

ASSESSMENT OF CAPACITY TO MANAGE ALTERNATIVE CARE IN SWAZILAND

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1 VISITS & MEETINGS.

1.1 Ministries and Government Departments:

MoHSW (Min. of Health & Social Welfare) – 2 HQ & 3 regional staff
MoRDYA (Min. of Regional Development & Youth Affairs)
DCS (Domestic Violence & CP Section of the Police) -2 meetings
DPP – Head of the CP Prosecution Service
NERCHA (National Emergency Response Council for HIV/AIDS)

1.2 NGOs:

WLSA (Women in the Law Swaziland)
SWAGAA (Swaziland Action Group Against Abuse)
SCS (Save the Children Swaziland)

1.3 Children's Homes:

Government (MoHSW) Half Way House, Manzini
Hawane Lighthouse (NGO Children's Home)
ABC Babies Home, Belembu (NGO Children's Home)

1.4 In Community:

1 CHH (Child Headed Household) – present when NGO/DSW liaison took place and then visited
1 informal fostering – present when NGO/DSW liaison took place and then visited
1 extended family placement discussed with referrer
2 Gogo (grandmothers) looking after 4 & 7 children respectively – visited
1 NCP (Neighbourhood Care Point)
1 NCP planning meeting in community with Council of Churches & Unicef
1 Indvuna (a senior customary official immediately under the chief)
2 Elderly payments distribution meetings

1.5 Other individuals:

Dr Solomon Dlamini – author of NCP assessment
Jane Cox – Moya Centre
Unicef – met with different CP members concerning NCPs, RHMs (Regional Health Motivators), etc
WFP (World Food Programme)

2. 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 Orphanages 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

3 SOCIO - ECONOMIC CONTEXT

Despite Swaziland being 141 out of 177 countries in the UNDP Human Development Index in 2006/7 with a GDP per capita of US \$ 4,824 it is a country facing serious problems particularly because of a weak economy, food insecurity due to drought and the highest HIV prevalence rate in the world. In 2003 it was estimated that 66% were below the poverty line and that 48% of the population was in food poverty which meant they earned less than E.48 per day which was insufficient to buy 2,100 calories of food and they had nothing for non-food items. 84% of the poor are in rural areas¹

In the last decade (1997-2007) infant mortality has 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 2007.² There are high rates of chronic malnutrition among children, particularly in the Lubombo plateau. The HIV prevalence among 15-49 year olds is 26%, while for women aged 25-29 years there is a 49% prevalence which is 45% for 35-39 year old men.³

Of the 530,000 children in the population of 1.3 million there are estimated to be 95,000 orphans of whom about 63,000 have lost at least one parent from AIDS. There are varying figures given for the number of vulnerable children but the Swaziland

¹ National Policy on Children, including Orphans and Vulnerable Children in Swaziland, 2003

² UNDP Human Development Index report 2007

³ Unicef External Situation Report July 2007

Demographic & Health Survey 2006/7 states OVC represent 31.1% of all children this would be c.160-170,000 children. The estimate of the number of OVCs by 2010 is 198,000, ie 40% of all children. The scale of vulnerability and destituteness in which children live is is critical and worsening. The 2007 census should be able to provide up-to-date figures for OVCs by mid 2008.

There is no free tuition for children attending primary schools through both the MoE, MoHCD and NGOs assist in providing funds for vulnerable children. According to the DHS there appears not to be that much difference in school attendance for children 10-14 years whose both parents have died and those who have one or both alive (90% and 92% respectively), except that girls do noticeably worse where both have died (86%). However, the National Policy on Children, 2003, states that a considerable number of children (23%) do not go to school and that 17% drop out

4 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 the 600 in 2004. A decline in HIV prevalence is however being reported and most significantly there is a considerable reduction in 15-24 year olds from 39.4% to 34.8% in 2006. In 2002, about 23% of 15-19 year old mothers were HIV+ and the numbers of babies born with HIV was increasing.⁴

Information on Orphans (estimates)

	Swaziland ⁵
Number of Children	530,000
Paternal Orphans	13.5%
Maternal Orphans	5%
Double Orphans	4.4%
All Orphans	95,000 18%

5 CHILD PROTECTION ABUSES

5.1 Sexual Abuse

All respondents agree sexual abuse is increasing. The records of the Domestic Violence and Child Protection Section of the police show that of the out of 801 rapes of females

⁴ National Policy on Children, including Orphans and Vulnerable Children in Swaziland, 2003

⁵ Swaziland Demographic Health and Health Survey 2006-7

that came to their attention in 2006 - 472 were girls, ie 59% were under 18 yrs. SWAGAA also reported that rapes of under 18s came to two thirds of the total reported to them (172 of 269). The DPP Head of the Child Protection Prosecution Service said that she heard 20 rape cases per week of under 16s at the High Court. The child hot line to the MoE identified rape perpetrators as being 25% headmasters and 20% teachers, ie 45% were by responsible adults within the schools.

5.2 Child Labour

Details of child labour were not obtainable but the numbers of rural boys used as herdsman instead of going to school may be significant.

5.3 Early Marriage

About 7% of girls and 5% of boys had their 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. WLSA's research indicates that some of the stricter rules as to when a girl can marry through the oversight of the age regiments have been eroded with a result that some girls are marrying at a young age.

5.4 Harmful Cultural Practices.

There is a type of forced marriage called 'kwendzisa' which is when the father of a girl chooses a husband for her. Apparently most girls married this way are young and their opinion is not sought and the husbands are often older and married. Sometimes the father arranges this to settle a debt or to use the bride price to pay off a debt.⁶ According to one DCS policewoman they receive 20 care and protection cases per month mainly because of children being beaten by their parents often using big sticks and jamboks.

6 PREVENTING FAMILY BREAKDOWN

6.1 Family Support

This happens in the following major ways through the Department of Social Welfare and NGOs:

- social assistance for elderly over 60 years
- public assistance for carers under 60 years
- interaction with school Heads over OVC educational grants
- counselling and support
- referring to NGOs
- negotiating and liaising with Head Teachers, Chiefs, RHMs

6.2 Anti-Retroviral Therapy (ARTs)

The use of ARVs as part of a 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.

⁶ Research on Swazi Culture, Women in the Law Swaziland, undated

6.3 Regional Health Motivators (RHMs)

There are 3-4,000 certificated paid RHMs who currently cover about 20-30 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.

6.4 Neighbourhood Care Points (NCPs)

625 NCPs have been set up with c.39,000 children attending. They have been described as an emergency rather than a strategic intervention.⁷ What is provided is fairly rudimentary, their prime importance are as 'soup kitchens' as in reality it seems little is given by way of ECD, health-care, clothing or counselling. Often they are seen as an NGO/Unicef project not government's. Dr Dlamini thinks that when they are set up it is important to go through the traditional structures so they are viewed as belonging to the community. Monitoring of the NCPs is said to be poor. There is a plan to have one NCP in each sigodzi (village) by 2010, ie 2520 – is that likely?

WFP provide the food for the majority – the preparing of meals from this food is the most important function of the NCPs without which they would collapse. WFP are applying for a further 3 years funding from donors from Jan. 2008 and are fairly optimistic about obtaining funding. But there is some disquiet among donors who view Swaziland as a lower middle income country. NCPs are providing a useful resource but their sustainability may rest in them becoming something similar to a pre-school facility with social, health and educational aspects and supported by government.

6.5 Lihlombe Lekukhalela (LLs)

LL means 'a shoulder to cry on' they are volunteers and Unicef has trained 3,883 and Save the Children Swaziland 2,000. As child protectors their role is to report abuse/neglect & mitigate HIV spread and they have formed committees to improve their communication and support to families. At 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 dropouts. Baseline surveys have been 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.

Up till now 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.

⁷ Meeting with Dr Dr Solomon Dlamini – author of Report on the Assessment of Neighbourhood Care Points, 2006

6.6 Traditional Structures

Various traditional structures have supported vulnerable families. Children have mentioned the Chief's runner as of being assistance to them. The Bucopho (representative of the people from the sigodzi to tikhundla) often reports care and protection cases to the SWO. The chief's land may be used to grow food for OVCs and the chief can organize the ploughing, etc of OVCs 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 used to be reported to the Chief and Inner Council. With regard to data collection on informal fostering and providing support through the chief, RHMs and LLs this if revived could be of considerable benefit in ensuring children are adequately cared for.

7 INFORMAL FAMILY CARE

Anecdotally staff estimate that 70-80% of care outside the biological family is through extended family or kinship care. They also thought that 10-20% of informal care was done by neighbours and friends and a member of Save the Children Swaziland thinks this is becoming more common. 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 only 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 5 to 44% among those 15-17 years. Rural children are less likely to be living with a biological parent than urban children (36% and 24% respectively)⁸. Willingness to offer informal care in Swaziland seems to extend outside the extended family to those who have the same clan name.

Living Arrangements of Children

Living Arrangements of Children Data < 18 ⁹	Swaziland
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%

⁸ Swaziland Demographic Health and Health Survey 2006-7

⁹ Swaziland Demographic Health and Health Survey 2006-7

The placing of a child outside the nuclear family is very much nowadays a family affair and does not involve other parties such as the chief or the Social Welfare Officer (SWO). Of 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 less easy for those outside to know whether a child is being treated well.

The issue of the care given by non-relatives to children is of concern and it would be good if a way was found to particularly monitor these cases. The UN draft Guidelines on Alternative Care advocates that this is done.¹⁰

8 FORMAL FORMS OF CARE

8.1 Formal Fostering

There appears to be very little formal fostering done and it does not appear to be promoted although it is recognized by law (CCSO, sect.11). Of 3 SWOs interviewed only two had been involved in fostering in 2006 during which time they had one and six cases respectively. 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.

8.2 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 WLSA but this is not registered. There does not appear to be a central register.

The major baby home in the country ABC in Belembu has 8 babies placed in domestic adoption since 2004 and 55 since 1999. There is a need for a clearer policy and collaboration between the Home and SWO on the procedures for adoption. Of their babies only one was placed through the department for inter-country adoption.

8.3 Inter-Country Adoption

There are very few inter-country adoptions. Swaziland has not ratified the Hague Convention on Inter-Country Adoption. A Mbabane SWO reported 2 in 2005 and in Lobombo no inter-country adoptions were reported to have taken place in 2005 or 2006

8.4 Children's Homes

Of the 20 registered Homes all but one is run by government the rest are managed by NGOs with government funding to 3 other Homes. The 20 registered Homes have 679

¹⁰ Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

children. Unregistered Homes need to be investigated and if they conform to the standards and are necessary to be registered or otherwise closed.

A Unicef assessment 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. It did report that about 20% of referrals is by parents, friends, etc. The Unicef report also states that 99% of children were not in crisis. It is the case that many even abused children go home for holidays, eg Lighthouse Home. If that is the case then with social and financial support and on-going monitoring they might be able to return home or to relatives.

Currently no regulations governing the Homes or minimum standards exist to govern how a Home should be managed. So there is no gatekeeping criteria over admissions, no inspections or plan to work for a child's reintegration, etc. So for example there is one Babies Home ABC. It is a well run and caring home but in some cases takes on the duties of the DSW, eg places children with foster parents before child to court for adoption. In the past it has not involved the local SWO sufficiently in the adoption process. Clear guidelines/regulations need to be laid down and monitored

It would be helpful to work out with the Homes a set of Quality Standards that the Homes agree to work towards.

8.5 Supervision Orders & Probation Orders

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

9 POLICY

9.1 Adopted Policies

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

9.2 Draft Policies

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

10 LEGISLATION - RELEVANT CHILD LAWS & PROPOSED LAWS

10.1 New Current Laws:

The Constitution was adopted in September 2004 and has been gazetted. The Human Rights chapter includes a quite lengthy section (29) on Child Rights. One of these rights is that free primary education shall commence within 3 years so this would mean depending exactly 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 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.

10.2 Old Current Child Laws:

The Child Care Service Order (CSSO), 1977 is the main legislation concerning children. Although now quite old, ie pre-CRC it contains some good concepts, eg keeping a child in the family, child's interests emphasized and room for regulations but ambiguities exist so guidelines are needed. For example, it is unclear when the Principal alone can place a child in a Children's Home or it requires a Committal Order, or 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; it lacks clarity on procedures eg Minister's appointing of a guardian to a child during proceedings – is this a SWO?

The Reformatories Act, 1921. It is possible under the Act for a child to be sent there if 7 years old for a minimum of 2 years and maximum of 5 years. If children are being held in custody for care and protection then this should be stopped.

Marriage Act, 1964. Primarily for Europeans. Gives different ages for marriage 18 years for boys and 16 for girls. But for Swazis they marry according to Swazi custom unless they agree before that their marriage is to be governed by common law.

10.3 Proposed Laws

Regarding the proposed Children's Bill and Children's Justice Bill further work is required as basically they are a set of recommendations and not clear as a draft Bill. It would be worth looking at the Malawi Law Commission Child Bill report and the reports prepared in Uganda and Ghana which set out their underlying principles, the rationale for each section and clear legal requirements. The local administration of care and protection and of justice needs clarification as it is not sufficient to just give an extract from the

Lesotho Act and not contextualize for Swaziland. Appeals system required. The former bill also affects adoption, marriage, maintenance, trafficking and employment. Sexual Offences & Domestic Violence Bill is a working document that is with government for finalization, government is hoping to finalize the bill by March 2007.

10.4 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 law is very strong in the area of family law and so directly affects children. Lawyers say there is little to no protection for children under Swazi law. Swazi courts may send a child to the reformatory centre for non-payment of fines without the child having legal representation as lawyers are not allowed in these courts nor is an SIR ever requested from a SWO who do not attend these courts. The Swazi courts can send children to the reformatory centre for failure to pay fines. Such a practice should be stopped.

11 SOCIAL PROTECTION

There are a number of social assistance safety nets which can benefit children some of which are more comprehensive in their coverage than others.

- Elderly Grant for 60+ years (E. 300 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 all Social Welfare Officers (SWOs) time.
- Public Assistance/Family Support Grant under 60s (by cheque E 240 per quarter) poor families, esp. Child Headed Households, under 60 grandmothers and female carers looking after children.
- OVC school fees – MoHSW & MoE (seems considerable difference in amounts paid; informed that MoHSW pays the fees in full plus something for extras while MoE only pays part of a child's educational fees, which still may lead to the child not having enough to attend full time).
- Ex-serviceman's grants but how much does this benefit children?

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

12 SERVICE DELIVERY

12.1 Domestic Violence & Child Protection Section of the Police (DCS)

There are 60 DCS officers at 23 police stations; they are not present below the Tikhundla level. One DCS office reported 20 care and protection and 5-10 sexual abuse cases per month. One problem is that the DCS sometimes take children direct to Children's Homes without first obtaining the agreement of the SWOs, one possible cause of this is the lack of SWOs in the field.

12.2 The Department of Social Welfare in MoHSW

The department has 12 staff (three of whom are based at the Head Office and the remaining 9 covering the 4 regions) they are 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, which leaves little time for interventions and home visits where there are child protection concerns. Currently one third of staff time is taken up being present for payments to the elderly alone, ie 4 months per year. One of the likely reasons for SWOs attending the elderly payments, which they see as largely unnecessary, is because it is a way to boost their living wage. The extent to which staff do not have a living wage should be addressed. Staff numbers is being addressed but is not as yet assured - a total of 55 staff is 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.

12.3 Examples of NGOs Work

- All the Children's Homes except one are run by NGOs and FBOs.
- SWAGAA runs a toll free child abuse hot-line plus 6 offices around the country where abused children and families can go for counseling.
- SWAGAA working with men to change their attitudes.
- SCS, WUS & SWAGAA train LLs (Unicef too).
- SCS child rights training to chiefs and Inner Council.
- School Sponsorship.
- NGOs and FBOs assist in the running of NCPs and the Church Forum provides the food for 77 NCPs.

12.4 Coordination

A Child Coordination Unit was established in 2007 but it is too early to say how effective it will be. For sometime there has been a Child Protection Network which has 93 members bringing together the Ministries, UN bodies and NGOs. The minutes are a useful reminder of the topics discussed but are they widely circulated and acted on?

Coordination could be improved with MRDYA & MoE. Does DSW ensure that the needs of OVCs are represented in regional development plans? DSW should work with the Child Coordination Unit to ensure that the issue of child protection is a major plank in policy and funding with donors, UN agencies, NGOs and FBOs and also that at the community level it engages and brings about collaboration within communities between Chiefs & Inner Council, schools, RHMs, LLs, Lubsango, NCPs, Kagogo Centres and SWOs. Traditional structures could be an invaluable if fully integrated into supporting child protection.

9 GENERAL ISSUES ON CAPACITY AND RESOURCES TO MANAGE ALTERNATIVE CARE.

Given below are some specific recommendations concerning improvement in the delivery of alternative care.

1 Knowledge Management, Information, Research and M&E

1.1 Informal Care

It would be worth investigating if an informal care child placement register could be developed by the headman at the sigozi/village cluster level. This could then be followed up by Regional Health Motivators and where necessary referred to the SWO.

1.2 Formal Alternative Care outside Children's homes

There is no national data on formal fostering or on trained and approved foster parents. There is little by way of 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 done by the SWO.

Although in two regions there was 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 which needs to be addressed.
- The Hague Convention should be ratified
- The use of formal fostering (possible leading to adoption) needs to be developed especially for babies and young children currently residing in children's homes

1.3 Children's Homes

Unregistered Homes need to be investigated and if they conform to the standards and are necessary to be registered or otherwise closed.

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

2 Data Management

Compile national/district data on fostering, adoption, supervision, probation, all children in Children's Homes (why there and relatives alive etc), exact number of Homes, review cases 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 regional and national level and cooperation between them.

3 Determination of Roles

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

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

4 Standards in Alternative Care Practice

4.1 Children's Homes

The draft Minimum Standards 2007¹¹ are not just minimum standards but also contain quality standards and so needs reviewing so it fulfils its purpose. The law (CCSO sect. 10 & 15) sets out the right of the state to regulate the Homes. The Department needs to be clear as to what it should contain. There needs to be an emphasis on gate-keeping admissions, temporariness prior to permanent placement in a family, early reintegration with consent of the child where possible or the investigation of formal fostering and adoption. Additional regulations would be appropriate for Homes looking after babies. It would be best that the Homes are involved in the drafting as they will be inspected in terms of those regulations. For the longer term the department and Homes should look to drawing up quality standards.

An Inspection Unit is vital and requires one committed person to lead with the aim of raising quality of care through encouragement and reasonable enforcement. The inspector needs transport.

4.2 Social Work Practice

The promotion of foster care and adoption as alternative and permanent care strategies respectively have not been a priority of the Department. 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. 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 but not informal ones should be paid a monthly fee, both for the costs they incur and so as to ensure certain standards are kept.

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

There appears to be little use of probation and supervision as ways of keeping children in the community rather than in institutions.

¹¹ MoHSW, Final draft Minimum standards of care for the operation of residential homes and orphanages housing children, K Dlamini, 2007

Department staff have little involvement in detention institutions or Children's Homes. There appears to be little by way of after-care and reintegration follow-up when a child returns to the community. No child should be sent to a detention centre for their care and protection.

5 Law, Policy & Guidelines

Further work is required on the Children's Bill and Children's Justice Bill as at the moment they are more a set of recommendations rather than formulated as a draft Bill. It would be worth looking at the Malawi Law Commission Child Bill report and the reports prepared in Uganda and Ghana which set out their underlying principles, the rationale for each section and clear legal requirements. The local administration of care and protection and of justice needs clarification as it is not sufficient to just give an extract from the Lesotho Act and not contextualize for Swaziland. An appeals system is required. The former bill also affects adoption, marriage, maintenance, trafficking and employment so is very comprehensive and would benefit as would the Justice Bill from close scrutiny as to whether it is in line with the CRC, other international instruments and current state of the art social work thinking. The same goes also for the Sexual Offences and Domestic Violence Bill, especially in relation to consensual sexual relations between children, so they do not get caught up in heavy defilement punishments (the Zambia legislation is worth studying in this respect). Once these Bills have passed into law a concentrated period of training, implementation and monitoring will be required though it's full adoption may well take 10-20 years.

Swazi courts can send a child to the reformatory centre for non-payment of fines without the child having legal representation as lawyers are not allowed in these courts nor is an SIR ever requested from a SWO. Either this should be changed or alternatively no Swazi court should be able to send a child to such a centre.

In the same way as the Department has compiled leaflet guidelines on foster care and adoption its staff would benefit from having one on their role in Children's Homes. All these guidelines need to be monitored as to their implementation

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

In the current situation with so many bills pending guidelines become vital concerning adoption, formal fostering, removing children from their home, use of court, children's Homes, concerning standards, supervision and probation, and if they have not been circulated they should be reviewed and then disseminated through workshops and monitored.

6 Service Delivery

The department 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, which leaves 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, ie 4 months per year. The extent to which staff have a living wage should be addressed.

With over 30% of all children classified as OVCs by the DHS¹² the department would benefit from the support of donors, UN bodies, influential Swazi agencies, INGOs and others to support the Department's current application for 55 staff being sought for the department from the Civil Service Commission currently 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. 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, ie the Child Care Service Order is the prime legislation for the department, a higher staff weighting should be given to children's issues. The districts would benefit if staff there were trained in the care and protection of children and in the importance for this of networking with other staff such as the 3-4,000 Regional Health Motivators, Neighbourhood Care Point caregivers in the 625 NCPs, Domestic Violence & Care & Protection Section of the police and the 7,000 Child Protectors that have been trained.

The weighting of regional staff should take into account population and the problems they face. The provision of motorbikes to field staff after appropriate training and understanding of maintenance would make their task easier.

The upgrading of the qualifications of staff who have had very little formal social work training would improve service delivery. It would assist standards if the University of Swaziland ran a diploma and degree course in social work.

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

7 Social Protection

The quicker that the elderly payments can be efficiently made through some institutions such as the banks or post offices the sooner department staff can concentrate on their prime task of assisting children in difficulty and need.

¹² Swaziland Demographic & Health Survey 2006/7

Once free primary school education happens 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. It would be worth studying the cash transfer schemes in Malawi, RSA and Kenya.

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