

# SOCIAL SECURITY FOR CHILDREN IN THE CONTEXT OF AIDS:

## QUESTIONING THE STATE'S RESPONSE<sup>a</sup>

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There is currently much debate regarding appropriate social security provision for children in the context of HIV/AIDS in South Africa. Poverty in the country is widespread and argued to be deepening<sup>2,3</sup> with household income based estimates of children living in poverty gauged at over 10 million children under the age of 18.<sup>4</sup> The AIDS pandemic can only exacerbate children's circumstances further.<sup>5,6</sup>

Appropriate social security provisioning stands to play a critical role in supporting children and their households through the pandemic. With the review currently under way of children's legislation in the country, we face a critical moment in which to assess the social security system for its effectiveness in addressing the impact of AIDS on children and their families.

To date, the State's social security response to the impact of AIDS on children has been to focus its attention on the provision of the Foster Child Grant for orphans.<sup>b</sup>

However, is this approach adequate? Pragmatic? Equitable? Cost-effective? Appropriate? Recent research conducted by the Children's Institute in col-

<sup>a</sup> This article is based on more detailed research paper by the same authors titled *Children in need of care or in need of cash: Questioning social security provisions for orphans in the context of the South African AIDS pandemic*.<sup>1</sup> Available at [www.uct.ac.za/depts/ci](http://www.uct.ac.za/depts/ci) or in hard-copy from [anthea@rmh.uct.ac.za](mailto:anthea@rmh.uct.ac.za).

<sup>b</sup> Whilst the notion of what constitutes a child as an 'orphan' varies widely in its local application (see Giese, *et al.* 2003<sup>7</sup>), we make use here of the definition in the 12 August 2003 draft of the Children's Bill which identifies an orphan as "a child who has no surviving parent caring for him or her"<sup>8</sup>. It is these children who would qualify in practice under the current Child Care Act and Social Assistance Act to apply for foster care placement on the basis of the death of their parent(s).

laboration with the Centre for Actuarial Research – both at the University of Cape Town – suggests not.

### CURRENT SOCIAL SECURITY PROVISIONS FOR CHILDREN AND THEIR INTENDED PURPOSE<sup>c</sup>

Under current Social Assistance legislation, the primary caregivers of poor children under the age of 11 in South Africa are eligible to receive a Child Support Grant (CSG) of R170/month. Provisions are in place for the progressive extension of the grant to children up to 14 years old by 2005.

The Child Support Grant is intended as a *poverty alleviation grant* and is available to any 'primary caregiver' of a child under the age of 11 who qualifies in terms of an income-based means test. Access to the *Child Support Grant* is through an administrative procedure managed by the Department of Social Development, and does not require a court order or the services of social workers.

The caregivers of children who have been orphaned and who fit these criteria are eligible for Child Support Grants. However, within the context of existing social security legislation in South Africa, it is the higher-value Foster Child Grant (FCG) that is touted – by both government and leading civil society representatives – to be the key social security mechanism in place for addressing the needs of such children.

The processes involved in accessing a Foster Child Grant are far more complex than those for the Child Support Grant, and are currently governed by two

<sup>c</sup> We do not provide a comprehensive overview of all available grants here. Only those grants pertinent to the discussion are outlined.





Acts that work in tandem – the Child Care Act No. 74 of 1983 and the Social Assistance Act No. 59 of 1992.<sup>9</sup>

In order to qualify for a Foster Child Grant, children are required to be placed in formal 'foster care'. The Child Care Act makes provision for the courts, with the support of social workers, to place children considered to be "in need of care" in the custody of a foster parent. The foster parent is then eligible in terms of the Social Assistance Act to apply for a Foster Child Grant, a cash transfer currently equal to R530 per month per fostered child, up to the age of 18 years old. Unlike Child Support Grants, the Foster Child Grant is not allocated on the basis of an income-based means test related to the foster parent, though significant income of the child is taken into account.

Currently, placements in foster care are made for a maximum period of two years at a time, with ongoing monitoring by social workers required and a renewal process necessary to continue the placement (and the foster grant).

When established, foster placement was primarily aimed at children who had been abused or neglected (or who were at risk of abuse or neglect) and, as a result, is generally associated with child protection practices, including removal of the child from the home context and ongoing monitoring of the placement by a social worker. Provisions made in the Child Care Act for placements are based on the notion that they are temporary, and that the child will return, after the provision of 'family reunification services', to the care of his or her biological parent(s).<sup>10, 11</sup> The Foster Child Grant is then intended to be allocated where necessary to assist in the support of the child by a temporary caregiver (the foster parent).

In legal terms, therefore, foster care placement is intended to perform a critical role in *child protection*.

### THE ROLE PLAYED IN PRACTICE BY THE FOSTER CHILD GRANT

"It is quite clear that these children [orphans] are in need of money! They are not *'in need of care'*" exclaimed a magistrate based in KwaZulu-Natal. Her comment captures a key issue underlying the application of Foster Care placements and grants to orphans: Provisions in current legislation for foster

care placement are underpinned by a key notion: Children's eligibility for placement is captured in a concept of a child being 'in need of care'. Children who are without surviving biological parents are – in terms of the Child Care Act of 1983 – automatically considered to be 'in need of care', and therefore eligible for foster placement and grants.

However, research demonstrates that children who have been orphaned in South Africa are not, on the whole, 'in need of care' – at least in a sociological sense. For example, the results of the 2002 General Household Survey reveal that roughly 90% of orphans are in the care of relatives, while the majority of those who are not, are living with non-kin. A very small minority of children find themselves living without an adult in child-headed households, or require placement in a residential facility.<sup>12</sup> Furthermore, because of the non-nuclear nature of many South African families, for many of the orphaned children encountered during our research the death of their biological parent(s) had not meant a shift in their place of living or the relatives (and caregivers) with whom they lived.

What we see then is somewhat of a contradiction between the law and the social context within which it operates. Foster care placements and the grants that are associated with them are not generally required because children who have been orphaned are without adult care or protection. If there is any moment at all in which these children have been without care, in the majority of instances arrangements are facilitated through kinship and other social networks without the intervention of social workers or the courts.





Instead, both service providers and caregivers participating in the research indicated clearly that the purpose of processing foster care placements for orphans was less about legalising the custody of the children or supporting any sort of temporary refuge for the children, than about accessing Foster Child Grants to financially support them and the (characteristically poor) households in which they were resident.

As the AIDS pandemic spreads, and people become increasingly aware of this legal provision, applications from caregivers for foster care placement of orphaned children in their care are becoming more and more common.

It makes sense: Not only is there a lack of any alternative poverty alleviation mechanisms available to the caregivers of any children over the age of 11 years old, but the fact that the value of the Foster Child Grant is more than three times that of the Child Support Grant is – with valid reason – appealing both to poor households as well as to those service providers who wish to provide them with support.

The consequence is that, with its application to orphans and their caregivers, the purpose of foster care placement is *de facto* shifted from one of *child protection* to one focused on *poverty alleviation*. This will increasingly be the case as the AIDS pandemic progresses, unless alternative policy is instituted.

### THE IMPLICATIONS OF USING THE CHILD PROTECTION SYSTEM FOR ADDRESSING THE POVERTY OF ORPHANS

The application of foster care placements to orphans as a means through which to provide them grant-based poverty relief raises a series of important issues for consideration:

#### 1. Foster Child Grants are unlikely reach the majority of children who are eligible in terms of law and policy

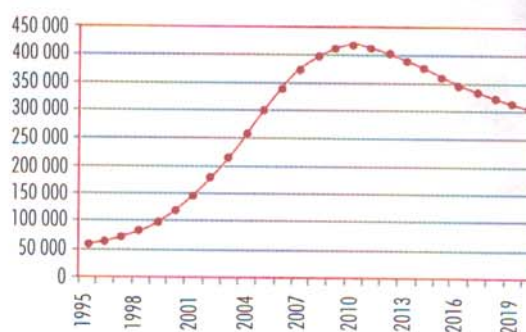
Uptake of Foster Child Grants has increased considerably in the past few years: Analysis of Department of Social Development data reveals a 42% increase in the number of children for whom grants are being received between April 2003 and March 2004 alone.<sup>13</sup> This is most likely as a result of the promotion by the State and NGOs of foster care placement for orphans, as well as increased knowledge of the possibility of accessing Foster Child Grants by caregivers.

However, the uptake is less impressive when considered against the current and projected numbers of children in South Africa who would legally qualify for foster placement and subsequently for the Foster Child Grant on the basis of their orphanhood.

Fig. 1 illustrates the number of newly orphaned children in each year estimated to qualify for foster care placement and grants on the basis that they would have no surviving parent caring for them. (The calculations do not take into account any substantial HIV/AIDS intervention programmes<sup>d</sup>).

On the basis of these calculations, the number of new orphans who would have qualified in 2003 is roughly 220 000. This number is expected to almost double by 2010, reaching a level of 420 000 new

**Figure 1: Numbers of newly orphaned children eligible for foster care placement in each year<sup>1</sup>**



**Source:** Meintjies, Budlender, Giese & Johnson, 2004<sup>1</sup>

orphans per year. The annual number of new 'eligible' orphans starts to decline after 2010, in line with declines in AIDS mortality rates.

The implications for the State's current plans to implement Foster Child Grants as a response to orphans in the context of the AIDS pandemic are unambiguous. The total number of children in foster care at the end of March 2004 was 197 303, less than the number of newly orphaned children who can be estimated to have qualified in 2003 alone.

Furthermore, Fig. 1 reveals starkly how in 2003, we are still in the early stages of the anticipated increase in the numbers of orphans. And yet the numbers of foster care applications in many parts of South Africa already far exceed social workers' capacity to

<sup>d</sup> The methods involved in this calculation as well as the rationale for choices and assumptions made are discussed in detail in the full paper.





"we recommend that more children be brought into the social security 'safety net' not on the basis only of their orphanhood, but rather on the basis of their poverty levels: their 'need' as opposed to 'category'. It is only with the implementation of such social assistance that children in South Africa will be appropriately and equitably supported through the AIDS pandemic."

process them. If one considers the predicted number of orphans that the country will face – as indicated in Fig. 1 above – it is clear that social welfare and court capacity and resources are utterly inadequate (as is money to pay ongoing grants).

Thus, if the State is to encourage the use of the foster care system to provide poverty relief to these children it is likely to create further bottlenecks in an already severely overburdened and cumbersome social work and children's court system, and to continue to fail to reach vast numbers of vulnerable children and their families who need material support.

## **2. The child protection functions of foster care will be diluted**

Foster care placement of children is an extremely laborious process involving multiple steps and multiple personnel. In particular, the process is labour-intensive for social workers who are required to investigate children's circumstances as well as monitor their foster placement once it has been granted by the courts and until the child reaches 18 years.

"You can imagine", explained a social worker working in an informal settlement in KwaZulu-Natal, "if we place a two-year-old, or a nine-month-old baby in foster care, we will have to write those reports until that child has finished school. We've got a file open, and we're going into volume two and volume three of the file for the entire time of the child's life ... so imagine what that means for us!"

The case loads of social workers who participated in the research were dominated by the processing and monitoring of foster care placements for orphans whose caregivers were in need of financial support, with these activities thus consuming the bulk of their time.

As an overwhelmed social worker in KwaZulu-Natal commented, "The great flood gates have opened and everybody has been coming and coming!" As a result, social workers are frequently compromised in their

capacity to intervene and monitor situations where children – orphaned or otherwise – are unsafe, abused, or neglected, and require *protection*.

While bottlenecks in the processing of foster care placements seem to occur primarily at the stage of investigation of foster care applications by social workers, the processing of applications in rural areas is frequently also impeded by the absence of a children's court. For example, in a site in the Eastern Cape, social workers reported a backlog of 140 foster care applications in June 2002, with the local magistrate processing only three court enquiries per month.

The risk of the current approach is clear. The use of foster care as a poverty-alleviation mechanism for orphans and their caregivers detracts from the real purpose that the foster care system serves in the *protection* of particularly vulnerable children.

The continued implementation of this approach stands to reduce the effectiveness of the foster care system to meet the needs of children who need the State to intervene in their care arrangements, for example, children (including some who have been orphaned) who have been abused, neglected or who require temporary removal from their families.

We thus argue that using a key child-protection mechanism – like that of foster placement – as a poverty-alleviation mechanism, will result in overburdening the social welfare system. The approach thus threatens to dilute the real purpose of the foster care service and its associated grant, and risks weakening a critical system of protection for children who need it, and for whom it was designed.

## **3. Other social service provision will be severely compromised**

"The idea of a social worker is that they do some case work, some group work, and some community work. But our social workers are bogged down in foster care case work and so for example, therapeutic







interventions are very minimal unfortunately."

– *Supervisor, Non-governmental organisation providing statutory services, KwaZulu-Natal.*

In the face of very limited human capacity and the large numbers of – in the words of one social worker – 'orphan grant' applications, social workers across the research sites were compromised in their capacity to deal with other important aspects of support required to address the needs of those resident in their district. The research documented social workers generally being unable to effectively perform their other designated roles, such as in the implementation and monitoring of home- and community-based care and support services<sup>14</sup> and the provision of counselling.<sup>7</sup>

With the continued provision of Foster Child Grants to orphans as a key aspect of the State's response to orphans, these failings in the provision of social services to the poor and others needing support can only stand to be severely exacerbated.

## ISSUES OF EQUITY

"I am worried about the children here. The husbands have died, and their mothers are not working, they can't afford ... There is no foster grant for them. There's no help from the government for them..."

– **Clerk of Children's Court, Umlazi.**

In its current implementation, we see how the social security system provides support – in the form of the Foster Child Grant – to poor people caring for children that are not their own, but fails to provide adequate support for poor parents caring for their biological children. The ethics of such an inequitable system are questionable.

Why in the context of widespread poverty, should children in the care of relatives or others require spe-

cial grants different to children living with their biological parents? Why should children in the care of people other than their biological parents qualify for considerably longer for a grant of a significantly more substantial amount than poor children in the care of their parents? Does the AIDS pandemic provide any justification for this kind of approach?

The conceptualisation of children's vulnerability is critical here. Internationally and locally, much of attention paid to children's vulnerability as a result of AIDS pandemic focuses on orphans. The provision by the State of Foster Child Grants to orphans replicates this trend.

However, the poverty-related impact of AIDS on children is far broader than this category of children: Consider children who are living with sick caregivers who typically face increased struggles to provide for their children as (among other things), their income-earning capacity is reduced, and cash is diverted to health care and treatment. Children who live in households where income is spread thinner and thinner as dependency ratios increase: In AIDS-affected communities, it is not only those who are directly affected by HIV who bear the burden of illness and death that characterises the pandemic. HIV amplifies poverty way beyond those whom it directly afflicts, by increasing demands on 'informal' networks to provide for those who need support.<sup>7</sup>

Right across the research sites, participants expressed their concerns about the way in which the experiences of poor children who were not directly affected by HIV/AIDS were sidelined in the provision of social support.

"Sometimes I feel so helpless and discouraged," a teacher from KwaZulu-Natal commented, "because the fact is, most of the children we teach are from poor families. There are children that have both parents – but they are the same as those that don't. How do you draw a line between these children – because they all have the same needs!"

A colleague elsewhere reiterated her point: "Orphan or no orphan, it's just the same. They are needy, all of them..."

It is clear that while the Foster Child Grant in its current form stands to support some orphans and their households, a glaring and inequitable gap in social security support remains for the multitudes of other vul-





nerable children living in the context of AIDS.

We recognise that the intended purpose of legal foster placement is not that of poverty alleviation – and that its provisions are crucial in providing mechanisms for children's protection (including for some children who are orphaned). However, the fact that the State has to date encouraged the use of Foster Child Grants to deal with the poverty of orphaned children, without instituting sufficient measures to address the poverty of all children in South Africa, must be challenged.

Furthermore, while some orphaned children may indeed require the intervention of the child protection system in order to secure adult care, evidence locally as well as from further afield suggests that it is likely that the majority will not. To tie these orphaned children and their caregivers into a labour-intensive surveillance and costly child protection system aimed at children truly "in need of care and protection" simply to access poverty relief – as is presently the case – is problematic.

### WEIGHING UP COSTS AND BENEFITS

A comparison of the relative costs of different social security scenarios providing grants to children provides interesting additional information to consider in relation to this issue.

Costing conducted by the authors estimates that a social security system which provides a Child Support Grant to all children up to 18 years old in South Africa would – with full uptake in 2003 – cost 2,65 times the amount of the current social security system which aims to provide Foster Grants to orphans up to 18 years of age and Child Support Grants for other poor children up to 9 years old. In 2017, when the number of orphans is predicted to peak, the additional cost for the provision of a universal child support grant over grants currently legislated would be a maximum of one third (of which part would return to the fiscus in tax). In other words, the relative increase in costs decreases substantially over time as the pandemic progresses (and when the potential for costs to be recouped through taxation is taken into consideration). In addition, while a universal Child Support Grant for all children would be a more expensive option than the current provisions, the cost differential between a universal Child Support Grant scenario and the current system must be assessed against the difference in

Table 1: Costs of the two scenarios, 2003 – 2017 (Rm)

Scenario	2003	2010	2017
1. Current legislation with 100% uptake (FCG for orphans & CSG for others up to 14 by 2006)	14 909	27 334	29 373
2. Universal CSG to children up to 18	39 509	40 143	38 776

Source: Meintjies, Budlender, Giese & Johnson, 2004<sup>1</sup>

the percentage of children which the former is likely to assist: The current provisions – with 100% uptake would reach 29,1% of children in South Africa in 2003, and only 44,5% of children by 2017.

Studies analysing the 2000 Income and Expenditure survey data suggest, however, that far more children in South Africa live in poverty.<sup>8</sup> By contrast, a universal Child Support Grant, if fully implemented, would reach all children. A strong case can thus be made for the cost-efficiency of the expenditure on a universal Child Support Grant for children up to 18 years old as opposed to that which we currently have in place in South Africa.

### CONCLUSIONS AND RECOMMENDATIONS

While the implementation of Foster Child Grants to orphans undeniably benefits the household members of the few recipients who are able to access them, we would argue that such a targeted approach to the alleviation of children's poverty has serious limitations, and is – for a number of reasons – an inappropriate response to addressing children's socio-economic vulnerability in the context of the AIDS pandemic in South Africa.

Given the pervasiveness of poverty across South Africa's child population, a social security system such as that currently in place and which directs interventions on the basis of children's orphanhood mis-targets crucial resources; is inequitable; relies on questionable assumptions about children's circumstances; risks further overburdening the child protection system; and is not, as a whole, a cost-efficient way of adequately supporting the largest possible number of poor children who require assistance.

In the face of the current situation for children in South Africa, it is critical that the foster care system be protected and *strengthened* to better accommodate children who do require the State to intervene in their care arrangements – including some children





experiencing orphanhood.

In addition, however, (and importantly, not *instead*), an alternative social security mechanism that is *adequate, equitable and accessible for all children* needs to be instituted to alleviate child poverty, its urgency heightened by the repercussions of the AIDS pandemic that South Africa currently faces.

On the basis of our research findings, we argue that the most effective mechanism for addressing the needs of children in the context of HIV/AIDS – including children who have been orphaned by the death of their parent(s) – is through the full extension of the Child Support Grant to all children up to 18 and the removal of the means test (ideally as part of a comprehensive package of social protection for South African residents). A more universal approach to poverty alleviation avoids a social security system that is biased towards alleviating the poverty of only some children.

The monetary value of the Child Support Grant appears at first glance to be so much smaller than a Foster Child Grant that it is difficult to appreciate it having the same impact for individual children. However, the broader spread of a universal CSG would result in a greater net monetary transfer to neighbourhoods – and in many instances, households – than the more targeted scenario currently in place. Poor neighbourhoods would, in fact, then be better equipped to provide support to children in need of their care.

Progressive implementation of a universal Child Support Grant should be based not on providing grants in the interim to particular categories of children (such as orphans) but rather on drawing more impoverished children – irrespective of their parental circumstances – into the social security 'safety net'. Rather than providing special grants, differentiated in value and age eligibility, for orphans as a category of children distinct from other children, we recommend therefore that the Child Support Grant be extended to children under 18 years, and that the current means test be simplified and adjusted to increase the income cut-off levels (as a first step towards the abolition of the means test). This approach would ensure that the grant begins to accommodate more of those impoverished children who need it most, many of whom are currently unable to access it due to their age or because they are disqualified by the means test. In other words, we

recommend that more children be brought into the social security 'safety net' not on the basis only of their orphanhood, but rather on the basis of their poverty levels: their 'need' as opposed to 'category'. It is only with the implementation of such social assistance that children in South Africa will be appropriately and equitably supported through the AIDS pandemic.

#### References

1. Meintjes H, Budlender D, Giese S, Johnson L. *Children 'in need of care' or in need of cash? Questioning social security provisions for orphans in the context of the South African AIDS pandemic*. Joint working paper of the Children's Institute and the Centre for Actuarial Research, University of Cape Town, 2003.
2. Committee of Inquiry into a Comprehensive System of Social Security for South Africa. *Transforming the Present – Protecting the Future: Consolidated Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa*, 2002.
3. Guthrie T. Socio-economic transformation: Are we going backwards? *Children First*, Special Edition 2003: Reviewing the Status of Children's Rights, 2003.
4. Streak J. Child poverty in South Africa and implications for policy: Using indicators and children's views to gain perspective. In: Coetzee E, Streak J, eds. *Monitoring child socio-economic rights in South Africa: Achievements and Challenges*. Cape Town: IDASA (forthcoming).
5. Booysse F I R. *Chronic and transitory poverty in the face of HIV/AIDS-related morbidity and mortality: Evidence from South Africa*. Paper presented at the international conference on Staying poor: Chronic Poverty and Development Policy, University of Manchester, 7–9 April 2003.
6. Steinberg M, Johnson S, Schierhout G, Ndegwa D, Hall K, Russell B, Morgan J. *Hitting Home: How Households Cope With The Impact Of The HIV/AIDS Epidemic. A Survey Of Households Affected by HIV/AIDS in South Africa*. The Henry Kaiser Family Foundation, 2002.
7. Giese S, Meintjes H, Croke R, Chamberlain R. *Health and Social Services to address the needs of orphans and other vulnerable children in the context of HIV/AIDS in South Africa: Research Report and Recommendations*. Report submitted to HIV/AIDS Directorate, National Department of Health, January 2003. Children's Institute, University of Cape Town, 2003.
8. Republic of South Africa. (2003). Children's Bill (Draft of 12 August 2003).
9. Republic of South Africa. (1992). Social Assistance Act No. 59 of 1992.
10. Department of Welfare. Information Guide for Social Workers on the practical application of the Child Care Act 74 of 1983, as amended and regulations. Department of Welfare, South Africa, 1998.
11. Loffel J. *Children's Bill as at 12 August 2003: Aspects Pertaining to Foster Care and Kinship Care*. A submission to the Department of Social Development. Johannesburg Child Welfare Society, 2003.
12. Budlender D, Meintjes H. *Children's family/household context in contemporary South Africa*. Paper presented at the Workshop on the provisions for Parental Rights and Responsibilities in the Children's Bill, Children's Institute, Cape Town, 24 February 2004.
13. Leatt A. *Granting assistance: An analysis of the Child Support Grant and its extension to seven and eight year olds*. Children's Institute Working Paper, May 2004.
14. Mabeloa M, De Beer N J. *Home/Community based care and support business plan for the financial year 2002/2003*. Department of Social Development, South Africa, 2002.

#### Additional reading

Russel M, Schneider H. *A Rapid Appraisal of Community-based HIV/AIDS Care and Support Programmes In South Africa*. Centre for Health Policy, University of Witwatersrand, 2000.

