidnapping, abduction	2 359	2 264	1 866	1 636
Other: Child Care act, criminal injury, public indecency, etc	6 558	6 398	5 211	4 811
Total	43 362	42 256	36 051	34 197

In the Second Report to the Committee on the Rights of the Child, concern was expressed about rights violations in residential care: "a matter that has given rise to considerable concern is the high number of incidents of child rights violations in children's homes and places of safety in recent years. Some of these were reported to the South African Human Rights Commission, which has suggested that a full assessment of places of safety is required."[86] In response, the Department of Social Development introduced a pilot

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[82] The National HIV/AIDS/STD Strategic Plan for South Africa 2000/2005
[83] 2006 Child Gauge Children's Institute from Actuarial Society of SA
[84] Figures Sourced from Child Gauge, Statistics South Africa (2006) *General Household Survey 2005.* Pretoria, Cape Town: Statistics South Africa.
[85] Source: SA Police Service, 2003 from South Africa UNCRC Second Country Report
[86] SAHRC (undated)

monitoring system, "the Developmental Quality Assurance Programme" for the residential care facilities under its control.[87]

Alternative Care for Children in South Africa

Informal Care

Many children do not live with both parents, often because of economic and social factors rather than HIV/AIDS. In July 2005, 38% of all children (0-17 years)---more than seven million children---were living with their mother in a household where their father was not resident; 3% of all children were resident with father only; and 22% lived with neither parent though both parents were alive.[88] 34% of children live with both parents.[89] It seems that some of the extended family care for children is now formalised through foster care.

Child Headed Households[90]

There are about 118,500 children living in a total of 66,500 child-headed households across South Africa. This is equal to roughly 0.7% of all children (under 17 years) and to 0.6% of all households in the country. The proportion of children living in child-headed households relative to those living in adult-headed households is relatively small. Of the children in CCH, 68% are over 12 years old and 5% are less than five years old.

Of the children who live in CCH, 75% are in three provinces (GHS 2005): Limpopo (39%), the Eastern Cape (23%), and KwaZulu-Natal (13%). (Limpopo has half the number of orphans of the Eastern Cape or KwaZulu-Natal.) Research suggests that CCHs are often temporary, transient households, for example after the death of an adult and prior to other childcare arrangements are made (e.g. another adult moving in, or the children moving to live with other relatives).[91] Under new legislation, these households are eligible to receive child support grants.

Residential Care[92]

There are several types of residential care placement for children:

- Registered children's homes (state and NGO);
- Unregistered children's homes (NGO);
- Places of Safety (state and NGO), for assessment and emergency placement before court orders can be obtained; and
- Secure Units, mainly for children in conflict with the law.

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[87]   Office of the Status of the Child, 1999b.

[88]   2006 Children's Institute, University of Cape Town accessed at: www.childrencount.ci.org.za. Sourced from : Statistics South Africa (2005) *General Household Survey 2004*. Pretoria, Cape Town: Statistics South Africa; Statistics South Africa (2006) *General Household Survey 2005*. Pretoria, Cape Town: Statistics South Africa. View at: http://www.statssa.gov.za/. Analysis by Debbie Budlender, Centre for Actuarial Research, University of Cape Town.

[89]   ibid

[90]   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, University of Cape Town

[91]   Hill C, Ardington C, & Hosegood V (2005) Who is looking after children in the era of HIV and AIDS? Poster presented at the South African AIDS Conference, Durban, 6 – 8 June 2005.

[92]   The up-to-date figure of children and youth centres is incomplete as is the figure for the number of children residing in the homes. DoSD has the data which will be included in the final report.

Apart from some of the children in unregistered homes, all children are placed by designated government or NGO social workers. The children's care situation is assessed; care plans are developed and court orders and placements are reviewed. The material conditions and facilities in the visited homes appear good. The general impression is that some children overstay their time in a children's home. Department of Social Welfare (DSW), Child Welfare or the home itself has the responsibility for further placement/reunification. One of the most important features of the South Africa system is that the government pays a substantial amount of money to the placement of each child with a court order in residential care.

Table 3.2 Numbers of children's homes and places of safety

NUMBER OF CHILDREN'S HOMES 2007			
PROVINCES	NUMBER OF CHILDREN'S HOMES GOVERNMENT	NUMBER OF CHILDREN'S HOMES NGO	MAXIMUM CAPACITY
EASTERN CAPE	0	32	1923
FREE STATE	2	30	1103
GAUTENG	0	62	3792
KWAZULU-NATAL	0	58	3154
LIMPOPO	2	6	445
MPUMALANGA	0	5	590
NORTHERN CAPE	0	6	495
NORTH WEST	1	2	412
WESTERN CAPE	0	37	2070
TOTAL	5	238	13,984
PLACES OF SAFETY			
PROVINCES	NUMBER OF PLACES OF SAFETY	MAXIMUM CAPACITY	
EASTERN CAPE	3	150	
FREE STATE	3	110	
GAUTENG	6	592	
KWAZULU-NATAL	7	450	
LIMPOPO	1	178 boys and girls	
MPUMALANGA	6 NGO based places of safety. No Govt places of safety	121	
NORTHERN CAPE	0		
NORTH WEST	2 NGO children's homes provide space for children	1 Govt. children's home Accommodation space for **10** children as a place of safety. 1 NGO children's home Accommodation space to **20** children as a place of safety.	
WESTERN CAPE	8	947	
TOTAL	36	2 578	

The following homes were visited during the visit to South Africa:

Polokwane Place of Safety

This government Place of Safety has capacity for 173 children. It is a facility for short-term placements where children receive initial protection, are assessed and then transferred to other residential or family placements according to their needs. The Place of Safety is sited on a new campus of considerable size. There were 77 children placed there at the time of the visit:

- 21 were less than three years old;
- 56 between four and 18 years;
- 21 girls admitted for sexual abuse in the family;
- 14 unaccompanied migrant children from outside South Africa. (For these children, tracing relatives outside South Africa through the Red Cross may be appropriate)

It is acknowledged by the staff that some children overstay the usual two to six month assessment period.

Polokwane Children's Home

The capacity of this home is 200 children. However, there were only 50 children accommodated in five house blocks that hold ten children in each.

Nazareth House, Capetown

This home is specialized and caters for limited numbers of children who are abandoned, mainly those who are HIV positive or severely disabled. It has gained a solid reputation for the care of HIV positive children over the years.

Leilibloom Children's Home, Athlone, Capetown

This NGO-managed home houses 84 children of which ten are HIV positive. There are 28 boys and 56 girls. There are eight other children's homes in walking distance. The current residents are victims of sex abuse, abandonment, neglect, and foster placement breakdown, and also street children. They have 29 staff (providing an average of 1:3 staff to child) run their own reunification programme.

Umlazi Place of Safety

This government Place of Safety services the whole of Durban and Umlazi. It has the capacity for 94 and accommodates boys and girls up to six years old, and over that age the facility only looks after girls. There are currently 57 girls in the home. The officer in charge reported that the majority of the children go on to placements in children's homes. Lack of finance very often prevents relatives from visiting as this home is at a distance from some of the towns that are served. It is very rare that the abandoned babies placed in this home have relatives traced and go on to be reunified.

St Vincent's Children's Home, Marianhill, KZN

This old, established home is church managed. Presently, it accommodates 103 children, but has a capacity of 110. The home currently accommodates 20 babies. Placements are made by the Department of Social Welfare (DSW) and NGO designated social workers equally. Children stay from one to ten years. Staff in the home stated that further residential care placement and case review is not always coordinated by DSW.

Othanweni Children's Home, Stanger, KZN

This is an NGO home, registered to accommodate 20 children under ten years old. It currently houses six boys and 14 girls. Six children are HIV-positive. Referrals are made by child welfare agencies and DSW. The home is in a private house and the management are looking to expand the size of home by turning garage into living accommodation.

Department of Social Development has introduced a pilot monitoring system, "the Developmental Quality Assurance Programme" for the residential care facilities under its control.[93]

Foster Care

Foster care is a formal placement based on a social work assessment that the child is in need of an alternative care plan and on a court order. Every child who undergoes this process is entitled to a foster care grant (FCG) of R620 per month paid to the foster parent. The number of foster care grants paid out is considerable and increasing every month. Foster care does appear to support the care given to orphans by relatives. Analysis of FCGs[94] reveals that care is provided by:

- Grandmother 41%
- Aunt 30%
- Other relative 12%
- Non relatives 12%

Table 3.3 Foster Care Grants

Province	2004[95]	2005[96]	2006[97]	Sept 2007[98]
Eastern Cape	39,772	53,383	77,110	84,122
Free State	25,140	33,653	42,322	46,800
Gauteng	28,281	34,647	47,075	54,428
KwaZulu-Natal	49,462	57,351	102,250	116,940
Limpopo	18,718	25,615	40,756	46,139
Mpumalanga	7,642	12,662	20,295	23,008
North West	14,154	19,000	31,537	33,348
Northern Cape	8,693	9,480	11,693	15,010
Western Cape	23,903	26,026	27,465	29,214
TOTAL	215,765	271,817	400,503	449,009

Recently cluster fostering was introduced of which adults who care for children under foster care can receive grants for up to six children. Below are examples of cluster fostering:

Home of Hope and Child Protection Service, Capetown

This is cluster fostering in a private home that is attached to a child welfare organization operating an area child protection programme. The six children are currently looked after by international volunteers as well as the nominated foster parents.

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[93] Office of the Status of the Child, 1999b.
[94] South Africa; the first profile of social security grant beneficiaries. Jan Forster 2007
[95] Child Gauge Children's Institute Figures
[96] Ibid
[97] SAASA http://www.sassa.gov.za/
[98] Ibid

iThemba Longterm Cluster Foster Care, Hillcrest KZN

Three foster homes are grouped together in this compound. Additional resources for care and education are provided by a NGO that helps finance the cluster fostering.

Managing the "need for care" criteria of foster care applications is a considerable workload for Department of Social Welfare (DSW) staff and child welfare organizations. Staff claim that it takes up 75% of their time. In Western Cape DSW, there are 49 social work supervisors and 441 social workers plus 1,216 social work posts funded by government at Child Protection organizations.[99] (Limpopo has 286 social workers). The foster care cases number over 27,000. Currently foster care cases are renewed every two years. When the new children's legislation comes into force, after a two year period the court can renew the order for over two years, and in appropriate cases up to when the child is eight years old or even to the child's 18th birthday. Social workers from all areas reported caseloads of over 300. There are difficulties with the administrative requirements for foster care grants. Orders are lapsing, and processing times can be considerable. A further issue is that magistrates/commissioners are interpreting differentially the "need for care;" some magistrates feel that it is the duty of family members to care without orders or grants.

The general consensus seems to be that foster care with the allied grant is a positive scheme to provide care and cash for orphans and other children assessed as being in need of care. The Children's Institutes's[100] concern is that children may become commodities, as relatives are more interested in the grant than in providing good care. There is also the issue of whether the formal court order with supervision is overburdening the child protection system.

Adoption

Precise figures on the number of national and international adoptions in South Africa were not immediately available from DoSD. The figures below are from NGO publications. According to Child Welfare South Africa, 727 children were adopted during 2003; for 390 adoptions the identities of the birth parent/s and adoptive parent/s were known to one another and 337 he identities were not disclosed. According to CWSA figures 1,280 children were adopted in 2005.[101]

Points for consideration by DoSD and UNICEF:
- Babies and young children are being abandoned and are in children's homes. There appears to be a sizable number of children remaining in homes that are not offered for adoption but are adoptable. According to DSW staff in KZN, adoption procedures are undertaken at a national level and they would wish to have more input into adoptions at provincial level.
- There is a reported reluctance by some foster parents to adopt because an order would end FCG payments.
- It appears that there are not yet figures available on supply of adoptable children and demand for children for adoption.
- People interviewed thought that the "marketing" of adoption ought to be improved to increase the supply of adoptive parents for all ethnic groups of children.

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[99] Email correspondence Shirley Davis
[100] Children "in need of care" or in need of cash? Social security in the time of AIDS. Children's Institute, UCT
[101] Child Welfare at a Glance – Child Welfare South Africa

Prevention of Family Breakdown

Family and Community-Based Services

There was insufficient time during the visit to South Africa to get a complete overview of each type of home-based and community-care provision by government, faith based groups and NGOs. Two facilities were visited: Ubumbano Drop in Centre, Umlazi, KZN (based in the second biggest township in South Africa with a population of 1.7 million); and Enduzweni Drop-in Centre, Stanger, KZN. Both are operated by Health, Department of Social Development and Education jointly, and are formed into a NPO with a community management committee. Enduzweni operates with less resources due to difficulties with registration as an NPO with central government, and had a less committed management committee.

The centres are designed to provide:
- VCT or referral for VCT;
- Provision of food parcels, hygiene kits and washing for children;
- Home-based care for terminally ill. One centre was next door to a palliative care/drop down care facility;
- Provision of meals for selected school pupils (breakfast, lunch box and tea); and
- Referral to DSW social workers for grants.

Centre staff said that once children are receiving the CSG or the FCG, they are no longer provided food. However some NGOs continue to feed these children. There are considerable backlogs in processing the grants due to missing birth certificates or identity documents, and a high workload was reported.

According to staff in the centres, mothers in the community are dying from HIV-related causes leaving their children orphaned. The staff stressed the community's continuing need for support from the centres for people to undergo VCT and adhere to ART. There is considerable societal pressure for women to conform to norms and not declare their HIV status. There are no alternatives for abused women and children in terms of sheltered accommodation or economic empowerment.

Poverty and Social Protection

Child Support Grant

The child support grant--- a poverty reduction means tested payment----is R200 per month per eligible child and 8,053,545[102] children are receiving this grant. The take-up of the grant is estimated to be 71% to 90% of eligible children, depending on the province. It is difficult to fulfill the administrative procedures for families without ID cards or a birth certificate. One perception[103] is that the grant is insufficient. Some argue that it should be amalgamated with foster care grant resources and universally targeted at poor children under 18 years old. (66% of children (11.9 million) live in income-poverty households with an income of less that R1.200 per month; 84% of these children less than 13 years old receive child support grant.)

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[102] SAASA Monthly Report September 2007
[103] Children "in need of care" or in need of cash? Social security in the time of AIDS. Children's Institute, UCT

Table 3.4 Child support grant recipients[104]

Province	Number of children as at Sept 2007
Eastern Cape	1 511 947
Free State	445 846
Gauteng	935 144
KwaZulu-Natal	1 990 085
Limpopo	1 261 711
Mpumalanga	651 017
North West	617 530
Northern Cape	177 382
Western Cape	462 883
TOTAL	8 053 545

(Please see information on the Foster Care Grant as well, under Foster Care.)

There are also child dependency grants that help families care for children with disabilities; and non contributory pensions and payments for people with disabilities (a low CD4 count is also entitlement to this benefit).

Policy, Law and Plans

Policy

Over the last decade, South Africa has produced many policy papers and strategies on child care and on protection and alternative care. It was not possible to comprehensively study the extent of them for the purposes of this report. In general, most areas of personal social services for children seem covered in a rights-based and responsive manner. The challenge, acknowledged by many, is to get these policies and laws implemented equitably nationwide.

Below is a selected list of policies. The White Paper for Social Welfare (1997) and Population Policy (1998) are the policy framework for the department's work:

The White Paper for Social Welfare 1997[105] sets out principles, guidelines, proposed policies and programmes for developmental social welfare for the era post-1994. Developmental social welfare policies and programmes are guided by the securing of basic welfare rights, equity, non-discrimination, democracy, improved quality of life, human rights, people centred, sustainability, partnership, inter-sectoral collaboration, quality of services, accessibility, appropriateness and ubuntu. However in order to establish these changes it was necessary to look at employment, economic growth and development and access to social services.

The White Paper on Population Policy for South Africa (1998)[106] aims to promote sustainable human development and quality of life for all South Africans through the integration of population issues into development planning in all spheres of government and in all sectors of society. The policy mandates the Department of Social Development to monitor the implementation of the policy and its impact on population trends and dynamics in the context of sustainable human development. Government departments and their counterparts in civil society should be capacitated and supported to understand the critical linkages between population and development, and to integrate population issues in development planning,

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[104] SAASA
[105] www.polity.org.za/govdocs/white_papers/social971.html.
[106] Ibid

through research and the dissemination of data and information.

Policy on Financial Awards for Service Providers. The policy was approved by Minister and Members of the Executive Committees' Council (MINMEC) in October 2004 and is aimed at the transformation and streamlining of social welfare services provided by civil society organisations funded by the Department. The policy provides guidelines for the delivery of efficient and effective services and ensures the accountability of service providers to the Department and the community.

The Service Delivery Mode identified the following problems with the previous system and seeks to rectify them:[107]

- Poorly developed protection services;
- Inadequate numbers of social service practitioners to deal with high case loads and deepening poverty;
- Many children who have to await trial in prison because of inadequate numbers of probation workers, and lack of infrastructure such as places of safety and secure care facilities in communities;
- An almost non-existent information management system which greatly hampers planning;
- Poorly developed prevention and early intervention services;
- Loss of skilled personnel due to poor salaries and working conditions;
- An increase in social pathologies and problems, for example a great number of street children, sexual exploitation of children, HIV and AIDS, increasing incidence of substance abuse and a multitude of other problems;
- The inability of service providers in the NGO sector to render services because of inadequate remuneration for these services and difficulty in fund-raising, resulting in services reverting to the state or collapsing.

Department of Social Development Strategic Plan 2006/7 – 2009/10 is a comprehensive document that follows the developmental approach to child care and protection. Its analysis of community development and of the voluntary sector has considerable insight and validity. There are many similarities with situations in other sub-Saharan countries.

> *"It has been noted that community development is understood differently by agents of development and this situation has impacted negatively on service delivery and resulted in incoherence in community development work. This situation is worsened by the fact that there is no policy in place for community development. Many community development practitioners have operated without any guidelines, norms and standards or forms of accountability. This situation demands that the practice be professionalised."*

> *"There is no doubt that the voluntary sector within civil society plays a critical role in the development of this country, particularly in the mobilisation and provision of services to most vulnerable groups within poor communities. However, coordination of civil society input into national policy has proven to be a weakness in South Africa and within the continent. The government consults with the sector as and when there is an event or need for policy input. This is further manifested in the current relationship between government agencies and the NPO sector that is managed through a loose legal policy framework, only aimed at facilitating the inclusion of NPOs in State-funding and delivery of development projects in line with the public policy agenda."*

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[107] Service Delivery Model for Developmental Social Welfare Services - January 2006

The Final Draft Strategy on Child Abuse and Neglect is now called the Draft Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation.

Laws

The National Department of Social Development currently administers the following laws and guidelines in its work with children:

- Fund-raising Act, 1978 (Act No. 107 of 1978)
- Social Service Professions Act, 1978 (Act No. 110 of 1978)
- Child Care Act, 1983 (Act No. 74 of 1983) as amended
- Probation Services Act, 1991 (Act No. 116 of 1991)
- Social Assistance Act, 1992 (Act No. 59 of 1992)
- Social Assistance Act, 2004 (Act No. 13 of 2004)
- South African Social Security Agency Act, 2004 (Act No. 9 of 2004)
- Non-Profit Organisations Act, 1997 (Act No.71 of 1997);
- National Development Agency Act, 1998 (Act No. 108 of 1998)
- Advisory Board on Social Development Act, 2001 (Act No. 3 of 2001)

After nine years in the making, the Children's Bill was passed by the assembly. It is currently with the National Council of Provinces for consideration and should be passed by Parliament in December 2007. It is estimated to be in force by May 2008. This law modernizes child care and protection practice.

The legislation will deal with the provision of:

- Partial care;
- 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 governments to write strategies, report and monitor and ensure provision of services. For all provisions, the government must put in place norms and standards. The status of child-headed households is legalized, enabling them to become beneficiaries of services and grants in there own right.

Service Delivery

Services are operated by both Government and NPOs. Government service delivery is managed provincially through staff at regional and district level.

Human Resources

Both DoSD and NGOs are struggling to retain designated social workers. A key challenge is the number migrating to other countries. This is a government concern and is being monitored. Generally NGO/NPO social workers say they are paid less than those in government employ.

Role of NGOs and NPOs

With the limited time available, it was not possible to assess NPO best practice and learning. Perhaps up to 75% of the care and protection work is being undertaken by child welfare agencies but this is not easy to quantify. CWSA and National Association of Child Care Workers (NACCW) act as umbrella/coordination and support organizations that represent

NGOs. They are involved in discussions on law, policy and service delivery standards.
In 2005[108] child welfare organizations gave services to 108,393 children considered under the Child Care Act as children in need of care. The breakdown is as follows:

- Abused Children 11,637
- Neglected Children 19,187
- Adopted Children 1,280
- Foster Care 34,360
- Abandoned Children 10,830

Observations:
- NPOs play a crucial role in service delivery particularly in child abuse and protection;
- There are issues of distribution of NPO services and coverage. Sometimes an NPO establishes a facility like a children's home or a protection service and expects government to fund it;
- Anecdotal evidence is that some services provided are based on the NPO needs assessment, and may not always fit exactly with DoSD policy and planning. The new legislation and the demand for provincial strategy and plans should help overcome this problem;
- There is a major difference from other African countries in that NPOs can operate by raising funds in-country and by seeking/competing for government funds.

Summary and Recommendations

South Africa is a diverse country undergoing a transformation in the provision of services. Policies, laws, strategies and standards are being put in place to achieve a more equitable and improved delivery of services. There are grants being paid to reduce the effects of poverty on poor children and to encourage extended family care. Social service and social security expenditure is significantly higher than neighbouring middle income countries. There is ample evidence of the capacity to manage alternative care for children evidenced by:

- Transition and transformation processes;
- Public and Private/NGO sector partnerships;
- Policy and strategy developments;
- Social cash transfers, FCG, CSG;
- Law reform with guidelines/regulations;
- Service delivery model plus standards for casework and care;
- Best interest decision-making is being applied through legal authority court orders, assessments, care plans and reviews, and casework;
- Staff are qualified and committed with skills, knowledge, and enthusiasm; and
- Research, documentation, monitoring and evaluation are taking place.

Based on discussions with DoSD field and residential staff, the following list of issues was developed:

- Develop strategies that will improve staff retention, staff are overstretched particularly by foster care work.
- Improve workload management and case management, for example with more training for first or front line social work managers.
- Create a specialisation for child protection in social welfare departments for a specialized service to children that is not encroached upon by other duties. This would be especially beneficial for the larger social work teams.

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[108] Child Welfare at a Glance – CWSA 2005

- Improve and extend drop-in/community care capacity.
- Train residential care staff.
- Better data collection and knowledge management and monitor tools for DoSD.

To focus on alternative care for children would be a new direction for UNICEF in South Africa. In view of this it is suggested that the UNICEF Country Office and DoSD begin discussions regarding the areas where cooperation may be most useful to DoSD.

Keeping in mind the limited time for assessment and thus analysis of issues, the areas below are suggested to have merit for further exploration and potential cooperation between UNICEF (ESARO and South Africa country office) and South Africa:

- Residential Care: A more comprehensive review of residential care processes, including reasons for admission, length of stay and outcomes for children. A review may include examining the steps that need to be taken with regard to unregistered facilities.
- Prevention, service delivery and coverage at local level: it would be useful to identify best practice in keeping children with their family in their communities. Keeping mothers alive so that they can care for their children would reduce both orphanhood and the need to find foster parents. The provision of support mechanisms in the community for parents and access to ART could be vital to keeping mothers alive. This is a challenge with regard to multi-sector coordination and cooperation.
- Identification of best practices in the protection of children from violence and abuse. Are there methodologies of safeguarding women and children from violence and economically empowering them to move from abusive households?
- Methodologies for reducing use of residential care for children under five. Are there ways of improving fostering services, adoption, family support to young mothers and preventing abandonment?
- Planning processes for services at province and regional level: Are there templates and spatial design factors that can improve stakeholders' equity, coverage and prioritization of services according to local demand from government, NPOs and NGOs?

Acknowledgements

Thanks are due to many people who contributed to this report through their views and knowledge, and gave so generously of their time. These include government officials, UNICEF staff, members of NGOs particularly from National Association of Child Care Workers (NACCW), Child Welfare South Africa (CWSA), and Children's Homes, researchers including the Children's Institute, community activists, child caregivers and children. Particular thanks to the staff of the Department of Social Development (DoSD) Central Level, Polokwane Place of Safety and Limpopo Social Workers; Shirley Davis and staff in Capetown; the many Department staff met in KwaZulu-Natal but particularly Mrs. Tsholo Ndaba who could not have been more helpful or informative. And finally all UNICEF country office staff who made the visit possible in particular Pernille Bengsten.

People and Organizations Met

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- K I Chavalala, Chief Social Worker, Limpopo
- Shirley Davis, Department of Social Welfare (DSW), Western Province
- Nazareth House, Capetown,
- Home of Hope, Capetown
- Andrew Dawes, Ast. Professor, HRSC Capetown
- Sue Moses, Children's Institute, University of Cape Town (UCT)
- Helen Meintes, Children's Institute, UCT
- Henry de Grass Regional Executive Manager, South Africa Social Security Agency, Western Cape
- Prof. Rose September, UNICEF Capetown
- Shereen Gorvalla, Director Leliebloem House
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- iThembi Longterm, Cluster Foster Care, Hillcrest, KZN
- St Vincent's Children's Home, Marianhill Mission, KZN
- Ubumbano Drop in Centre, Umlazi, KZN
- Enduzweni Drop in Centre, Stanger, KZN
- Othandweni Children's Home Stanger, KZN
- National Association of Child Care Workers, Durban
- Ruth Mampane, University of Pretoria

Annex Three: Swaziland Case Study

Alternative Care for Children in Swaziland:
Progress, Challenges and Future Directions

Swaziland Case Study

John Parry-Williams
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Introduction

Context

Swaziland is 141st out of 177 countries in the UNDP Human Development Index (2006/7) with a GDP per capita of US$4,824. It faces serious problems with a weak economy, food insecurity due to drought, and the highest HIV prevalence rate in the world. In 2003, it was estimated that 66% of the population lived below the poverty line and that 48% of the population was in food poverty (earned less than E.48 per day, insufficient to buy 2,100 calories of food and nothing for non-food items); 84% of the poor are in rural areas.[109]

In the last decade (1997-2007) infant mortality increased from 78 to 85 per 1000 live births and under-5 mortality from 106 to 120 per 1000 live births. Life expectancy has fallen from 58 years in 1990 to 40.9 in 2007.[110] There are high rates of chronic malnutrition among children, particularly in the Lubombo plateau. The HIV prevalence (15-49 year olds) is 26%. There is a 49% prevalence for women aged 25-29 years; and 45% for 35-39 year old men.[111]

Of the 530,000 children (1.3 million total population), an estimated 95,000 are orphans of whom about 63,000 have lost at least one parent from AIDS. There are varying figures for the number of vulnerable children, but the Swaziland Demographic & Health Survey (DHS) 2006/7 states that OVC represent 31% of all children (or 160-170,000 children). The estimate of the number of OVCs by 2010 is 198,000, a staggering 40% of all children.[112] A 2001 analysis of Swaziland's AIDS infection rates during the 1990s projected that 10,000 new children will be orphaned annually between 2002-2010 in the absence of significant new breakthroughs in treatment of AIDS.[113] The scale of vulnerability and destituteness in which children live is critical and worsening.

There is no free tuition for children attending primary schools, though both the MoE, MoHCD and NGOs assist in providing funds for vulnerable children. There is little difference in school attendance for children 10-14 years whose both parents have died, from those who have one or both alive (90% and 92% respectively), except that girls do noticeably worse where both have died (86%). The National Policy on Children 2003 states that 23% of children do not go to school.

HIV and AIDS

It is estimated that 15,000 children are living with HIV/AIDS and that 63,000 have been orphaned as a result of one or both parents dying of AIDS. About 4.4% of children are double orphans. By the end of 2006 more than 17,000 people, including 1,300 children were receiving free ART which is a dramatic increase from 600 in 2004. A decline in HIV prevalence is, however, being reported. For example, there was a reduction in HIV prevalence of 15 to 24 year olds from 39.4% to 34.8% in 2006. In 2002, about 23% of 15 to 19 year old mothers were HIV positive and the numbers of babies born with HIV was increasing.[114]

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[109]   National Policy on Children, including Orphans and Vulnerable Children in Swaziland, 2003
[110]   United Nations Development Programme Human Development Index report 2007
[111]   UNICEF External Situation Report July 2007
[112]   National Plan of Action for Orphans and Vulnerable Children 2006-10
[113]   National Policy on Children, including Orphans and Vulnerable Children in Swaziland, 2003 quoting from K. Stanecki, consultant from US Census Bureau, unpublished paper.
[114]   National Policy on Children, including Orphans and Vulnerable Children in Swaziland, 2003

Table 4.1 Information on orphans, Swaziland (estimates)

Number of Children	530,000
Paternal Orphans	13.50%
Maternal Orphans	5.00%
Double Orphans	4.40%
All Orphans	95,000 (18%)

Child Protection Abuses

Sexual Abuse

All respondents agreed that sexual abuse is on the increase. The records of the Domestic Violence and Child Protection Section of the police reported that of 801 rapes of females in 2006, 472 were under 18 years old (59%). Swaziland Action Group against Abuse (SWAGAA) reported that rapes of under-18s were two-thirds of the total reported (172 of 269). The Department of Public Prosecutions (DPP) Head of the Child Protection Prosecution Service reported 20 rape cases per week of under-16s at the High Court. The child hotline to the MoE identified rape perpetrators as being 25% headmasters and 20% teachers, i.e. 45% were by adults in schools.

Child Labour

Details of child labour were not obtainable, but the number of rural boys used as herdsman instead attending school may be significant.

Early Marriage

About 7% of girls and 5% of boys have first sexual intercourse before they are 15 years. Data on early marriage was not available. However, according to Swazi custom once a girl has reached puberty she is ready for marriage. Women in the Law Swaziland (WLSA) research indicates that some of the more strict rules as to when a girl can marry have been eroded with a result that some girls are marrying at a young age.

Harmful Cultural Practices

There is a type of forced marriage called 'kwendzisa,' when a girl's father chooses her husband. Apparently, most girls that marry kwendzisa are young, their opinion is not sought, and the husbands are often older and married. Sometimes the father arranges kwendzisa to settle a debt or to use the bride price to pay off a debt.[115]

One officer of the Domestic Violence and Child Protection Section of Police stated that they receive 20 care and protection cases per month mainly of children beaten by parents often with big sticks and jamboks.

Prevention of Family Breakdown

Family Support

The Department of Social Welfare (DSW) and NGOs offer family support in the following ways:
•   Social assistance for elderly people over 60 years old;

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[115]   Research on Swazi Culture, Women in the Law Swaziland, undated

- Public assistance for care givers under 60 years old;
- Interaction with school heads over OVC educational grants;
- Counselling and support;
- Referring to NGOs; and
- Negotiate and liaise with Head Teachers, Chiefs, RHMs.

Anti-Retroviral Therapy

The use of ARVs as part of the anti-retroviral regime (ART) is a critical way of keeping adults and children with HIV alive. 17,000 people had received free ARVs by the end of 2006.

Regional Health Motivators

There are 3,000 to 4,000 certificated paid Regional Health Motivators (RHMs) who currently cover about 20 to 30 households chosen for them by the community. They have a wide range of tasks associated with promoting knowledge about good health practices and undertaking basic health interventions. In addition many have received training in HIV and home-based care, social welfare's role, OVCs, and crime prevention. Where necessary they act as a referral agency. Children told UNICEF that the RHMs assist them more than anyone else.

Neighbourhood Care Points

625 Neighbourhood Care Points (NCPs) have been set up with about 39,000 children attending. They have been described as an emergency intervention, rather than a strategic intervention.[116] Their prime importance is in providing supplementary feeding and they have been largely successful. However, in respect of other provisions such as Early Childhood Development, health-care, clothing or counselling, delivery appears varied and limited. Often they are seen as an NGO/UNICEF project rather than government's. According to the NCP Assessment Report, 'community support for the NCPs is generally poor'[117]. The report recommends greater involvement of community leaders in establishing NCPs so that they are recognized as community structures for vulnerable children and an entry point for improved service delivery. More needs to be done to ensure that NCP Management Committees exist and that they in turn are supported by the local leadership. Because of the numbers of NCPs, external monitoring is infrequent. The plan to have one NCP in each sigodzi (village) by 2010 (i.e. 2,455 more) further highlights the need for effective local supervision and support to maximize the benefits of NCPs for vulnerable children.

WFP provides food for the majority. Preparing meals from this food is the most important function of the NCPs, without which they would collapse. WFP applied for a further three years funding from donors from January 2008, and are fairly optimistic about obtaining funding. However, according to WFP, there is disquiet among certain donors over funding as they perceive Swaziland as a lower-middle income country. NCPs are providing a useful resource, but their sustainability may rest in becoming something similar to a pre-school facility with social, health and educational aspects, supported by both local and central government.

Lihlombe Lekukhalela

Lihlombe Lekukhalela (LLs) means 'a shoulder to cry on'. They are volunteers trained by UNICEF (3,883) and Save the Children/Swaziland (2,000). As child protectors, they report abuse and neglect, and mitigate the spread of HIV. They have formed committees to

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[116] Meeting with Dr Dr Solomon Dlamini – author of Report on the Assessment of Neighbourhood Care Points, 2006

[117] Report on the Assessment of Neighbourhood Care Points, 2006

improve their communication and support to families. By the end of 2006, a total of about 7000 child protectors were trained in the country. During 2007 the aim was to strengthen the LLs by revisiting their communities and conducting assessments on the existing committees to determine active child protectors. Where gaps were identified new members were trained to cover the drop-outs. Baseline surveys were conducted and the strengthening of child protectors continues through re-training of existing community committees, establishing new community committees, and training on sustainable livelihood support skills. This activity is currently ongoing and will continue into 2008.

Currently, SWOs do not seem to have linked up with LLs and were not involved in training them. However efforts are being made to bring a closer collaboration between the department and LLs. They also need to be better integrated in with the RHMs.

Traditional Structures

Various traditional structures support vulnerable families. Children mentioned the Chief's runner (the intermediary between the chief and community leaders) as of assistance to them. The Bucopho (representative of the people from the sigodzi to tikhundla) often reports care and protection cases to the Social Welfare Officer. The chief's land may be used to grow food for OVCs and the chief can organize the ploughing etc. of OVC's, land but these are now inconsistent practices. The women's regiment (Lubsango) may also play a role in assisting OVCs.

In the past, informal fostering was reported to the Chief and Inner Council. With regard to data collection on informal fostering and providing support through the chief, RHMs and LLs could be of considerable benefit in ensuring children are adequately cared for.

Alternative Care for Children in Swaziland

Informal Family Care

Anecdotally, staff estimate that 70% to 80% of care outside the biological family is through extended family or kinship care. They also thought that 10% to 20% of informal care was provided by neighbours and friends. The 2007 census when analysed may be able to give more accurate data.

The chart below gives the living arrangements of children taken from the DHS 2006-7. It shows that 66% of all children in Swaziland are living with one or both of their parents. Although only 4.4% have lost both parents, one-third (34%) of all children are living either with relatives or non-relatives and not with a parent, although in these cases 28% have one or both parents alive. 19% of children have both parents alive but are not living with them and a further 9% of children have one parent alive but are not living with them. The percentage of children not living with at least one parent rises with the child's age, from 22% for children under-five, to 44% of 15-17 year olds. Rural children are less likely to be living with a biological parent than urban children (36% and 24% respectively).[118] Willingness to offer informal care in Swaziland seems to extend outside the extended family to those who have the same clan name.

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[118] Swaziland Demographic Health and Health Survey 2006-7

Table 4.2 Living arrangements of children (under 18 years old)[119]

Number of Children	530,000
Living with father only	6%
Living with mother only	38%
Living with both parents	22%
Both parents alive but living elsewhere	19%
Double Orphans	4.4%

The placement of a child outside the nuclear family is a family affair; it does not involve other parties such as the Chief or the Social Welfare Officer (SWO). Of the two SWO field staff interviewed, one reported 30 informal fostering cases in 2006 and the other no cases. One SWO felt they had had some influence in ensuring that the best person in the family had taken on the role. In a homestead culture as in Swaziland, unlike in a village, it is difficult for outsiders to know whether a child is being treated well.

The issue of the care given by non-relatives to children is of concern. An approach to monitor these cases should be established. The UN draft Guidelines on Alternative Care advocates that this be done.[120]

Formal Care

Formal Fostering

There appears to be very little formal fostering, nor is it promoted although it is recognized by law (CCSO, sect.11). Of three SWOs interviewed, two had been involved in fostering in 2006, with one and six cases. In the latter case, the officer reported making monthly visits. It is probable that no formal foster placements are carried out through the courts. No central register of formal fostering exists, although there may be regional records.

Domestic Adoption

There are a few cases of formal domestic adoption. In Mbabane the SWO reported that in 2005 there were 10 cases; in Lobombo the SWO reported 15 cases in 2005. There appears to be some customary adoption as commented on by Women in the Law Swaziland (WLSA), but this is not registered. There does not appear to be a central register.

The most well-known baby home in the country is "ABC", in Belembu. It has placed eight babies in domestic adoption since 2004 and 55 since 1999. There is a need for a clearer policy and collaboration between ABC and Social Welfare Officers on the procedures for adoption. Of their babies only one was placed through the department for inter-country adoption.

Inter-Country Adoption

There are very few inter-country adoptions. Swaziland has not ratified the Hague Convention on Inter-Country Adoption. A Mbabane Social Welfare Officer reported two inter-country adoptions in 2005 and in Lobombo no inter-country adoptions were reported in 2005 or 2006.

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[119] Swaziland Demographic Health and Health Survey 2006-7
[120] Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

Children's Homes

Of the 20 registered children's homes all except one is run by government. The rest are managed by NGOs with government funding to three other homes. The 20 registered homes have 679 children. Nearly a fifth are babies or infants. (Family care through adoption or temporary fostering would better provide the care and stimulation they require.) Unregistered homes need to be investigated. If they conform to the standards and are necessary, they must be registered, otherwise closed.

A UNICEF assessment[121] stated that 80% of referrals are by child welfare agencies, government and non-governmental, but no breakdown is given as to proportion undertaken by each. The report provided that 20% of referrals are by parents, friends, etc.

Swaziland places more children in children's homes (as a percentage of total children) at 0.13% than the average of 0.08% for the four countries visited for this assessment. The UNICEF report states that 99% of children were not in crisis. It is the case that many children---even abused children---go home for holidays, e.g. Lighthouse Home. If that is the case, with social and financial support and on-going monitoring, they might be able to return home or with relatives.

Currently no regulations govern the homes, nor do minimum standards exist to govern how a home should be managed. There is no gate-keeping criteria over admissions, no inspections or plan to work for a child's reintegration. For example, the ABC babies home is a well run and caring home, but in some cases it takes on the duties of the Department of Social Welfare (DSW), e.g. places children with foster parents before child to court for adoption. In the past it has not involved the local Social Welfare Officer sufficiently in the adoption process. Clear guidelines and regulations need to be laid down and monitored.

Additional to a set of minimum standards, the DSW with UNICEF support should work with the children's homes to develop *quality* standards. These are not legally binding, but are a higher set of standards that homes put in place with the best interests of the children in their care. The homes should see these as targets that they will support each other in achieving through reviews and capacity building. Department of Social Welfare (DSW) staff and especially any established inspectorate would be important in assisting in this process. UNICEF and INGOs could support this process using their international experience in this area.

Supervision Orders & Probation Orders

There is no record nationally of any supervision or probation orders. Supervision by SWOs is one way to help keep children in the community rather than within a home, and also a way of supporting family care.

Policy

Adopted Policies

- National Plan of Action for OVC (2006-10) adopted.
- National HIV/AIDS Policy and 2nd Strategic Plan (2006-8) adopted.

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[121] Assessment of Alternative Care for Children without Parental Care, UNICEF Swaziland, 2006

Draft Policies

- National Policy on Children including Orphans and Vulnerable Children (2003), a well constructed document but has not yet been adopted by Ministry of Health and Social Welfare (MoHSW) as it is still awaiting approval by Cabinet.
- Social Welfare Policy has been in draft since 1996. The current one has very generalized principles and is more a list of activities. It needs to be revisited.

Legislation: Relevant Child Laws and Proposed Laws

New Laws

The Constitution was adopted in September 2004 and has been gazetted. The Human Rights chapter includes a lengthy section (29) on Child Rights, including that free primary education shall commence within three years. (This would mean depending when gazetted but presumably sometime in 2008.) If not activated, will there be any public interest litigation?

Ratification has taken place of some international instruments, including CEDAW, and has submitted for ratification both the optional protocols of the CRC. However, it is only a signatory to the African Charter and has not ratified the Hague Convention on Inter-country Adoption.

An amendment to the Criminal Proceedings and Evidence Act 2005 establishes a children's court in the High Court to hear abuse cases and has set up methods to protect children from having to see the perpetrator.

Old, Current Child Laws

- The Child Care Service Order (CSSO), 1977 is the main legislation concerning children. Although antiquated (i.e. pre-CRC), it has good concepts such as keeping a child in the family. It emphasizes a child's interests and has room for regulations, but has ambiguities exist and as such requires guidelines. For example, it is unclear when the principal alone can place a child in a children's home, when it requires a Committal Order, a Place of Safety Order or an 'Order' through Juvenile Court (but as they don't exist what is the required method of proceeding?).
- The Adoption Act, 1952 has nothing on inter-country adoption and lacks clarity on procedures.
- The Reformatories Act, 1921 states that a child as young as seven years old can be sent for a minimum of two years and maximum of five years. If children are being held in custody for care and protection then this should be stopped.
- The Marriage Act, 1964 was established primarily for Europeans. It validates age for marriage as 18 years for boys and 16 years for girls. But Swazis marry according to Swazi custom, unless they agree before that their marriage is to be governed by common law.

Proposed Laws

There is currently two proposed bills addressing children's issues. These are the Children's Bill and Children's Justice Bill. These stand as a set of recommendations and are not yet clearly drafted as bills. It would be worth looking at the Malawi Law Commission Child Bill report, and the reports prepared in Uganda and Ghana to inform this process. These firmly set out underlying principles, a rationale for each section, and clear legal requirements. In addition, local administrations for justice need better direction (an extract from the Lesotho Act is not sufficient without contextualization for Swaziland). An appeals system is required. The Children's Bill covers adoption, marriage, maintenance, trafficking and employment. It is

very comprehensive and would benefit (as would the Justice Bill) from close scrutiny to determine that it is in line with the CRC, other international instruments, and current state of the art social work thinking.

The Sexual Offences & Domestic Violence Bill is a working document that is with government for finalization by March 2008.

Swazi Customary Law

There is a dual system of law in Swaziland. Swazi customary law is unwritten and varies from place to place in the Swazi customary law courts. Swazi customary law is very strong on the subject of family law, and thus directly affects children. Lawyers claim that there is little to no protection for children under Swazi law. Swazi courts have the ability to send a child to a reformatory centre for not paying fines; the child has no legal representation as lawyers are not allowed in these courts. Such practices should be stopped.

A Social Welfare Officer never requests a Social Inquiry Report, as they do not attend these courts.

Social Protection

There are a number of social assistance "safety nets" that benefit children; some are more comprehensive in their coverage than others. Examples include:

- Elderly Grant for 60+ years (E. 300/US$43 per quarter) collected personally at local payment centre. This is the most comprehensive payment. It often benefits elderly carers of children. However, it currently occupies a third of Social Welfare Officer's time.
- Public Assistance/Family Support Grant under 60s (by cheque E. 240/US$34 per quarter) is for poor families especially child-headed households; grandmothers under 60 years; and female carers looking after children.
- OVC school fees by MoHSW and MoE. A considerable difference in amount paid: MoHSW pays the fees in full plus additional fees for 'extras', MoE pays part of a child's educational fees (the child does not have enough to attend full time).

NB. SWOs stress that direct financial assistance to poor households, especially those looking after OVCs, is the best way to assist OVCs. They recommend the adoption of some form of cash transfer.

Service Delivery

Domestic Violence & Child Protection Section of the Police

There are 60 Domestic Violence & Child Protection Section (DCS) officers at 23 police stations; they are not present below the Tikhundla (constituency) level. One DCS office reported 20 care and protection and five to ten sexual abuse cases per month. In some instances, members of the DCS take children to children's homes without first obtaining the agreement of the SWOs. A possible cause for this is the lack of SWOs in the field.

The Department of Social Welfare in MoHSW

The Department of Social Welfare (DSW) has 12 staff (three of whom are based at the Head Office and the remaining nine cover the four regions). They are overburdened with social assistance tasks, especially payments to the elderly, public assistance for the under 60s, ex-serviceman's payments, and negotiating maintenance and school payments for OVCs. This leaves little time for interventions and home visits where there are child-protection concerns.

Currently, one third of staff time is taken up with payments to the elderly (four months per year). The staff do not have a living wage which much be addressed by the central government and advocated for by donors and UN agencies. Staffing numbers for the DSW is under review by government, but is not yet assured. A total of 55 staff are being sought for the department from the Civil Service Commission. This application for more staff would greatly benefit from the support of the UN agencies, NGOs and donors.

Examples of NGOs Work

- School Sponsorship.
- All the children's homes except one are run by NGOs and FBOs.
- Swaziland Action Group Against Abuse (SWAGAA) runs a toll free child abuse hot-line plus six offices around the country where abused children and families can go for counseling.
- SWAGAA is working with men to change their attitudes.
- Save the Children/Swaziland, World University Service, UNICEF & SWAGAA train LLs.
- Save the Children/Swaziland conduct child rights training to chiefs and Inner Council.
- NGOs and FBOs assist in the running of NCPs and the Church Forum, which represents five church umbrella groups and provides the food for 77 NCPs.

Coordination

For sometime there has been a Child Protection Network which has 93 members bringing together the ministries, UN bodies and NGOs. In 2007, the government established a Child Coordination Unit which will take over the Child Protection Network's role, though it is too early to gauge its effectiveness. DSW should advocate that the Child Coordination Unit prioritises keeping families together: 1. in its policy and funding discussions with donors, UN agencies, NGOs and FBOs; and 2. as a collaborative objective between Chiefs & Inner Council, schools, RHMs, LLs, Lubsango, NCPs, Kagogo Centres and SWOs.

Vulnerable children would benefit from closer coordination between the MoHSW and the Ministry of Regional Development and Youth Affairs (MoRDYA). The latter has more personnel at the community level, is the prime monitor of NCPs and, through their Kagogo Centres, are to coordinate all HIV/AIDS activities in communities. A coordinated approach to assist at-risk families and informal carers, especially grandmothers, would increase the chances of families staying together.

Similar coordination is needed with MoE over payments to OVCs. It would be beneficial if the needs of OVCs were included in regional development plans, particularly stressing the importance of support to informal carers and at risk families and wherever possible finding solutions to their difficulties without recourse to a placement in a children's home.

General Issues and Recommendations

The following section offers recommendations for the Department of Social Welfare (DSW), MoHSW and UNICEF to improve delivery of alternative care.

Knowledge Management, Information, Research, and M&E

Informal Care

The DSW, with UNICEF and other key stakeholders support, should investigate whether the headman at the sigozi/village cluster level can develop an informal care, child placement register. Regional Health Motivators could follow up the register, and where necessary refer to the Social Welfare Officer.

Formal Alternative Care Outside Children's Homes

There is no national data on formal fostering or on trained and approved foster parents. There is limited promotion of fostering by the department although it is recognised by law (CCSO, sect 11). There are probably no foster placements through the courts. Where it takes place it is handled by the Social Welfare Officer.

Although in two regions there were 25 domestic adoptions in 2005, 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 resistance to the use of adoption needs to be addressed, particularly for babies and infants who have been abandoned or whose parents and relatives are unwilling to care for them. The DSW should actively promote domestic adoption.

UNICEF and NGOs should advocate intensively for the ratification of the Hague Convention. DSW should develop short-term formal fostering, especially for babies and young children currently residing in children's homes---those who cannot presently be returned to parents or relatives.

Children's Homes - Recommendations

Unregistered homes need to be investigated under the supervision of the head of the DSW regional staff. If they conform to the standards (when finalized) and are serving a public good, then they can be registered, otherwise they should be closed.

Conduct a study supported by MoHSW and UNICEF covering the children in each home to include an assessment of reasons there; contact with families (are they visited? do they go home for holidays?); length of stay; the children and the homes' plans for each child's reintegration. The study would provide a baseline for the department and the homes to determine if it's necessary for the children to stay, and for joint planning for the children's reintegration when possible. Regular inspections of homes by DSW will determine whether the homes are working to reintegrate their children.

Data Management - Recommendations

Compile national and district data on the following: fostering, adoption, supervision, probation, number of children in children's homes, exact number of homes. This should also include a review of cases, particularly concerning care and protection in the Reformatory Centres. It would be helpful if the data was published in an annual report.

Determination of Roles - Recommendations

There is ambiguity over roles, in part because the current law does not cover new practices and developing issues in child care.
- Improve child admission procedures to children's homes. 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 home must plan for the reintegration of a child as soon as possible, with the child's active participation.
- Reintegration is followed up by the homes or social welfare.
- The current Child Care Service Order is vague concerning admissions to children's homes and covers nothing on reintegration. Until the proposed Children's Bill becomes law, a policy and practice document from the DSW on the above issues

would make procedures more clear. This would need ministerial endorsement and could benefit from UNICEF and NGO support.

Standards in Alternative Care Practice: Children's Homes

The draft Minimum Standards 2007[122] also cover quality standards, and must be reviewed so it fulfils its purpose. The law (CCSO sect. 10 & 15) sets out the right of the state to regulate children's homes. The department needs to be clear as to what it should contain.

Recommendations

- Emphasize: gate-keeping admissions; temporary placement prior to permanent placement in a family; and early reintegration with consent of the child if possible, or otherwise formal fostering and adoption. Additional regulations would be appropriate for children's homes looking after babies. Children's homes should be involved in drafting and it would be helpful to hear views from the children on the minimum standards from the homes. For the long term, the department and homes should draw up quality standards.

- An inspection system is vital. DSW staff in the regions must be involved, but it may be best coordinated by an officially-appointed full-time inspector based in the DSW head office. The inspector should ensure that those responsible for children follow agreed-upon procedures and that the quality of care is improved through encouragement and reasonable enforcement. The inspector will need transport, a computer, a printer, etc.

Social Work Practice

The promotion of foster care and adoption as alternative and permanent care strategies respectively have not been a priority. The Department of Social Welfare has set out some brief guidelines concerning fostering stressing the court's role but this does not seem to be fully followed.

Recommendations

- Formal fostering for babies should be promoted and guidelines developed, consideration should also be given to the fostering of children abused within the family. Formal fostering should be viewed primarily as a temporary arrangement until the baby/child can be returned to its family or adopted. *Formal* foster parents (not informal ones) should be paid a monthly fee, both for the costs they incur and so as to ensure certain standards are kept. If, for the first three years, a cap of 100 foster care placements is set as the maximum at any one time, then a finite limit is estimate to expenditure. It could then be reviewed.

- 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 abandoned children with no extended family must be promoted.

- Wherever possible the Department of Social Welfare (DSW) needs to emphasise the use of probation and supervision as a way to assist and support children and their families rather than resorting to institutions.

- Department staff have little involvement in detention institutions, children's homes, or children's reintegration. A policy that underlines the responsibility of Social Welfare Officers (SWOs) to keep contact with children in institutions and homes should be

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

   developed, especially SWO's involvement in a child's care and reintegration plans, then and follow-up to ensure a satisfactory resettlement.

- No child should be sent to a detention centre for care and protection.

Law, Policy & Guidelines

Once the Children's and Justice Bills have passed into law, a concentrated period of training, implementation and monitoring will be required, including considerable professional support and funding. To bring about full and effective adoption of these acts may take up to 20 years. It is likely to require a staged programme of short-, medium- and long-term strategies to achieve it.

Recommendations

- The National Policy on Children including Orphans and Vulnerable Children, 2003 is finalised and pending approval by cabinet. Ideally it will be adopted by MoHSW as a well constructed document. The Social Welfare Policy has been in draft since 1996. The current one has some general principles but is more a list of activities. It needs to be revisited.
- Swazi courts can send a child to a reformatory centre for non-payment of fines. The child does not have legal representation as lawyers are not allowed in these courts nor is an SIR ever requested from a SWO. This process should be changed or abolished.
- With various bills currently pending, guidelines are important to set out good practice and correct procedures with: adoption; formal fostering; removing children from their home; use of court and Social Inquiry Reports; the purpose of children's homes and the standards expected; supervision; and probation. It would be helpful if existing guidelines are reviewed or where they do not exist are drawn up after due consultation, then disseminated through workshops and monitored as to their implementation.
- The department has compiled leaflets that briefly outline its work in different areas, for example foster care and adoption, that would be useful for publicity. There is no publicity on Community Care and the use of children's homes as a last and temporary resort.

Service Delivery

The Department of Social Welfare has 12 staff and is overburdened with social assistance tasks, especially in relation to payments to the elderly, but also public assistance for the under 60s, ex-serviceman's payments, negotiating maintenance and school payments for OVCs. There is little time for interventions where there are child protection concerns. Currently one third of staff time is taken up being present for payments to the elderly alone. The extent to which staff have a living wage should be addressed.

Over 30% of all Swazi children classified as OVCs by the DHS.[123] The department would benefit from the support of donors, UN bodies, influential Swazi agencies, INGOs for the 55 staff being sought for the department from the Civil Service Commission and in supporting their 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 in children's homes. For this there will need to be some well-qualified staff as resource persons who would also advocate best practice in the use of these interventions in the regions.

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[123] Swaziland Demographic & Health Survey 2006/7

Recommendations

- The Head Office specialisation and the job descriptions of all staff need refinement, plus attention to issues of supervision, monitoring, homes inspection and data collection.
- Because the mandate of the department is more towards children (i.e. the Child Care Service Order is the prime legislation for the department) more weight should be given to children's issues.
- The districts would benefit if staff were trained in the care and protection of children and how to network with other staff such as the 3,000 to 4,000 Regional Health Motivators, Neighbourhood Care Point caregivers in the 625 NCPs, Domestic Violence & Care & Protection Section of the police, and the 7,000 trained Child Protectors.
- Regional staff should take into account population and the problems they face.
- Providing motorbikes to field staff with appropriate training and maintenance would make their task easier.
- Upgrading the qualifications of staff with 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.

Once the mechanisms for a Care & Protection Unit are in place, the department would be in a better position to reduce the number of children in 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 Protection - Recommendations

- The sooner that elderly payments are made through institutions such as banks or post offices, the sooner department staff can concentrate on the prime task of assisting vulnerable children. UNICEF is well placed to advocate for this to happen.
- Once free primary school education is established, a version of household cash transfers to the poorest might simplify some of the current payments and thereby assist the most vulnerable children. It would be worth studying the cash transfer schemes in Malawi, RSA and Kenya.

Conclusion

Child Protection in Swaziland is weak and needs to be strengthened---not only the laws and policies but also in practice. The shortage of Department of Social Welfare (DSW) staff and their high level of involvement in social assistance means that vulnerable children and their families receive inadequate support. All too frequently placing children in children's homes is the option taken. Efforts are underway to revise the laws and recruit staff to the DSW. However, in a country with one of the highest HIV-prevalence rates in the world and consequent family breakdown, a weak economy and periodic droughts, the DSW tasks to address the needs of OVCs is immense.

UNICEF and other key stakeholders plays a major role in advocacy and in supporting actions to ameliorate the current situation of OVCs. This work can focus on appropriate laws, policies and guidelines; free primary education; the provision of ART to parents and care givers that keep families alive as well as children; the establishment of a Care and Protection Unit and Inspector in DSW; encouraging NGOs to redirect funding from homes to outreach support and community support structures.

With limited government resources and focus, UNICEF and other key stakeholders and DSW should consider targeting work with children's homes. Children's homes are an entry

point into family support, fostering and adoption, and they are currently unregulated. The 20 registered homes with 679 children is a manageable number to deal with. UNICEF has already carried out a broad assessment. A study of the resident children would give the DSW and SWOs base-line data for planning. It is important that DSW, with UNICEF and other key stakeholders support, collect data on unregistered homes and that Department of Social Welfare (DSW) then decides how to proceed.

UNICEF and other key stakeholders could assist DSW to develop a policy on children's homes, including procedures for admission, child care planning and reintegration. Adoption of abandoned babies and infants and short-term fostering would be relevant to such a policy. A set of minimum standards for homes needs to be finalized, with the homes input. In the long term, the homes can adopt quality standards. To ensure minimum standards are met and that SWOs are fulfilling their role, a central inspector will probably be required and will need funding. UNICEF could advice DSW how to establish a centralized data base on child protection matters, including the use of alternative care and adoption.

Funding will be needed for the developments mentioned above and for logistics. It will also be needed to build staff capacity so they can interact with home managers (who have their own firm views) with confidence. Funding for meetings with home managers to explain and discuss the DSW's Children's Homes policy and the Minimum Standards and Procedures will also be necessary.

If UNICEF and other key stakeholders assist the DSW in taking specific child protection initiatives forward, its direct support, resources and priorities to the department will need to be increased and refocused.

Acknowledgements

People and Organizations Met

Ministries and Government Departments

- Mr. Eric Maziya, Director, Department of Social Welfare (DSW) in Ministry of Health & Social Welfare (MoHSW)
- Ms. Maria Dlamini, Deputy Director, Ms. Vierah Hlatshwayo, and Ms. Rione Gooderham, Policy Adviser to DSW at DSW HQ
- Mr. Dumisane, Ms. Doris Masilela and Ms. Elena, regional offices of DSW
- Ms. Jabu Dlamini, Ministry of Regional Development & Youth Affairs (MoRDYA)
- Ms. Mayakula and Mr. Zwane, Domestic Violence & Care and Protection Section of the Police in Mbabane, and Ms. Dlamini in Mliba
- Justice Nompumelelo, Head of Section, Care and Protection, Department of Public Prosecutions
- Ms. Nozipho, National Emergency Response Council for HIV/AIDS (NERCHA)

NGOs
- Ms. Lomceho, Director, Women in the Law Swaziland (WLSA)
- Ms. Clare Dart, Oli Xolile, Swaziland Action Group Against Abuse (SWAGAA)
- Ms. Nomzamo Dlamini, Save the Children Swaziland

Children's Homes
- MoHSW Half Way House, Manzini
- Mr. Kevin Ward, Hawane Lighthouse (NGO Children's Home)
- Mr and Mrs Ritchie, ABC Babies Home, Belembu (NGO Children's Home)

Community
- Dr Solomon Dlamini, University of Swaziland, author *Neighbourhood Care Points Assessment Report*
- Ms. Jane Cox, Moya Centre
- One CHH present when NGO/DSW liaison took place, and visited
- One informal fostering present when NGO/DSW liaison took place, and visited
- One extended family placement discussed with referrer
- Two Gogo (grandmothers) looking after four and seven children respectively, visited
- One Neighbourhood Care Point (NCP)
- One NCP planning meeting in community with Council of Churches & UNICEF
- One Indvuna (a senior customary official immediately under the chief)
- Two Elderly payments distribution meetings

United Nations
- Ms. Robinah Mulenga, Programme Officer, WFP
- Ms. Clare Dube, Head of Child Protection, UNICEF, and members of the Child Protection Team: Ms. Celiwe Seyama, Mr. Mduduzi and Ms. Elizabeth Ndzebele

Sources
- Assessment of Alternative Care for Children without Parental Care, UNICEF, 2006
- CRC Concluding Observations: Swaziland 2006.
- Draft National Social Policy, Professor E. Kaseke, undated
- Final draft Minimum Standards of Care for the Operation of Residential Homes and
- Orphages Housing Children, 2007
- List of recommendations for the development of the Proposed Children's Bill and Children Justice Act, Save the Children & UNICEF, undated
- Ministry of healthy & Social Welfare, Social Welfare department guideline leaflets National Plan of Action for OVCs 2006-10,
- National Policy on Children, including Orphans and Vulnerable Children in Swaziland, 2003
- Proposed Departmental Structure for the Department of Social Welfare, 2007
- Report on the assessment of Neighbourhood Care Points, 2006
- Research on Swazi Culture, Women in the Law Swaziland, undated
- Social Protection of Vulnerable Children including Orphans, Poverty Reduction Task Force, Ministry of Economic Planning and Development, 2002
- Swaziland Action Group Against Abuse (SWAGAA) Annual Report 2006/7
- Swaziland Demographic Health and Health Survey 2006-7
- Swaziland Laws concerning children
- UNICEF Annual Report Swaziland, 2006

Annex Four: Zambia Case Study

Alternative Care for Children in Zambia: Progress, Challenges and Future Directions

Zambia Case Study

Andrew Dunn
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Introduction

Context

Of Zambia's population (about 11.5 million), 49% are younger than 18 years old and 20% are less than five years old. There are fewer men than women between the ages of 25 to 35 years. The economy is improving, but agricultural production suffers from the indirect effects of climate change, which affects the one-third of households dependant on agriculture.

In Zambia, 67% of the population is poor and 46% of Zambians live in extreme poverty. Among the poorest of the poor, the elderly head 25% of households, and women head 27%. Poor children begin school at an older age with 75% national attendance rates for seven to 13 year olds, but this lowers to 68% for the extremely poor. There is a strong connection between poverty and education. 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 the Public Welfare Assistance is frequently used to pay for school uniforms, school maintenance costs or costs involved with transport for CD4 tests or collecting ARVs.

HIV and AIDS

There are an estimated 1.1 million people living with HIV, of these an estimated 130,000 are under 15 years old. Each year, an estimated 89,000 children are born to HIV-positive women, and an estimated 28,000 of them are HIV-positive.

- Less than 5% of those needing ARV treatment receive it. People receive ART according to CD4 count or vulnerability to infections.
- Over 50% of the HIV-infected children who do not receive treatment die by the age of two years; 7,200 children are receiving ART.
- Only 1% of the children who need cotrimoxazole prophylaxis treatment have access to it.

In Kafue District (population 176,000), approximately 23% of adults are HIV infected. Of these, 2,000 are registered for treatment, with 1,600 on ART. More assuring figures came from RAPIDS: of the 40,000 PLHIV, 14,000 were receiving ART.

Child Protection Abuses

Violence and Abuse/Sexual and Gender-Based Violence

There are no national statistics in Zambia on violence or abuse perpetrated against children. The Child in Crisis Centres/One Stop Centres each deal with 10 to 12 cases a month. There are only three or four established centres in Zambia today, but CARE and RAPIDS have secured funding for eight additional centres.

Human Rights Watch[124] has reported that Sexual and Gender Based Violence (SGBV) is increasingly being reported to organisations such as Victim Support and Young Women's Christian Association (YWCA), particularly in the One Stop Centres. There are an increasing number of abuse cases against girls perpetrated within the family. The One Stop Centre in Lusaka provides counselling and organises medical, legal and protection services all under one roof. It can receive five child abuse cases a week.

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[124] Suffering in Silence 2002

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 YWCA shelter so that her testimony/witness capacity is not interfered with. Penalties for defilement begin at 15 years imprisonment.

There is some role confusion between the NGO, police and Department of Social Welfare (DSW) over who makes decisions regarding the protection of the child. There are no formal case conferences, no at-risk register, and few court orders applied for to obtain a place of safety. The police and NGOs are making the decisions regarding a child's placement. There is no use of court orders that protect a child when the perpetrator is on bail, or if a criminal conviction is not secured despite evidence of sexual abuse.

Points for consideration:
• Uncertainties remain regarding the right to protection where the evidence of abuse is not proven, i.e. the word of child against word of perpetrator.
• Women and girls travel many miles to the One Stop Centres for justice, there is a growing demand for justice.
• There is slight concern that obtaining justice and prevention of witness interference is given priority over protecting the child from further harm.
• "One Stop Shops" are a considerable service to women and children who have been abused. These centres need support and to be replicated across Zambia. They are the beginnings of a coordinated inter-sector service.

Homelessness
The number of street children in Zambia is estimated at 13,500, of which 15% are girls. Approximately 25% of children on the streets during the day sleep on the streets at night,[125] the ratio is less for girls. The best way to address the issue is through reintegration with family, or residential care as a permanent placement or in a temporary shelter.

Early Marriage
The legal age for marriage is 21 years, and for sexual consent is 16 years. 42% of girls are traditionally married before 18 years.

Alternative Care for Children in Zambia

Informal Care
The percentage of children younger than 14 years old who live with both parents is 62%, but the figure declines to 49% for 10-14 age group, and to 51% for Western Province. Lower percentages are assumed for the 15-18 age range, though no disaggregated data exists. These figures are fairly constant across the 1992, 1996 and 2002 Demographic Health Survey (DHS).

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[125] 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

According to the DHS data, 23% of children live with their mother only; 4% of children live with their father only; and 8% of children live with neither parent (both are alive), a figure as high as 12% for the 10 to 14 age range. The orphan figures are:

- Mother dead: 6%.
- Father dead:12%
- Single orphan: 18%
- Double orphan: 3% though this figure is as high as 9% for the 15 to 18 age range.
- Percent of children who are orphans: 21%

33% of orphans and 12% of non-orphaned children are being brought up by their grandparents (710,000 children).[126] There are now five times more orphaned children staying with their grandparents than twelve years ago. Fewer orphans now stay with their aunties, older siblings or other relatives. "The percentage of orphans living with a grandparent as household head rose from 20% in 1992 to 27% in 1996 and 33% in 2002. This is a substantial shift across a ten-year span. Grandparents are absorbing the reductions in other kinds of living arrangements."[127]

The care of children by relatives on death of their parents is discussed at the time of the funeral, and anecdotally given less consideration than other property.[128] When the grandparents become too old or die the children are passed to other relatives.

Points for consideration:
- Very few orphaned children are subject to statutory or formal care or supervision by Department of Social Welfare (DSW).
- There are many absent fathers.
- Concerning remarriage and the care of step-children, some children are moved away from parents to live with relatives and this produces unhappiness and anxiety. Anecdotally this seems to be an issue and may warrant further research.
- Are the decisions made by families about orphan care always in the best interest of the child? Would improving the frequency of making wills or counselling improve these decisions? The frequency of orphanhood would seem to rule out state oversight, but how are children or communities participating in these decisions?
- Has there been any research in Southern Africa into the fosterage arrangements when parents are alive?

Formal Care
Since 2007, Lusaka District has committed 61 children to formal placements: 20 to non-relatives, 10 to relatives and 30 to babies homes pending adoption. There is no legal guardianship in Zambia that gives a relative parental responsibility in law.

Foster Care
During 2006, Department of Social Welfare (DSW) worked with 231 male and 108 female foster care cases. Of these 132 male and 23 female orders were granted. Most foster care is a precursor to adoption.

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[126] Orphans and Vulnerable Children in Zambia 2004 Situation Analysis Summary Report Vol 1; Ministry of Sports, Youth and Child Development
[127] Ibid Data Review
[128] CWAC member Kafue

A foster allowance is payable at the rate of 100,000Kwacha (US$25) per month. Payment is however infrequent and is disbursed centrally. It appears that children less than three years old are more likely to be placed in babies homes than with foster parents.

Adoption

From the DSW figures there were 47 male and 52 female new adoption casework cases received in 2006. Orders were made for 31 male and 38 female. The DSW acted as Guardian *ad litem* in 31 cases.

In the first nine months of 2007, the Child Welfare and Adoption Society (CWAS) for Zambia received about 100 applications for adoption, mainly from abroad and/or externally. Twenty applications were received from Zambians. CWAS is particularly concerned with regard to USA regarding which Adoption Societies are accredited. Late social work and police reports slow the adoption processes. According to CWAS the Zambian residence requirement is blocking overseas adoptions.

Points for consideration:
- At the time of this consultancy, ministerial concern was whether due process was being followed during adoptions.
- No independent guardian *ad litem* is representing the child.
- The consents of parents and relatives to adoption can be withheld. There is no ability by court to overturn consents unreasonably withheld by relatives or parents.

Supply of babies for adoption exceeds internal demand but not external. Children are not being placed due to delays, uncertainties, legitimate concerns, and blockages during the adoption/care planning process. This means some children may miss opportunities and remain in homes for a lifetime.

Residential Care

The Registrar of Societies, responsible for all formal registration of NGOs, has no monitoring mechanism to ensure that the organizations registered are providing services as per the application. They have registered 191 orphanages or organizations operating orphanages since 2005. The Department of Social Welfare has the statutory responsibility of inspection and has set standards, but due to lack of resources is not able to be thorough as regards frequency or coverage of inspection.

Table 5.1 Number of children's homes per province (Ministry of Community Development and Social Services)[129]

Province	Number of Homes	Total number of children
Lusaka	41	2702
Southern	19	555
Copperbelt	22	961
Luapula	2	44
North Western	4	149
Eastern	2	101
Northern	2	80
Central	6	499
Western	3	104
Total	**101**	**4, 592**

There is some discrepancy in the figures. According to the DSW Annual Report 2006, "by close of the year, the statistics showed that there were 200 children's homes benefiting over 5000 children." To date Lusaka DSW has "registered" 53 homes and 15 of these are used by DSW to place children either by court committal order or by written referral. These homes are viewed as being cooperative. There appears to be some inconsistency in reporting numbers of homes and the number of children in them.

There are no statistics regarding what category of children are in residential care or the reasons for their admission. From a quick sample during a visit to a home in Kafue, children are in homes for poverty reasons, poor parenting/neglect, orphanhood, and abuse. Kafue DSW staff thought they might be able to reintegrate 50% of the 169 children from the eight homes in the district with the proviso that financial resources for DSW and the children were available.

Examples of Children's Homes
The following information was obtained on visits to children's homes in Zambia.

Mwana Maria Children's Home, Kafue
Run by Catholic Church, Mwana Maria was opened in 2004. It houses 33 children. Only one child has returned home to parents or relatives. The eldest child is 16 years and the most recent placements were two babies aged four and five months. Admissions are identified through referral by the congregation to a committee. Admissions are then reported to DSW. There are neither court orders nor clarity between DSW and home regarding who had the authority to transfer or discharge a child. There are case records but no care plan or reviews.

Energy of Hope Home, Kafue
Opened mid-2007 and accommodates 12 children. The material conditions are good. Children are referred from two evangelical churches. The home's sponsor is in USA.

Christian Alliance of Zambia
Established 1988, the organisation runs three homes for the following age ranges
- Under 18 months (House of Moses)
- 18 months to three years
- Four to 12 years, then transfer to SOS Children's Village or similar establishments.

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[129] Information received from MCDSS 9/11/2005. Due to robbery at the MCDSS in 5/11/05 some of the updated information was lost.

The House of Moses admits babies and tries to work with families to return children home after a six month stay. Referrals are from hospital social workers, police and churches. Material conditions in the home are good, however there have been instances of children dying from HIV and AIDS-related causes. There is good liaison with DSW and it seems shared decision making about the children's care plans. 560 children have passed through the three homes: between 100 and 200 children have been adopted; 70 to 80 have been fostered with a view to adoption; 20 to 30 children have been transferred to other homes. Adoption is apparently now stopped on verbal decision by minister. The home's director and DSW expressed uncertainty as to legal authority to act over the future placing of children for adoption

Bethel Home, Kafue

This is an example of a home where it is alleged that a staff member abused children. The staff member has been suspended over allegations of sexual abuse. This home is now managed by a DSW staff member on secondment. It is an example of DSW taking appropriate action.

Standards

The minimum standards in Zambia have the feel of regulatory guidelines (and are self-described as regulatory measures in Paragraph A). As regulations they are very comprehensive with regard to the care of the children in the home. If they were properly implemented they would go a considerable way to improving the care or children in the homes.

Regardless of their comprehensive nature, future development of quality standards should be considered. Quality standards usually state desired outcomes for the child and measurable indicators against which the performance of the home can be measured[130].

Points for consideration:
- There is uncertainty about the number of homes from the various reports. This may be from lack of access to the available data;
- There is usually no information regarding the reason for a residential care placement;
- There is little evidence of prevention or homes being used as last resort, coupled with an absence of case plans or case reviews;
- Placement and admission is usually done by the home without referral to Department of Social Welfare (DSW);
- Admission is sometimes reported afterwards to DSW and is ratified by a placement letter. Very few children are committed through court by the Juvenile Inspector;
- There is poor reporting to Registrar of Societies by the homes regarding their mission and progress;
- There is no standardised system of child case records within the homes on which data can be collected or comparisons made; and
- Reintegration of children: there is some evidence of family reintegration by DSW and agencies from transit shelters for street children. In 2006, two children passed through the Fountain of Hope Shelter. In 2007, 48 were reintegrated and 35 placed in other homes or shelters.

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[130] See Lesotho Standards

Policy

National Child Policy of Zambia by Ministry of Sports, Youth and Child Development (MSYCD)

This is overarching policy for children and as such has insufficient detail on child protection.

Draft Policy Department of Social Welfare (DSW) 2007
Policy Objectives
- To review the various acts related to children's homes, fostering and adoption to ensure provisions are relevant and clear;
- To create a Juvenile Code to support and explain the law on matters relating to juveniles;
- To promote co-ordination among all service providers to create high quality physical and professional standards in institutional care facilities as provided in some pieces of legislation and polices;
- To promote the placement of children in suitable adoption or foster homes;
- To promote the reintegration of children from homes back into society; and
- To ensure children with disabilities are accorded special treatment and facilities.

Measures to be taken:
- A review of legislation pertaining to child custody and care, fostering and adoption will be carried out to assess the relevance and utility of current regulations;
- Revised legislation will be drafted where necessary, and a draft Juvenile Code will be produced for consultation with stakeholders;
- The requirements for institutional care facilities will be reviewed and updated, and provided freely to all involved or interested organisations in the establishment and running of Adoption Societies and Children's Homes;
- The supervision of children's homes will be enhanced in accordance with relevant acts and policies, and action taken where necessary to improve performance or implement specified standards as appropriate;
- Provision of training in child care will be given to all officers involved in the promotion and implementation by 2010 to ensure that performance is thorough, professional, legal and ethical;
- Facilitate the preparation of the family and society for reintegration of children from homes;
- Civic education programmes to promote improved understanding of childcare in the extended family, in homes, and in foster or adoptive families will be carried out; and
- Establish networks of co-ordination.

Legislation
About 25 acts concern children, but most refer to children in only a few sections. There are four acts which are either entirely or to a large extent about children:
- The Juvenile Act, 1956, with amendments
- The Adoption Act, 1956, with amendments
- The Probation of Offenders Act, 1953 with amendments
- The Affiliation and Maintenance of Children Act, 1995

The laws enacted in the 1950's have not been amended to deal with social economic change or the HIV and AIDS pandemic, or to reflect the CRC and other international standards and guidelines. The Juvenile Act does separate issues of care and protection from offending and social control which is more modern than similar Anglophone Africa colonial legislation.

The Juvenile Act covers the protection of children from abuse and children in need of care. It provides for places of safety, fostering, fit persons, regulation of children's homes and placements. It also gives considerable power for "juvenile inspectors" to act as parent. If implemented it would offer considerable legal protection to children. The major problems are: management, guidelines, regulation and resources from the responsible ministry.

There is no Guardianship Legislation 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 being drafted. It is the view of stakeholders that the review and reform process be all inclusive, involving line ministries, traditional rulers, children and 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.[131]

Service Delivery

Child Protection and Social Services are delivered to children and families by NGOs, Faith Based Organisations and Ministry of Sports, Youth and Child Development (MSYCD) and Ministry of Community Development and Social Services (MCDSS). Major NGO/church service providers are registered, known and documented in the OVC Situation Analysis.

Department of Social Welfare

There are presently 180 social welfare staff, the level set by Public Service is 200. Recruitment is currently underway to achieve the quota. However, in general the NGOs and Department of Social Welfare (DSW) believe that as part of Zambia's Highly Indebted Poor Countries (HIPC) obligations, it is unable to increase its number of public servants. This uncertainty needs to be verified. To manage the social cash transfer when/if it is rolled out, DSW estimated that a further 140 staff would be needed. Most of the 73 districts now have one social welfare officer. Kafue had four staff, Lusaka District has nine staff but four of these were on secondment. From Kafue and Lusaka the officers said they spent five hours a day processing Public Welfare Assistance Scheme (PWAS) and three hours on court investigations for juvenile offenders. They had very little time for either inspections of homes or child care and protection.

The demands on DSW staff were from a constant queue of clients wanting to be assisted or counselled or from the police and the Magistrates Court. Through looking at the number of cases brought forward each year it appears that the court and other processes are lengthy.

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

(I)NGO Sector

Considerable income is received by INGOs from donors, perhaps due in part to some inability of government to disburse it due to manpower restrictions.

RAPIDS

RAPIDS is a consortium of major NGOs with multiple donors that are working together. RAPIDS has a considerable reach, supporting 12,000 community care givers in 52 districts. Trained volunteer care givers supply kits, counselling and support the chronically ill. They help with access to education and health. Care givers are identified, then are assigned to support and visit five or six households. RAPIDS supports 46,000 people through home-based care of which 14,000 are on ART; 200,000 children are supported. There is some work on inheritance planning through support to write on wills but currently less work on memory books. It appears that support to care givers improves access to services access to services, which improves well being. There will be results published soon from the monitoring and evaluation of this project.

Plan International

This INGO has the following interventions:

- Learning/Education, in formal and informal sector aimed at improving quality;
- Early Childhood Development;
- Health – Primary Health Care;
- Child and Community Development; and
- Food Security and Income Generation.

Care International

Care supports Sexual and Gender Based Violence (SGBV) projects and OVC education, in particular the SCOPE programme and cash transfers.

Social Protection - Public Welfare Assistance Scheme (PWAS)

In 2006, 166,559 clients were assisted under Public Welfare Assistance Scheme (PWAS) (90,704 females and 75,855 males); and 10.1 billion Kwacha disbursed. The programme targets the poorest 2%. The scheme is managed through the 73 District Departments of Social Welfare. The District Social Welfare Offices receive weighted financial allocations from the Department Headquarters, based on vulnerability index and district population. District Social Welfare Officers through District Welfare Assistance Committee (DWAC) allocate resources to Area Coordinating Committees (ACCs) made up of Community Welfare Assistance Committee (CWAC) members and other local partners who identify beneficiaries and provide the assistance.

For instance, in Kafue with 176,000 population, there were 12 ACCs and 144 CWACs. The DWAC processes the received applications which number between 200 to 300 each month. The furthest CWAC is 300kms distant. Money is used for school costs, medical costs and repatriations. About 10 people are assisted each month. Last month transport to hospital for tests or drugs for three people cost 330,000 Kwacha.

Social Cash Transfers

The main transfers are as follows:

- Social Cash Transfer: 64,700 beneficiaries with 5.7 billion kwacha expenditure.
- WFP School Feeding: 173,000 beneficiaries at 22.4 billion kwacha.
- GRZ Food Security pack: basic agriculture inputs 35,000 beneficiaries at 21 billion kwacha.

Care International reports that the major problem in the cash transfer system is the time it takes to report financially from receiver to funder. Agencies are trying to be sympathetic to this issue and will release funds before previous tranch is liquidated. There is no evidence of leakage.

Kalomo Cash Transfer Pilot

The pilot area includes two agricultural blocks, six Area Coordinating Committees (ACCs), 35 Community Welfare Assistance Committees (CWACs) and approximately 10,000 households living in about 200 villages. The scheme targets households considered to be extremely needy, destitute or incapacitated.

To date there are 169 beneficiary households, 56% of which are female-headed and 44% male-headed, from 18 villages. One hundred and forty-eight households are receiving transfers through the Finance Bank and 31 through a pay point. The scheme is reaching a total population of 644, averaging 3.8 per household in the target area.

The Department of Social Welfare (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 District Social Welfare Officer (DSWO) at the office. The lack of handover between the incoming and outgoing DSWOs may have contributed to the problem.

General Issues and Recommendations

Knowledge Management, Information, Research, Monitoring and Evaluation
Children's Homes

Although UNICEF and Department of Social Welfare (DSW) are making efforts to rectify the situation, there is still little available information or analysis of informal and formal alternative care. It is recommended that a database is set up to help DSW manage:

- Data on children's homes;
- Inspection visits that include an assessment form to assist the inspection of a home; and
- Information on children in the home and their family.

Informal Care

There is little national data on informal care. However, elderly grandparents are playing an increasing role in proving care for their grandchildren. It may be worth conducting research into whether informal family placements are always in the child's best interests, enquiring whether children participate in the decisions regarding where they live and with whom. INGOs may have data that can be analysed. More data may also help the targeting of social cash transfers.

Uncertainty remains around laws and mainly practices regarding the duty-bearer and the responsible agency for child protection with regard to:

- Sexual and Gender Based Violence (SGBV);
- Placement in a children's home (presently the DSW takes quasi-administrative but not legal responsibility through the courts);
- Reintegration of children;
- The role of the courts; and
- Uncertainty regarding responsibility at many stages of the child care and protection processes, regarding parental responsibility.

Quality Standards in Child Care and Protection

Residential Care
NGOs and DSW in Zambia can come together to look at quality care standards that include developing outcomes for children in line with the CRC, standards and practice indicators. They would complement the existing minimum standards/regulatory framework. The DSW could produce a set of short ministerial regulations that are enforceable and deal with homes who refuse to comply and work towards the standards.

Social Work Practice
- The adoption process should be examined and if necessary amended so that it meets international standards and safeguards the rights of the child. Children, especially babies, that are generally more "adoptable" are missing out on adoption and remaining in care.
- Fostering and not residential care should be practised for babies and young children.
- The state is not taking on the role of parent for children in need of care and protection. Improvements are needed in prevention, assessment and case management (care plans, periodic review of placement, reintegration)

Policy and Law
There are developments in policy and planning for children; legal reform is in the early stages but lacks momentum. Child protection reformers should look at current social work practice against international standards and best practice.

The policy remit of the present ministries involved in child protection and development would benefit with more clarity, enabling ministers to present legislation relevant to their ministries.

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 social cash transfers to their workload needs careful consideration and planning. Social workers are generally not suited to managing financial reporting systems. A balance in responsibilities will need to be found.

If departments with staffing limits must disburse more donor or government resources, they may consider a public-private partnership, or NGO sub-contracted after due process to deliver child protection services over the short term.

Decentralisation and urbanisation need to be studied and planned for.

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

UNICEF and Other Key Stakeholders
- The government seems committed to change and to develop child protection (police, MCDSS, courts and lawyers). The development of cash transfers is also exciting and

if managed well has tremendous potential for reducing risk and vulnerability to children. UNICEF is expected to follow and support these processes.

- The Concluding Remarks of the Committee on the Rights of the Child need to be widely disseminated and acted on. (Some improvements have been made, but some issues, e.g. children on remand in the adult prison, need working on.) This is an advocacy issue with government in particular Ministry of Community Development and Social Services (MCDSS).

- It is necessary for government to modernise and transform its child care and protection policy, law, service delivery and practice. These processes will need to go hand in hand. UNICEF and other stakeholders may plan and budget for long-term technical support to Department of Social Welfare (DSW). This will call both for agency leadership and a long-term child protection strategy which has support to government at its core.

- A component of any strategy is to resource and support DSW to build capacity in selected urban areas and perhaps to pilot decentralisation (devolved services) to some rural districts

- Development time frames and annual objectives within the law reform process is recommended to help to speed up processes. This may also benefit from external African technical assistance or advice from Uganda or Ghana.

- Research the impact of fosterage and family placements/decision making on children and ascertain whether improvements can be made as to process and monitoring of informal care.

Acknowledgments

People and Organisations Met

- Minister of Community Development and Social Services
- Registrar of Societies – Ministry of Home Affairs
- Deputy Registrar of Societies – Ministry of Home Affairs
- Assistant Registrar of Societies – Ministry of Home Affairs
- Acting Commissioner, Department of Social Welfare (DSW) MCDSS
- Gregory Mwanza, Chief Planning Officer, MCDSS
- Melvyn Zulu, Statistics Analyst, MCDSS
- Stanfield Michelo – Chief Social Welfare Officer Statutory Services, MCDSS
- Monica Mweenda Jalasi, Senior Social Welfare Officer, MCDSS
- Bridget Katati Munwungwe Senior Social Welfare Officer, MCDSS
- Felix Mwale, Zambia Association of Child Care Workers
- Irene Mungu, Provincial Social Welfare Officer Lusaka Province
- Assistant Welfare Officers, Lusaka District
- Mulenga Sendeme Social Welfare Kafue
- Basil Mangani, Guidance and Counselling Coordinator, Education Department, District Welfare Assistance Committee (DWAC), Kafue
- David Chanda, District TB/HIV Coordinator, Kafue DHMT, MOH

- Brian Siwisha, Information Officer, DOVCC, Zambia News and Information Network, Kafue
- Elijah Nguni, Chairman, DOVCC, DWAC Kafue
- Cacious Miyanda, Project Development Officer CCF Kafue
- Mkanda Wire, Nangongwe, Community Welfare Assistance Committee
- L. Tazimaiwa, Nangongwe, Community Welfare Assistance Committee
- Magrete Mwale, Nangongwe, Community Welfare Assistance Committee
- Tony Kisadha Country Director, Save the Children/Norway
- Director, Energy of Hope Children's Home, Kafue
- Sister Flora, Mwana Maria, Catholic Children's Home
- Pastor Godfrida Sumaili, Chairperson Children in Need Network and Jesus Cares Ministry
- Director, Fountain of Hope, Street Children Shelter
- M. Musukwana., Senior Regional Coordinator, Lusaka, YWCA
- Cindy Mwila, Counsellor, Child in Crisis Centre, Lusaka, YWCA
- Director, Christian Alliance Zambia
- Matron, House of Moses Babies Home
- Ivy Chipasha, Executive Secretary, Zambia Child Welfare and Adoption Society
- Paul Charles Phiri – Victim Support Unit, Zambia Police
- Harriet Sengolo – Counsellor, One Stop Centre for Sexual and Gender Based Violence (SGBV)
- Sharon Williams, Head of Secretariat, Child Justice Forum
- Sharon Kaunda Newa, Resident Magistrate, Child Justice Forum
- Bruce Wilkinson, Chief of Party, RAPIDS, USAID
- Stephen Mukumbula Plan International
- Stefan Szeless ,Head of Mission, ICRC
- Mark Vander Vort, Director, Care International, Zambia
- Rev, Boston Mwebela, Lighthouse Community Church, Kabwe

Sources

- Children's Rights in Zambia, Situation Analysis, 2005, Save the Children/Norway
- CHIN 2005 Annual Report
- Community action and the test of time:learning from community experiences and perceptions Case Studies of Mobilization and Capacity Building to Benefit Vulnerable Children in Malawi and Zambia - Jill Donahue Louis Mwewa
- Guidelines for Child Participation in School Governance through Children's Councils Ministry of Education, Save the Children/Norway
- How to Run a Child Care Facility, MCDSS
- MCDSS – DSW Annual Reports 2005 and 2006 with statistics
- National Child Policy 2006, Ministry of Sports, Youth and Child Development
- Orphans and Vulnerable Children in Zambia, 2004 Situation Analysis, MSYCD/Unicef and 1999
- Proposed Sexual offences and Gender Violence Bill, 2006 Women in Law and Development in Africa, Zambia Chapter
- Public Welfare Assistance Scheme
- Qualitative Assessment/Documentation Corridors of Hope Project Zambia 2006, Family Health International
- Social Cash Transfers – Reaching the Poorest: Health, Education and Social Protection Sector Project: Systems of Social Protection A contribution to the international debate based on experience in Zambia GTZ

- Social Protection Strategy Draft 2005
- Suffering in Silence HRW
- The Changing Family in Zambia, Women and Law in Southern Africa Trust, 1997
- The situation of street children in Zambia: A study by MCDSS & MSYCD Supported by UNICEF, Project Concern International and RAPIDS. Zambia 2007
- UNICEF Child Protection Annual Report 2005
- UNICEF Draft Country Programme Document 2006
- Zambia Children's Homes Minimum Standards Final Draft
- Zambia Demographic Health Survey 2004
- Zambia Programme Report 2006, Save the Children/Norway
- Zambia Social Protection Expenditure Review and Performance Review (Draft) Sept 2007 International Labour Organisation, UN/Department of International Development (UK)
- Zambia UNCRC – Committee on the Rights of the Child Concluding Observations
- Zambia: Are social ministries adequately funded? *by* Christian Petrauskis, Lusaka
- Zambia's Commitment to Children's Rights, A Budget Perspective

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