Towards effective child protection:
Adopting a systems approach

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Whilst no violence against children is justifiable, and all violence against children is preventable,[1] South Africa's children continue to experience violence in a range of settings, including the home, school, community, alternative care and the justice system. This has serious implications for children's development and well-being.[2] This is despite the strong suite of legislation and policies put in place by the government to protect all children from violence, abuse, exploitation and neglect. The essential question thus remains: why is there a significant gap between the state's legislative and policy commitments and the real life experiences of children?

This essay argues that the gap is due to systemic challenges that need to be addressed for the implementation of effective and well co-ordinated child protection programmes and services.[i] It explores the following questions:

- What is South Africa's legal obligation to protect children from violence?
- What are the key elements of the child protection system?
- What are the systemic or design challenges?
- What are the recommendations for strengthening the system?

The main focus of the essay is on the system requirements for the Department of Social Development (DSD) as this department is tasked with leading the implementation of the Children's Act. However, effective child protection requires intersectoral collaboration, and the DSD needs to co-operate with other departments, as outlined in figure 5 on p.46. Thus, we highlight what the DSD needs, from a systems perspective, to fulfil its leadership role. Ultimately, a protective environment for children can only be achieved if all role-players, including state and non-state actors, work together in the interests of children.[3]

What is South Africa's legal obligation to protect children from violence?

Children's rights are defined internationally and regionally by the United Nations Convention on the Rights of the Child[4] and the African Charter on the Rights and Welfare of the Child,[5] while the Constitution and the Children's Act[6] protect rights at a national level (see figure 3 on the next page).

The state bears three levels of obligations to children, where the emphasis is on preventing violence in the first instance. These include the obligations to:

1. *prevent* violence against children;
2. *protect* children *from further harm* if they have already fallen victim to violence; and
3. *support and treat* children who have experienced violence so as to restore them to physical and psychological health – and prevent them from becoming either more susceptible to violence, or abusive themselves.[7]

Since all rights are related, the state must balance the right to protection with the right to family care and respect the right of both the child and family to participate in decisions affecting the child. That includes decisions at the personal and the policy level.

The rights apply to all children without discrimination. However, some children, due to their circumstances, need extra support to ensure that their rights are respected, such as children who are foreign nationals[8] and children with disabilities[9]. The Children's Act gives effect to these rights by establishing a framework for a holistic range of interventions for children and their families, including:

- prevention programmes;
- early intervention;
- statutory services; and
- reconstruction and aftercare services.

These are referred to as the "continuum of care" and the Act emphasises the importance of strengthening programmes and services at the front end of this continuum – namely prevention and early intervention, including efforts to support caregivers, families and communities to care for and protect their children.[10]
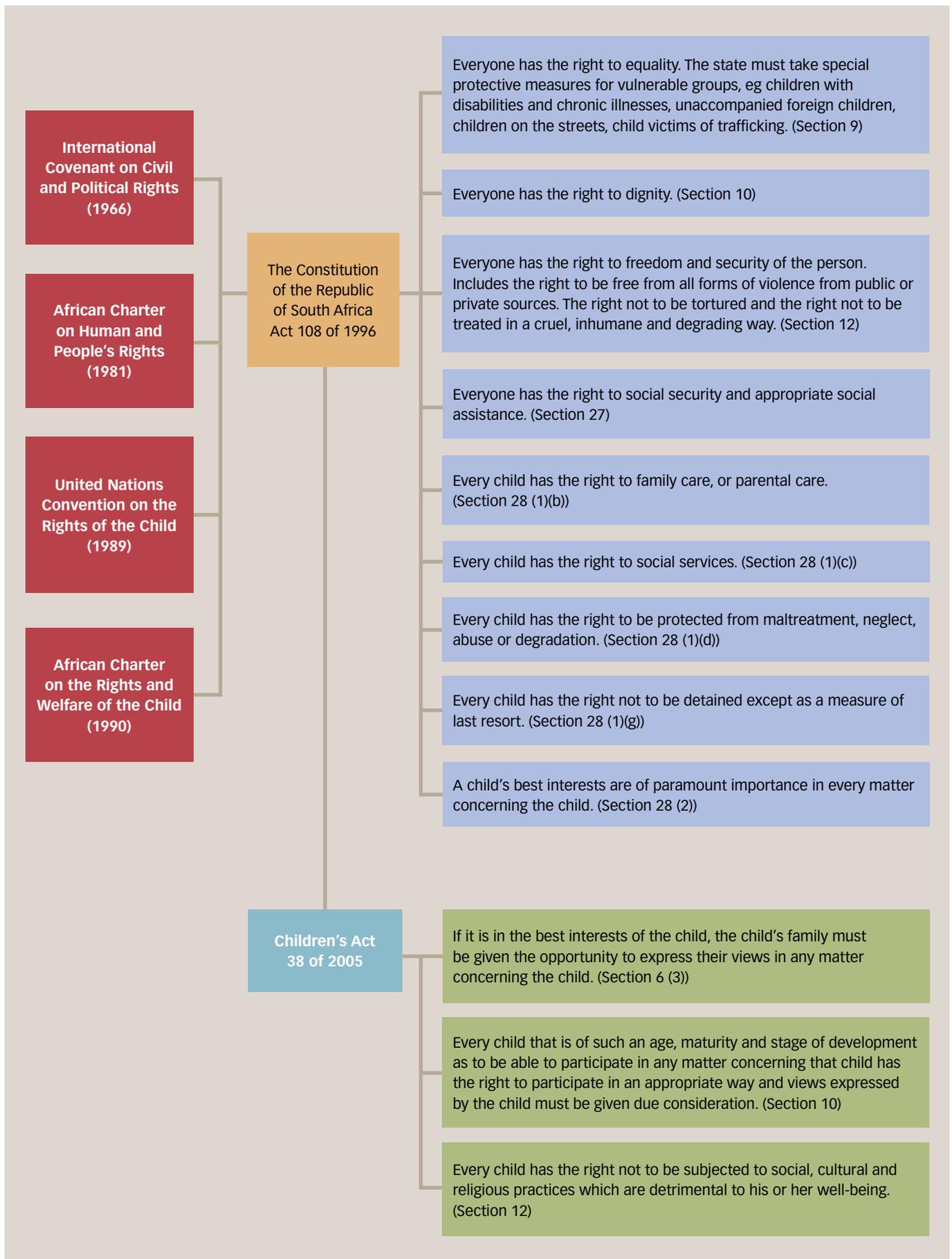
Child protection and the social development agenda

As envisioned in the White Paper for Social Welfare,[11] the Children's Act takes a developmental approach to social welfare, where human and financial resources are focused mainly on the prevention of social problems.[ii] When prevention has not been successful, the aim is to intervene through early intervention services and programmes when the first signs of social problems appear. This approach is developmental firstly because it encourages the optimum social development of the child and, secondly, because it avoids costly intervention once the problems have occurred.[12]

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i   It is also important to note that while many of the challenges are systemic, they appear within a very violent context which is not for the child protection system alone to address.
ii The White Paper not only shifted the approach from residual to developmental, but it brought multiple departments (each with their own sets of policies, norms and standards) into one system. This entailed a lot of change, which in itself has resulted in an ongoing complex situation that affects the effectiveness of the DSD.

International Covenant on Civil and Political Rights (1966)

African Charter on Human and People's Rights (1981)

United Nations Convention on the Rights of the Child (1989)

African Charter on the Rights and Welfare of the Child (1990)

The Constitution of the Republic of South Africa Act 108 of 1996

Everyone has the right to equality. The state must take special protective measures for vulnerable groups, eg children with disabilities and chronic illnesses, unaccompanied foreign children, children on the streets, child victims of trafficking. (Section 9)

Everyone has the right to dignity. (Section 10)

Everyone has the right to freedom and security of the person. Includes the right to be free from all forms of violence from public or private sources. The right not to be tortured and the right not to be treated in a cruel, inhumane and degrading way. (Section 12)

Everyone has the right to social security and appropriate social assistance. (Section 27)

Every child has the right to family care, or parental care. (Section 28 (1)(b))

Every child has the right to social services. (Section 28 (1)(c))

Every child has the right to be protected from maltreatment, neglect, abuse or degradation. (Section 28 (1)(d))

Every child has the right not to be detained except as a measure of last resort. (Section 28 (1)(g))

A child's best interests are of paramount importance in every matter concerning the child. (Section 28 (2))

Children's Act 38 of 2005

If it is in the best interests of the child, the child's family must be given the opportunity to express their views in any matter concerning the child. (Section 6 (3))

Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration. (Section 10)

Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being. (Section 12)

Current emphasis of the child protection system

Although the Children's Act requires a greater focus on prevention services, the current emphasis is on crisis intervention and statutory services. It has been suggested that within the context of limited resources, prevention and early intervention services are viewed as "less critical" than statutory protection services and alternative care. The result is a vicious cycle where social workers have to spend more time on protection and alternative care and therefore have less time to deliver prevention and early intervention services such as parenting skills development, therapeutic programmes and managing family disputes.[13] The same is true for actors in related sectors such as education, health and the police. Furthermore, intersectoral child protection protocols that were established a decade ago to guide co-ordination at provincial level are often not being used.[14] In order to address this vicious cycle, it is proposed that every element of the child protection system focuses on gradually shifting the balance from statutory services towards prevention and early intervention.[iii]

What are the key elements of the child protection system?

Providing programmes and services is only one part of the broader child protection system. The Children's Act legislates for the establishment of a properly resourced, co-ordinated and well-managed child protection system. Although not specified in the Act, the core elements which make up this system should include:[15]
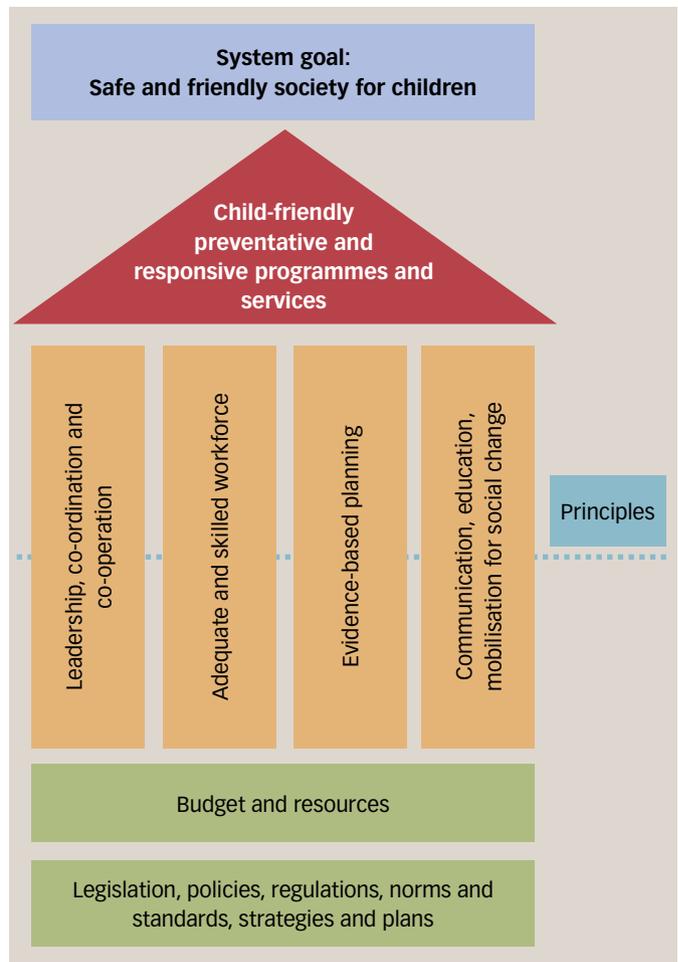
1. comprehensive child protection laws and policies aligned with international legislation; regulations, norms and standards; and up-to-date strategies and plans;
2. evidence-based planning;
3. leadership and meaningful co-ordination and co-operation across sectors;
4. communication, education and mobilisation for social change;
5. child-friendly preventative and responsive programmes and services;
6. adequate budget and resources; and
7. an adequate and skilled workforce.

These core components, which have been accepted by the DSD in their Draft Prevention and Early Intervention Strategy,[16] can be considered to be the infrastructure of the child protection system. Figure 4 illustrates how the system elements work together towards supporting a common goal.

What are the system design challenges?

This section discusses challenges with four of the child protection system elements (laws, policies, regulations, norms and standards, strategies and plans; leadership, co-ordination and co-operation; evidence-based planning; and communication, education and mobilisation for social change). Examples of child protection programmes and services are outlined in the essay on pp. 65 – 72 and financial and human resources are addressed in the next essay.

Figure 4: Key elements of the child protection system

**System goal:
Safe and friendly society for children**

Child-friendly preventative and responsive programmes and services

- Leadership, co-ordination and co-operation
- Adequate and skilled workforce
- Evidence-based planning
- Communication, education, mobilisation for social change

Principles

Budget and resources

Legislation, policies, regulations, norms and standards, strategies and plans

Source: Save the Children UK (2009) A *'Rough Guide' to Child Protection Systems*. London: Save the Children UK;
Compiled from: Wulczym R, Daro D, Fluke J, Feldman S, GLodek C & Lifanda K (2010) A*dapting a Systems Approach to Child Protection: Key Concepts and Considerations:* New York; UNICEF.

Laws, policies, regulations, norms and standards, strategies and plans

The Children's Act lays a strong legislative foundation for the prevention and protection of children from violence. In addition to the Children's Act, three other pieces of legislation provide prevention and early intervention services:

- the Domestic Violence Act,[18] which aims to protect children in the cases of domestic violence;
- the Sexual Offences Act,[19] which defines and categorises sexual offences, sets out ages of consent to sexual activity and details procedures around prosecution of offenders; and
- the Child Justice Act,[20] which regulates a criminal justice system for children who are in conflict with the law and who are accused of committing offences, with the intention of (where possible) diverting children's matters away from the criminal justice system.[21]

A key design problem is that these laws were developed separately and therefore do not speak to one other, and sometimes contradict

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iii   This should not place children at greater risk by prematurely diverting resources away from statutory services and alternative care but ultimately there could be less demand for these response services as the emphasis shifts towards prevention and early intervention.

the other. Some examples include the variation in reporting requirements for each Act; and the lack of standardised definitions of child abuse. Furthermore, there is little clarity about how the numerous child protection-related policies, strategies and programmes which are spread across government departments articulate with one another.

The DSD has begun a comprehensive review of the Children's Act and its regulations in response to design and implementation challenges and will table amendments in Parliament based on this review. Some issues up for review include corporal punishment in the home, definitions of designated child protection organisations, definitions of terms, programmes and so on.

There is no guideline on how frequently these reviews should take place, or what principles should guide the reviews. Ideally reviews should occur on a regular basis (every five years) to ensure that lessons learnt from implementing the Act are used to improve the legal framework. A legislative review provides an opportunity for practitioners to work through co-operative forums to improve the legal framework.

Critically, the Policy on Financial Awards, which regulates the way in which non-profit organisations (NPOs) can qualify for government funding, has not yet been adjusted to take into account the requirements for implementing the Children's Act.

This is despite the fact that NPOs provide the bulk of services and programmes. This issue is discussed further in the next essay.

Leadership, co-ordination and co-operation

While the DSD is the lead department for the child protection system, others – such as the departments of Health, Basic Education, and Justice and Correctional Services – also provide services to children and families which directly influence their protection.[22] The quality of co-ordination and co-operation between the child protection and other systems is therefore central for effectiveness. Figure 5 depicts the required links with other systems that need to be developed and maintained by a child protection system.

The Children's Act legislates for all spheres of government and non-governmental service providers to work together and to implement the Act in a uniform and integrated manner.[23] The Act specifically mentions the DSD as the lead department which must co-operate intersectorally and with the different spheres of government. The Inter-Ministerial Committee on Violence against Women and Children, which was established in May 2012, provides the DSD with a good mechanism to do so.

Co-operation between government and civil society is crucial since most of the services are being delivered by the non-governmental organisations (NGO) sector. The national, provincial

Figure 5: The child protection and allied systems

Criminal justice system
(Dept. of Justice & Correctional Services)
eg, diversion of children away from criminal justice system, protection of child witnesses

Labour relations system
(Dept. of Labour)
eg, protection of children against exploitation

Law enforcement system
(South African Police Services)
eg, provision of specialised services to protect children and deal with family violence, child protection and sexual offences

Child protection system
(Dept. of Social Development)
Overall co-ordination of child protection system provision of programmes and services along continuum of care in partnership with NPOs

Health care system
(Dept. of Health)
eg, prevention, assessment and referral of children at risk

National social security system
(South African Social Security Agency)
eg, provision of financial support to poor families; provision of Child Support Grant and Foster Child Grant

Education system
(Dept. of Basic Education)
eg, provision of a violence- and drug-free school environment; educators assist in prevention, identification and referral of child abuse

and local child care and protection forums provide a good platform for such collaboration, where they function well. Some challenges with their functioning include an over-representation of NGOs from Gauteng and the North West provinces on the national forum due to the costs of participation; and a high turnover of departmental representatives on provincial and district level forums.

The Child Justice Act creates the same obligation on the Department of Justice and Correctional Services and hence the establishment of the Intersectoral Committee on Child Justice, and the justice forums.

Multiple intersectoral committees – at least one for each system in figure 5 – have been established to strengthen collaboration between government departments and between the state and civil society. However, detailed research into these structures has identified several weaknesses.[24] Each structure has tended to focus on a specific issue and there is little collaboration with other structures to consider the holistic needs of children.[25] Instead each sector tends to work in isolation, leading to the duplication and fragmentation of services; a lack of and/or reluctance to commit resources; differing perspectives; and a lack of understanding of their respective roles and responsibilities.[26]

Cases 5 and 6 highlight the need to establish multi-disciplinary mechanisms to ensure a joint response and effective follow up of individual cases. Case 5 highlights how poor collaboration and communication between service providers can compromise children's safety and rights to care and protection. The three structures responsible for placing the children with the foster mother did not work in collaboration, and so did not pick up that the foster mother was caring for 12 children despite the legal limitation of six children per foster mother. Although the social worker did refer Tina's case to the police and clinic, there was no follow-up or communication to establish whether the child had received any services. Ultimately, the failure to intervene early in Tina's situation resulted in an escalation in the violation of her rights.

Case 6 on the next page describes the government's efforts to strengthen integration and the co-ordination of services at a local level through the Thuthuzela Care Centres.

Evidence-based planning

Evidence-based planning is an essential component of the child protection system. A solid evidence base is needed to inform the provision of appropriate, accessible and adequate services, and to monitor and evaluate the implementation of the Children's Act.

Child protection policies, strategies and programmes should be informed by sound empirical evidence and draw on two main types of data or evidence: These are surveillance data that measure the incidence and prevalence of violence (discussed in the essay on pp. 26 – 34), and outcome evaluations that measure what can be regarded as effective in prevention and treatment[27] (see the essay on pp. 35 – 42).

It is currently unclear how the monitoring and evaluation framework for the Children's Act is being used strategically to inform planning. The lack of reliable data limits the ability of the child protection sector to plan and design appropriate services and programmes. While the DSD reports on financial and non-financial data to National Treasury under the Public Finance Management Act, these reports do not provide a sense of the quality or reach of services. There is also lack of good quality evaluation studies, which are needed to take promising programmes to scale.[28]

Evidence gathering should be based on a strong conceptual framework that addresses the following four categories: child outcomes; social determinants for risk and protective factors based on the social-ecological systems approach (see pp. 30 – 31); and access to, and quality of, programmes and services.[29]

For strategic purposes, data must answer key questions to improve the design of holistic and integrated services. For example, where are the highest incidences of child abuse, neglect and exploitation; where are there too few child protection services; and are child protection programmes and services achieving their objectives? Answers to these questions should help ensure that prevention programmes and resources are targeted to children most in need, and quality is strengthened.

A key principle of the Children's Act, and of the Guidelines[iv] on the Principles and Core Elements for the Design and Development of Prevention and Early Intervention Programmes,[30]

Case study 5: Poor collaboration between service providers
Joan van Niekerk, Childline South Africa

Tina (not her real name), a child with special needs and from a severely disadvantaged background, was placed in foster care, along with 12 other children. Social workers did not visit regularly and the foster mother was being managed by three different organisations that were not aware of the others' involvement (the Department of Social Development and two NGOs).

Tina was abused by the foster mother's eldest son, resulting in pregnancy. Upon noticing the pregnancy, the foster mother referred the child to her social worker, to whom she disclosed the abuse. The social worker reported the case to the police and referred the child to the clinic for termination of pregnancy.

The child was sent home to the foster mother, where she was beaten for disclosing the abuse. The foster mother did not keep the appointments with the police or the clinic and continued to abuse the child physically. The other children in the foster placement continuously phoned the Childline service to report the case. Childline several times referred the case back to the social worker and her supervisor. However, before action was taken, Tina ran away from the foster home. She has not yet been traced.

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iv These are guidelines for government and civil society service providers to meet the requirements of the Children's Act, the norms and standards, and the regulations pertaining to prevention and early intervention services for children and families in South Africa.

Thuthuzela Care Centres (TCCs) aim to provide a one-stop service for women and children who are victims of sexual violence. The centres aim to reduce secondary trauma, improve conviction rates for sexual offences, and strengthen co-ordination between different service providers. Other objectives include decreasing the turnaround time in finalising cases and increasing the number of cases that are finalised.

Thuthuzela comes from the isiXhosa word "to comfort" and the centres aim to provide a sensitive and integrated service drawing on specially trained medical personnel, police investigators, prosecutors, social workers and community volunteers. They are located in public hospitals and provide counselling and medical care, conduct medical examinations, secure forensic evidence, take statements from children and caregivers, and investigate the abuse under the guidance of a prosecutor. This centralised approach aims to enhance communication between the family and different service providers, enable more efficient and sensitive investigations, and improve data collection and prosecution rates.

In 2013, there were 51 Thuthuzela Care Centres in South Africa, of which 35 were fully operational. Over 33,000 matters were reported in 2012/2013. Of these, 49% were referred to court for prosecution, and 2,248 cases were finalised, with an average conviction rate of 61%.[31]

Key challenges include high case loads, a shortage of specialised staff (in particular police and prosecutors with the expertise to investigate and prosecute family violence, child abuse and sexual offences), and the closure of the dedicated sexual offence courts. However, the National Prosecuting Authority (NPA) continues to train prosecutors as required by the new sexual offences legislation and has trained over 1,000 prosecutors since 2007.[32] In 2013, the then Minister of Justice and Constitutional Development announced the re-establishment of sexual offences courts. These are currently being rolled out, with pending legislation for the formal establishment of these courts. All TCCs are connected to a regional criminal court, where the cases are court directed by an NPA case manager.

Cases involve children from as young as three-months-old. Staff require additional training in order to provide age-appropriate care and support for children and their caregivers. This includes working with drawings and anatomically correct dolls to help prepare children to testify in court.

The Thuthuzela project is led by the NPA's Sexual Offences and Community Affairs Unit, in partnership with various donors as a response to the urgent need for an integrated strategy for prevention, response and support for rape victims.

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is that programmes and services should be planned and targeted according to local needs. So the more local level the data, the better. The international trend in child protection surveillance is to use data to understand child maltreatment at a neighbourhood level.[33] The Children's Act[34] requires all provincial departments of Social Development to compile provincial profiles that assess the need and availability of services and programmes in their province; and to develop strategies to ensure that all services are accessible to all children who need them. However, only one completed provincial profile has ever been submitted to the national DSD.[35] Therefore it can be assumed that there is a weak evidence base underpinning the annual performance plans of the provincial departments of Social Development, which are used to approve their budgets.

Case 7 on the opposite page describes how administrative data and census data can be used at a local level to identify areas where children are particularly at risk.

Communication, education, mobilisation for social change

Children often grow up exposed to high levels of violence in their homes, schools and neighbourhoods (as illustrated in the essay on pp. 26 – 34).[36] The protection of children is therefore not the sole responsibility of child protection workers, but requires the involvement and support of the wider public, who can play an active part in preventing child protection problems, identifying "at-risk" children[37] and creating safer environments for families and children[38]. Everyone has to be a child protection actor. It is not enough to have laws and systems in place if the people who children rely on for protection, do not do so.

Effective communication for social change requires a more sustained and co-ordinated communication and education effort beyond the traditional universal campaigns such as the 16 Days of Activism for No Violence Against Women and Children, and Child Protection Week.[39] Communication, education and awareness should take place at three main levels of intervention, allowing for more sustained programmes that encourage deeper engagement, dialogue and behaviour change, namely:

- the general public targeted through universal campaigns;
- high-risk communities targeted through communication and education programmes; and
- children through focused interventions.

The DSD's Strategic Plan for Prevention and Early Intervention (2014 – 2018)[40] includes public media strategies; co-ordinated community-based dialogues in high-risk communities; raising awareness through existing services for parents and children; and a methodology for child-to-child communication. The Children's Act requires government to conduct education campaigns on

Case 7: Mapping child maltreatment at local level

A study[41] conducted in Suburban County, Maryland, USA, can be considered a best practice example of the use of surveillance data to inform service provision. It examined the distribution, rates, and socio-economic predictors of physical abuse, neglect and sexual abuse. Examples include economic stress, residential mobility, and stress on families in the neighbourhoods.

The study linked administrative and census data which allowed child maltreatment to be viewed as a neighbourhood phenomenon as opposed to an individual one. It used geographic information system software to link the two data sources to geographical areas and to produce maps that show the distribution of variables. The administrative data provided the addresses of families investigated for abuse, neglect and sexual exploitation, which was then overlaid with the socio-economic variables.

In this way, the study was able to identify specific locations, such as a particular strip of housing or apartment block, which represented a high incidence area, and identify indicators for increased risk for violence. This is very powerful information to inform local area plans.

good parenting and positive discipline, and the DSD has reportedly prioritised this (see the essay on p. 58 – 64). This lends itself very well to local level community dialogues and household level prevention messages; yet parenting programmes are thinly and unevenly spread.[42]

The media, schools, religious and traditional leaders need to be brought into the on-going dialogue on child protection. Religious and traditional leaders have no formal linkages to the child protection system but have the potential to play a pivotal role in raising the awareness and support of the public, particularly in rural areas.[43] They could also play a much stronger role in challenging deeply patriarchal and rigid constructions of masculinity which make children more vulnerable (see the essay on pp. 73 – 79).

Schools are obvious sites for child protection, yet children report high degrees of violence and insecurity at schools. In 2012, the *National School Violence Study* found that one in five high school learners reported experiencing violence at school.[44] The Department of Basic Education has indicated that it has released examples of codes of conduct to schools and guidance on appropriate forms of discipline to address this problem.[45]

Child abuse and neglect is underreported in South Africa and the true scale of the problem is unknown (as discussed in the essay on pp. 26 – 34). Raising public awareness on what constitutes abuse, and how and where to report incidents are important aspects of the communication system to increase reporting. Awareness must be raised about the mandatory nature of reporting, the channels for reporting child abuse and deliberate neglect, and the support programmes and services that are available.[46]

What are the recommendations for strengthening the system?

Quality and reach of child protection programmes and services will remain a problem unless the elements of the child protection system are strengthened.

Adopting a systems approach to analyse, plan and monitor the implementation of prevention, early intervention and protection programmes and services will help to build the infrastructure of child protection.[v] The use of a systems approach by all child protection actors will provide the means by which to compel the use of resources towards achieving the common goal of the child protection system – a safe and friendly society for children.[47]

Each element of the child protection system is strengthened by the implementation of the others: leadership is strengthened by and validated by clear data and motivations built on evidence; evidence informs communication, education and mobilisation messages and strategies, and so on.

Key strategic recommendations for strengthening each of the system elements are:

Laws, policies, regulations, norms and standards
- The use of a systemic approach to address flaws in the design of child protection-related legislation focuses on tightening the processes for legislative review and improvement. This involves specifying a framework and timeframes for reviewing the Children's Act to address problematic legislation timeously.
- A review of all child protection-related legislation and policies should be undertaken across government departments with the purpose of harmonising legislation.

Leadership, co-ordination and co-operation
- To improve integration of preventative and responsive programmes and services, relevant government departments need to maintain a focus on the system goal, which in this case is "a safe and friendly society for children".[48]
- It is the DSD's responsibility to lead this and the Inter-Ministerial Committee on Violence against Women and Children provides a good platform to do so.
- The national, provincial and local child care and protection forums are good platforms to encourage co-operation between government and civil society and should be adequately resourced and attended.

Evidence-based planning
- Evidence should inform planning at all levels of government. The use of local level data to inform planning at a district level must be encouraged to enhance access and quality of programmes and services.

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v   This was the basis for the design of the DSD's Strategic Plan for Prevention and Early Intervention (2014 – 2018), and should be continued alongside other strategies.

- The provincial departments of Social Development must focus on completing their provincial profiles as a first step to improved implementation.

Communication, education, mobilisation for social change

- Education efforts need to extend beyond building capacity within the child protection system, and raise awareness and mobilise people for social change so that everyone becomes a child protection actor. Innovation is key to move beyond the traditional approaches to awareness campaigns. A sustained effort to engage the general public, high-risk communities and children is required, including:

1. national communication efforts that target the general public with a strong message that encourages everyone to be a child protection actor;
2. regular dialogues in high-risk communities; and
3. initiatives that help children to understand that they deserve to be loved and nurtured, and provide them with information on where they can go for help, and how they can protect themselves.

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