The situation of children in South Africa

Children's Institute
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ABBREVIATIONS

ACESS	Alliance for Children's Entitlement to Social Security
ASSA	Actuarial Society of South Africa
AIDS	Acquired Immune Deficiency Syndrome
CI	Children's Institute, University of Cape Town
CDG	Care Dependency Grant
CRC	Convention on the Rights of the Child
CSG	Child Support Grant
ECD	Early Childhood Development
EPI	Expanded Programme of Immunisation
HIV	Human Immuno-deficiency Virus
HSRC	Human Sciences Research Council
HSSF	Health Sector Strategic Framework
IDASA	Institute for Democracy in South Africa
IMCI	Integrated Management of Childhood Illnesses
IMR	Infant Mortality Rate
LSEN	Learners with Special Education Needs
MCWH	Maternal, Child and Woman's Health
MTCT	Mother-to-Child-Transmission
NCRC	National Committee on the Rights of the Child
NPA	National Programme of Action
NPO	Non-Profit Organisation
NGO	Non-Governmental Organisation
PHC	Primary Health Care
RAPCAN	Resources Aimed at the Prevention of Child Abuse and Neglect
RDP	Reconstruction and Development Programme
SALRC	South African Law Reform Commission
SAPS	South African Police Services
SCS	Save the Children Sweden
STDs	Sexually Transmitted Diseases
TAC	Treatment Action Campaign
UK	United Kingdom
UN	United Nations
UCT	University of Cape Town
UWC	University of the Western Cape
WHO	World Health Organisation

Executive Summary

Introduction

This report is aimed at providing an overview of the situation of children in South Africa, with a focus on the non-fulfilment and violation of children's rights as formulated in the Convention on the Rights of the Child (CRC).

The assessment utilises evidence drawn from available literature and interviews with key actors in the South African child rights arena. Based on the opinions of these key respondents, the report provides an overview of key role players in the field, followed by suggestions for possible areas for intervention by international aid agencies.

The assessment is limited by a number of elements, such as an extremely short time frame, the shortage of relevant information in certain areas, and the description of role players in the child rights arena is not comprehensive.

The children of South Africa

The children's rights movement in South Africa was formed in the 1980s against the background of extreme violations of children's rights. Since 1994, the democratic government has made significant commitments to children. A number of important Constitutional Court cases have resulted in an evolving jurisprudence relating to children's socio-economic rights. Governmental, statutory and civil society bodies exist to promote and protect children's rights in South Africa within this framework.

Though significant progress has been made in realising the rights of children in South Africa since the apartheid era ended, some key challenges remain. Some, like the failure to implement legislation and successfully fulfil government commitments, reflect a general struggle within Government to give practical effect to the ideals it has set itself. Others relate to a failure to achieve a successful partnership between the work done in Government and by civil society organisations engaged in child-related activities.

Although the roles of parents and the State seem clear, duty bearers and others often violate children's rights, and services are all too often inadequate. There is no doubt that South Africa has produced some excellent policies and laws since the first democratic elections in 1994. However, implementation has been slow at all levels, particularly at local government, where human and other resources are often lacking. The relationship between Government and civil society organisations has also not been collaborative.

In 2001, there were just over 19 million children in South Africa[1]. Key role players in the children's rights arena felt that the most significant challenges facing children in 2003 were poverty, child abuse and violence, HIV/AIDS and a lack of access to services. The fragmentation of the family unit and the loss of caregivers were highlighted. Abuse, unsafe environments and lack of child participation emerged as the most frequent sources of violation.

Children's right to an adequate standard of living

Poverty, unemployment and inequality are increasing in South Africa. Consequently, three out of every four children in South Africa are living in poverty[2]. Food security is a growing concern in South African households, with approximately 30% of the country's population experiencing food insecurity[3]. In households where children live, the most common fuel sources for cooking and heating are wood, electricity and paraffin[4]. Findings also suggest that the majority of children are living in overcrowded households and use pit latrines as toilets. Access to water in rural provinces remains problematic[5].

This context has implications for children, including the fact that many children collect wood and water to meet the daily needs of their households. Wood and paraffin as sources of cooking and heating may have adverse health effects. A lack of appropriate sanitation facilities and access to water place children at risk of contracting illnesses.

Government has responded to children's vulnerability and historical and current inequality by making a policy shift towards a developmental approach, with specific attention to poverty alleviation. Although the State has made some progress in providing housing, water, sanitation and electricity to previously disadvantaged communities, there are huge shortfalls.

Social assistance provisioning is one of the main interventions used by Government to target poor children and their families. While the government has implemented other poverty alleviating mechanisms and intends to extend social assistance provisioning to children, these efforts still fall short of meeting children's basic needs and fulfilling their socio-economic rights. There is, therefore, an urgent need to re-examine the government's poverty alleviation interventions.

Children's right to the enjoyment of a high standard of health

South Africa's national infant mortality rate (IMR) is 45 per 1000 live births[6]. The World Health Organisation (WHO) has

indicated recently that South Africa's under-5 mortality rate is 67 for girls and 85 for boys[7]. The steadily increasing IMR is most likely a result of the HIV/AIDS pandemic. It is estimated that the under-5 mortality rate will almost double by the year 2010 for the same reason[9]. HIV-infection is expected to increase the numbers of children living with a chronic illness.

Findings indicate that the main causes of death among young people are injury-related[10]. HIV/AIDS may also be the origin of many deaths among young people, where the presenting cause is attributed to tuberculosis, diarrhoea, or other infections[11]. Sexual and reproductive health disorders, including sexually transmitted diseases (STDs), HIV/AIDS, and unwanted pregnancies are also crucial adolescent health concerns.

Over the past decade, there has been significant progress in the development of a comprehensive set of policies and programmes to address the health needs of children. Despite this, the health indicators highlight the effects of poverty and poor access to quality services, particularly in under-resourced provinces. Significant inequities in health status continue to exist. In addition, there are major infrastructural and capacity disparities between health facilities, with rural facilities the most seriously affected.

One key challenge therefore is the deployment of available resources that facilitate access to a freely available basic package of services for all children. Another is the government's response to the impact of HIV/AIDS on the health of children and their carers, and consequently on the quality of over-burdened health care services.

Children's right to education

In 2000, nearly 12 million learners were enrolled in South Africa's public schools[12]. However, it is estimated that less than a quarter of children aged 5 – 7 years were attending Early Childhood Education (ECD) facilities in 2000[13]. Schools for Learners with Special Education Needs (LSEN) catered for only 16% of children requiring special needs education in 1999[14]. A national audit of schools found schools in poor condition and without the necessary amenities available on site[15].

Many children living in poverty report being denied access to basic education because they cannot afford to pay school fees or purchase school uniforms[16]. Many learners do not have access to educational resources in their homes and schools[17], and live in households that lack basic necessities, including food[18]. Findings indicate a high level of unemployment among parents of school-going children[19]. Children in families affected by HIV are particularly at risk[20].

Over 1.2 million children of school-going age are not attending school[21], mainly because of poverty and deprivation in their home environments.

The extremely high levels of violence within the school environment, especially for girls, are of pressing concern[22]. The number of school-age children not attending school on a full-time basis is high. Factors hindering children's access to schooling and educational resources need to be addressed. The improper implementation of the school fee exemption policy is a barrier that perpetuates discrimination against poor children, who are in the majority.

A great deal of progress has been made by the South African education sector since 1994. However, ECD programmes and education for LSEN appear to be particularly neglected. The Education Department's plan to provide comprehensive ECD programmes is commendable and implementation appears to be progressing. The proposed plan considers the response of the education environment to vulnerable children, such as those in poverty.

Children's right to protection from violence, abuse, neglect and exploitation

The number of crimes reported against children in South Africa has reached alarming proportions. Over 72 000 crimes against children were reported in 2000[23]: common and aggravated assault combined were the most common crimes for this period[24]. The second most common type of crime committed against children for this period was of a sexual nature[25]. Rape is among the most prevalent crimes against children[26].

Child abuse, neglect and exploitation appear to be on the increase in South Africa[27]. The number of children involved in the sex industry appears to be increasing, placing them at high risk of contracting STDs[28]. Findings indicate that the trafficking of children for sexual exploitation occurs predominantly within South African borders, with 4 – 17 year old girls primarily targeted. The underlying causes are economic[29], as is the case for children engaged in economic activities[30], and children working on farms[31].

Child abuse statistics indicate either an increase in the occurrence of abuse or an increase in reports of abuse. However, the need for education and training in early identification and appropriate responses remain, particularly in rural areas. Under-reporting of child abuse continues to be an obstacle to ensure timely and appropriate interventions for child survivors.

Poverty is indicated as a factor that places children at greater risk of abuse. Service delivery to children is described as fragmented, piecemeal and ineffectual. Although legislation, policies and programmes are relatively well developed, co-ordination between these is necessary. There is an urgent need to identify the obstacles preventing effective service delivery and programme implementation in the arena of child protection services. Budgetary constraints on welfare services therefore require careful consideration.

Children's right to special care, special protection and assistance

The number of children who have been orphaned as a result of HIV is rapidly increasing[32]. Estimates show that treatment interventions would reduce the number of children orphaned due to HIV/AIDS[33]. In addition, the number of children living with sick or dying caregivers is likely to be substantial. Children in these households frequently assume increasing responsibility for household income and care[34]. Few processes exist whereby children affected by HIV/AIDS can access assistance. While the government has put in place a National Integrated Plan to address their needs, many of the goals of this plan remain unrealised[35].

Children awaiting trial and children in prisons often experience gross rights violations and discrimination[36]. At present there is no dedicated legislation that addresses children who come into conflict with the law[37]. The Child Justice Bill is a welcome response to the plight of children in prison and it is hoped that the Bill will expedite appropriate programmes and services for children in prison.

Children found to be in need of care may be removed from their family environment and placed in alternative care. Children living on the streets and non-national children require specialised services. All services to children and their families should promote the principle that children should remain within families or communities of origin[38]. In many instances, this principle is not upheld.

The child and youth care system is under-resourced financially and in terms of human capacity. The quality of care given to children in residential facilities is often sub-standard. It is heartening that the Department of Social Development has introduced mechanisms to ensure quality childcare in these settings and diverse from more restrictive forms of care. The department's welfare services budget is a key concern, due to the low priority it receives.

Children's right to a safe environment

Research shows that 70% of unborn babies are exposed to the effects of tobacco from maternal smoking and pregnant mothers' exposure to passive smoking[39]. More than half of the child population in South Africa live in households where parents smoke heavily[40].

Lead exposure can cause impairment of children's optimal development. Large numbers of children are exposed in certain parts of South Africa[41]. Children below 15 years are exposed to particles from household coal and wood burning, a combination that has serious effects on child health[42]. Pollutants such as dust and emissions from refuse burning and industries were reported to be problematic in half of the households in the Eastern Cape Province city of Port Elizabeth[43].

The creation of safe environments for children can prevent many child injuries. The most frequent trauma injuries include falls, motor vehicle accidents and poisoning. Falling as a cause of trauma injury is most common in the 1 – 9 year age group.

In an environment of poverty and violence, the emphasis has tended to be on providing an environment for children that is safe from physical and sexual abuse. Indeed, children themselves confirmed that their right to a safe environment was the most frequently violated[44]. However, the effects of environmental issues on children's health require greater priority.

Children's right to participation

There is very little information available on children's real participation in society as a whole, as very few such initiatives have been conducted in South Africa in recent years. In 1992, non-governmental organisations (NGOs) hosted the first South African National Summit for Children, bringing together children from all over the country.

In 2002, Save the Children Sweden[45] commissioned the *Children's Poll: a South African Child Rights Survey*, which involved 1 200 children from across the country. Children ranked the rights most often violated in their lives as follows: the right to a safe environment, the right to protection from abuse, and the right to participation. Discussing the right to participation, children said they were denied the right to make their own informed choices, to be listened to as children, and to be respected and heard by adults. They also said they were denied the right to express their own opinions and ideas.

The Alliance for Children's Entitlement to Social Security (ACESS) conducted a Child Poverty Participatory Project in 2002[46], and the Children's Institute, UCT, initiated the National Children's Forum on HIV/AIDS in 2001[47].

These processes confirmed the value of engaging children as partners in decision-making, and also highlighted the insights that arise from considering a child's perspective. It illustrated the feasibility of soliciting children's views on child rights and other issues, and emphasised the importance of hearing their voices and taking them seriously. Adults have the responsibility of providing a supportive environment in which children can participate appropriately and with dignity.

Key actors in the child rights arena

While the State has ratified the CRC and develops legislation and policies regarding children, it is mainly the well developed NGO sector that implements these policies and programmes and safeguards children's rights. Respondents to this assessment voiced their concern about the absence of co-ordinated and effective service delivery from Government, and noted a lack of adequate service delivery to particular groups of children. The provision of ECD services and schools for LSEN is increasingly becoming the responsibility of NGOs. However, the NGO sector suffers from problems such as shortage of staff, resources and support mechanisms, all which reduce their effectiveness.

There is a number of strong civil society movements focused on specific issues. However, there are no alliances addressing the full range of children's rights in a holistic and integrated manner. There are also many research agencies involved in research and analysis: some focusing specifically on children, others more generally on socio-economic conditions.

The Department of Social Development is one of the key government providers of child-related services besides the Department of Education. It directs the majority of its budget towards the provision of social assistance grants[49], and the focus of its social services is primarily on children in need of care and protection. Evaluations of government services generally report poor quality, inaccessibility in rural areas, and chronic shortages of personnel. In addition, there are still gaps in the government's response to children's rights and needs. Despite attempts to provide a National Programme of Action (NPA) for the country, there is limited co-ordination between government departments, resulting in fragmentation between programmes and the absence of an overriding national policy to deal with children in a holistic manner.

There are many international funding agencies that provide valuable support to a wide range of child-related activities in South Africa. Many NGOs, alliances and academic units rely heavily on funding from these agencies, creating some competition for scarce resources. Nevertheless, international funding agencies have been criticised for duplication and poor identification of funding priorities. Respondents provided recommendations on the priorities of international aid agencies: HIV/AIDS prevention, support, treatment and care topped the list of funding priorities. More generally, policy development was indicated as a key area requiring the intervention of international funding agencies.

The unfinished agenda

Respondents highlighted a range of areas requiring further research, discussed in the concluding chapter of this report:

• A routine national child survey, that explores household dynamics with regards to income distribution and intra-household expenditure, was recommended. There is also a call for a cost benefit analysis on grants targeted at children. There is a need for surveys that perceive the child as the unit of analysis;
• Psychosocial well-being and the mental health of children;
• The quality of education and the conditions for learners in schools, and the extent and impact of education on children;
• The relationship between a rights-based framework and child well-being. The issue of cultural perceptions and its relationship with the implementation of children's rights was also raised;
• Children's right to participation is clearly the least researched arena of children's rights – the need to capture various understandings of the role of children in society was identified;
• The quality of services delivered to children and the policies and budgets that shape these interventions. Furthermore, it is critical to explore the relationship between Government and civil society in the delivery of children's rights;
• The impact of changing policies on the well-being of children must be measured and monitored.

This assessment highlighted the need to establish a common forum for existing and future research on issues affecting children. The Children's Institute will establish a child rights review for this purpose.

Introduction
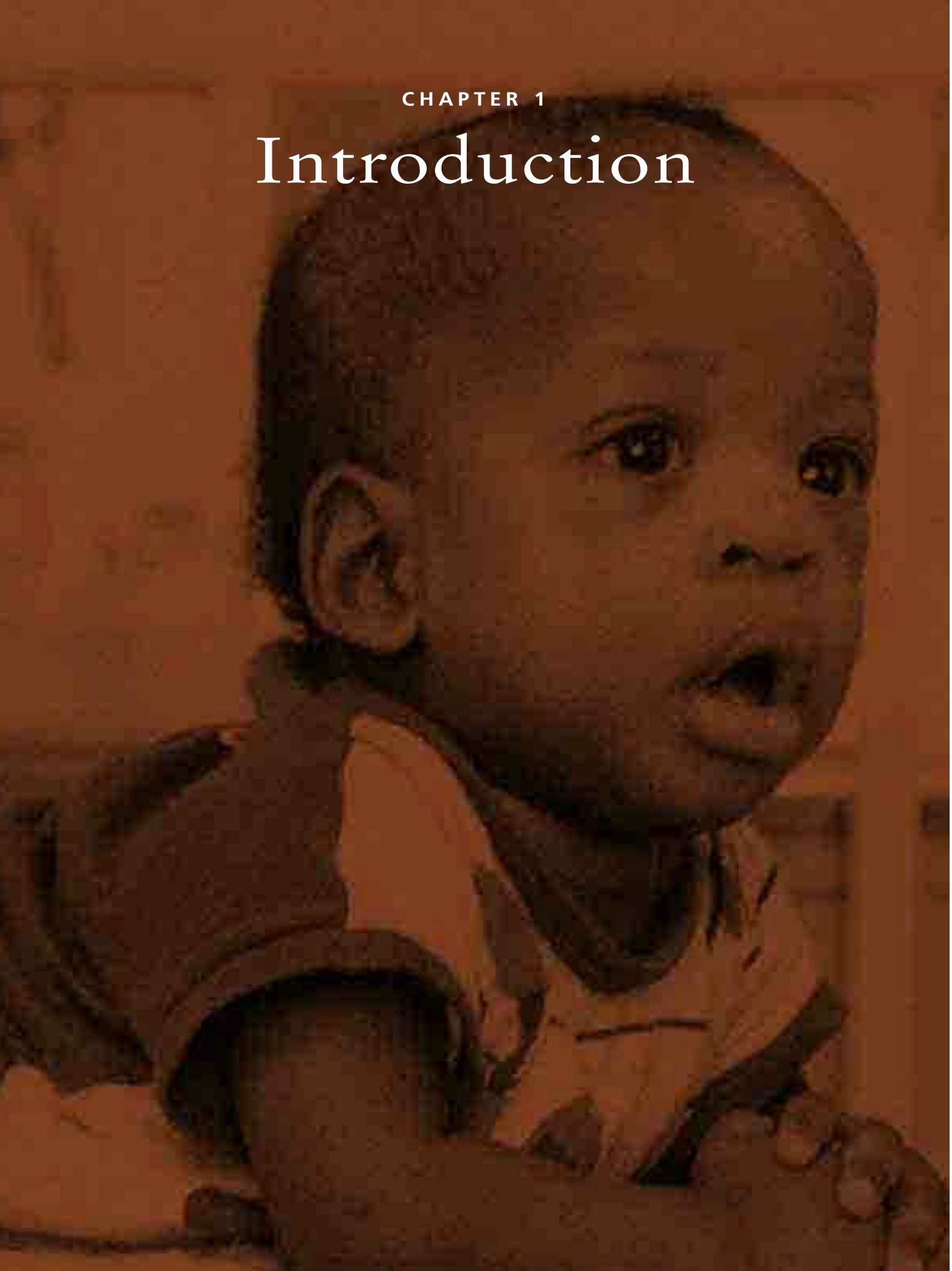
To what extent are children's rights upheld in South Africa? This report is aimed at providing an overview of the situation of children in South Africa, with a focus on the non-fulfilment and violation of children's rights as formulated in the CRC.

Methodology

Evidence is drawn from the currently available literature and interviews with key stakeholders in the children's rights arena. Literature sources include government departments, civil society organisations, publications of the Children's Institute and other research bodies.

Key respondents (see Appendix A) were identified by Save the Children Sweden for participation in the assessment. They comprised representatives from Government and civil society organisations involved in the children's rights arena; working in a range of sectors including education, health, welfare, law, and the donor community. Forty-four potential informants were selected, of whom 32 (73%) participated.

The views of these key informants were sought on the following issues: violations of children's rights, their agency's key activities, gaps in actors and programmes, increased child participation, the major international and bilateral donors in the children's rights sector and possible areas of intervention for international aid agencies.

Based on the opinions of these key respondents, an overview of key role players in the field is presented, followed by suggestions for possible areas for intervention by international aid agencies. Finally, this assessment proposes the publication of an annual review of children's rights, based on the work of the Children's Institute and other relevant research.

Limitations

The study was completed in an extremely short period of time. Its scope was constrained by the shortage of available data in certain areas - gaps that the children's sector must continue to highlight and fill. There are, as a result, some limitations. The review does not describe all the role players involved in the children's sector in South Africa; or evaluate their performance. The underlying causes of the violation of children's rights could not be thoroughly explored. A comprehensive sourcing of relevant literature was not possible, nor was an analysis of national budget allocations. The study is, however, sufficient for the purpose of charting a way forward to the fulfilment of children's rights in South Africa. During 2004, the Children's Institute at the University of Cape Town will provide a more detailed and comprehensive overview of progress in implementing the full scope of children's rights.

The children of South Africa

Children's rights

The children's rights movement in South Africa was formed in the 1980s, against the background of extreme violations of children's rights. Since 1994, the democratic government has made significant commitments to children. These include the ratification of the CRC, the African Charter on the Rights and Welfare of the Child, the Bill of Rights in the South African Constitution and, amongst other things, the development of a National Plan of Action for children (NPA). A number of important Constitutional Court cases have resulted in an evolving jurisprudence relating to children's socio-economic rights. Governmental, statutory and civil society bodies exist to promote and protect children's rights in South Africa within these frameworks.

Though significant progress has been made in realising the rights of children in South Africa since the apartheid era ended, particularly in the realm of policy development, some key challenges remain. Some, such as the failure to implement legislation and fulfil government commitments successfully, reflect a general struggle within Government to give practical effect to the ideals it has set itself. Others relate to a failure to achieve a successful partnership between the work done in Government and civil society organisations engaged in child-related activities.

Demography

There were 19.3 million children in South Africa in 2001. *Table 1* shows the breakdown by province. Black children are by far the largest group (see *Figure 1* on the next page).

Table 1:

Number of children aged 0 - 19 years by province in 2001

Province	Number in 2001	% Distribution
WC	1 682 946	8.7%
EC	3 181 500	16.4%
NC	336 427	1.7%
FS	1 136 156	5.9%
KZN	4 397 480	22.7%
NW	1 537 436	7.9%
GAU	2 839 191	14.7%
MPA	1 463 570	7.6%
LIM	2 772 304	14.3%
RSA	**19 347 010**	**100%**

SOURCE: Statistics South Africa. 2003. Census 2001 - Census Database. www.statssa.gov.za/SpecialProjects

LEGEND: WC (Western Cape), EC (Eastern Cape), NC (Northern Cape), FS (Free State), KZN (KwaZulu-Natal), NW (North West), GAU (Gauteng), MPA (Mpumalanga), LIM (Limpopo)

Figure 1:

Distribution of children by population group
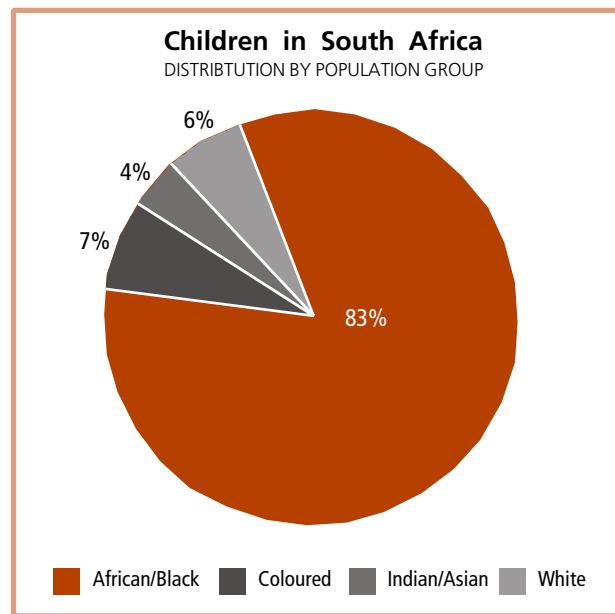
SOURCE: Statistics South Africa. 2003. Census 2001 - Census Database. www.statssa.gov.za/SpecialProjects

Duty bearers: parents, the state and civil society

Broadly speaking, all South Africans are responsible for the well-being of children. In terms of South African law, parents are responsible for the care and support of their children, and are bound by law to provide for their basic needs until they are 18 years of age. However, where they are unable to do so for reasons of poverty, the Constitutional Court has ruled that the State must take this responsibility[50].

The State is made up of the Executive, the Legislature and the Judiciary. The Executive consists of the national, provincial and local tiers of Government. In general, national Government is responsible for policy-making, while all three tiers effect implementation. Provinces have some discretion in the way they implement policy made at national level, and local government is responsible for implementation to communities. In the Presidency, the Office on the Rights of the Child was set up to co-ordinate all actions related to children and to oversee compliance with children's rights in South Africa.

Parliament is responsible for law-making and monitoring the work of the Executive. Parliament ratified the CRC in 1995, and also signed the African Charter on the Rights and Welfare of the Child, thereby binding South Africa to its obligations. Parliament consists of the National Assembly and

the National Council of Provinces (NCOP). Parliamentary committees are the engine room of Parliament where debate takes place, and where public and civil society organisations can make input into the law-making processes.

The State budget is drawn up by the Minister of Finance and allocated according to the proposed government plans for the year. There is presently little opportunity for civil society to impact on budget decisions, though discussions about opening up the process have been underway for some time.

The Judiciary is made up of courts at the national and regional levels. The most significant of these is the Constitutional Court, whose role it is to adjudicate on matters related to the Constitution, as well as on legislation passed by Parliament that is perceived as being in conflict with the tenets of the Constitution.

Chapter 9 of the Constitution requires that a number of bodies be set up to give effect to its provisions. Those bodies with a direct bearing on children's rights are the South African Human Rights Commission and the Youth Commission.

Although the roles of parents and the State seem clear, duty bearers and others often violate children's rights, and services are all too often inadequate. There is no doubt that South Africa has produced some excellent policies and laws since 1994. However, implementation has been slow at all levels, particularly at local government, where human and other resources are often lacking. Substantially more responsibility for infrastructure and social development has been devolved to local government level, sometimes without adequate resources. A low skills base has resulted in sub-optimal delivery, particularly in rural areas. Homeland institutions established under apartheid generated significant disparities between the provinces, resulting in uneven delivery and the fragmentation of essential services.

The relationship between Government and civil society organisations has also not been collaborative, as envisaged by the Reconstruction and Development Programme (RDP). Civil society organisations frequently find themselves carrying a huge burden of responsibility as service providers, without being given the resources to do this work. In addition, friction over issues such as the appropriate treatment for HIV/AIDS has worsened relations between Government and sections of civil society. Parents and communities are struggling to provide children with basic necessities in an environment of poverty, less than satisfactory service delivery and an HIV/AIDS pandemic that is threatening the lives and well-being of communities all over the country.

Apartheid's land allocations policy, migrant labour, forced removals and other social engineering has left communities and families deprived of basic productive capacity. The macro-economic framework (GEAR) adopted in South Africa in 1996 calls for constraints on government spending, cuts in company and individual taxation and cost-recovery on many basic services. This policy choice has impacted on the allocation of resources for basic needs, social security provisions, health and education. Barriers in accessing services and support for children and their caregivers must therefore be reduced, and the State must increase its allocations in line with its constitutional obligations.

Respondents' views on the challenges for children

Key role players in the children's rights arena felt that the most significant challenges facing children were poverty, child abuse and violence, HIV/AIDS and a lack of access to services. The fragmentation of the family unit, the loss of parents (and consequent increase in the numbers of children experiencing orphanhood and living in child-headed households) was highlighted. Abuse, unsafe environments and lack of child participation emerged as the most frequent sources of violation.

Poverty
Children living in poverty are exposed to sub-optimal living conditions, unsafe environments, and seriously compromised access to basic resources such as food, shelter, education and care. There was broad agreement that the State should make suitable provision where parents are unable to fulfil their roles as promoters and protectors of the fulfilment of the rights of children to basic needs because of structural unemployment, chronic poverty and entrenched societal inequalities.

Child Abuse and Violence
Current levels of child abuse were seen as part of a wider and more pervasive system of aggression towards the disadvantaged. High rates of alcohol and drug abuse render children vulnerable to every form of abuse and neglect, especially where traditional community structures have broken down. Some respondents suggested that overcrowded living conditions, in which large numbers of male adults without jobs feel emasculated, present an environment of high risk.

Violence against children and their sexual exploitation were the most common forms of abuse cited. It was strongly

argued that Government's inefficiency in providing the necessary protection and support to children in terms of prevention of abuse, together with a lack of access to recourse and restitution after the abuse had been perpetrated, contribute significantly to the absence of personal security for children.

HIV/AIDS

Respondents felt that children affected by or infected with HIV/AIDS are at particular risk of having their rights violated. Large numbers of children are losing their caregivers to HIV/AIDS, placing additional and unsustainable burdens on the extended family and community support systems. At present, the burden of caring for large numbers of young children falls largely on the elderly. Moreover, service providers reported what they perceived to be an increase in the number of 'child-headed households', a phenomenon believed by many to be the result of the over extension of the 'traditional' social safety net and its inability to provide care and support to all vulnerable children. Some respondents also pointed to the particular vulnerability of children who are living with, and frequently caring for, sick adults.

It is clear therefore that the rights of children affected by HIV/AIDS – with or without adult caregivers – are violated in a number of different ways, often as a consequence of their lack of access to basic health and social services.

Lack of Access to Services

Poor access to social security, including social welfare, education and health services, ranked high as a challenge to children's well-being. Poverty, high caregiver unemployment, means testing and the absence of adequate services were the reasons given for children's lack of access to services. For children in rural areas the situation is grave, as the development of service infrastructure and delivery in these areas remains sub-optimal.

Yet another factor contributing to children's lack of access to services relates to their right to an identity. Large numbers of children are unable to access vital services because they do not own a birth certificate, or their caregivers are without identity documents.

Limited service delivery also results in the unfair and worrying exclusion of older children. Several respondents pointed out that children older than 15 years are excluded from many programmes. For example, pregnant teenagers are classified as women and are completely marginalised within the health care system. This leads to further denial of their constitutional rights.

Conclusion

Some respondents expressed concern that a culture of child rights has not been firmly established in South Africa and that, to address violations, both adults and children need education in this respect. Others felt that the entire scope of child rights was being transgressed. Yet another concern was the legacy of inequity.

> *"For most children in South Africa, life is their biggest challenge."* (Respondent)

Respondents felt that children's vulnerability to rights violations is exacerbated by poor access to services and the absence of adequate protection measures. Children experience secondary abuse of their rights in their interactions with systems that are unable to respond appropriately or timeously to the urgency of their circumstances.

The key informants concluded that the majority of children in South Africa experience violations of the full spectrum of rights to which they are entitled. A few groups of children were identified as being particularly vulnerable to rights violations: children living in poverty and/or rural areas; children infected or affected by HIV/AIDS; girl children; children with disabilities and children living in non-traditional family environments.

Children's right to an adequate standard of living

The CRC states that every child has the right to a standard of living adequate for his/her development (Article 27[51]).

The South African Constitution gives children the right to basic nutrition, shelter, basic health care services, and social services (Section 28(1)(c)[52]).

Poverty is the "inability of individuals, households or communities to command sufficient resources to satisfy a socially acceptable minimum standard of living"[53]. However, poverty is more than mere income insufficiency. It includes lack of opportunities, lack of access to assets and credit, and social exclusion. Poverty is complex, multi-faceted and fluctuates in depth and duration.

It is important to understand how poor people and children experience poverty[54]. Children participating in the ACESS Child Participation Process[55] and the National Children's Forum on HIV/AIDS[56], organised by the Children's Institute, described poverty as:

"For my side the biggest problem is food. Sometimes we end up not getting any food at home and don't know what to do…The other problem is to have school shoes." (Boy, 15 years)

"We need water. We get clean water once a month if the truck of water ever comes. I will be happy if we can get clean water next to our home." (Douglas, 17 years)

"I do not have parents. They are chasing us away where we are staying… we do not have food or money for rent." (Tsakane, 10 years)

The scope of the problem

Poverty, unemployment and inequality are increasing in South Africa. Unemployment rates rose from 33% in 1996 to 37% in 2001[57]. The Gini co-efficient[58] increased from 0.68 in 1991 to 0.69 in 1996[59], ranking South Africa the fifth most unequal country in the world. As already noted, apartheid left a legacy of inter-provincial and localised inequities that are reflected in unequal delivery of basic services across provinces and within cities. Although it is now stabilising, rising inflation rates have resulted in escalating food prices, which directly impact on the well-being of the poor. South Africa has the highest number of HIV-infected persons in Africa[60]. Furthermore, budgetary allocations to programmes aimed at the alleviation of child and family poverty are not consistent with constitutional commitments to children.[61]

Nearly 60% (11 million) of all children in South Africa are living in dire poverty (or are ultra-poor). That is, they live on less than half of the amount considered necessary for basic survival (less than R200 per month). Those living on less than the absolute minimum of R400 per month make up 76% (14 million) of the child population. Thus three out of every four children in South Africa are living in poverty. Findings also demonstrate that, of poor children, the majority (79%) are ultra-poor[62].

Food

Food security is a growing concern in South African households, with approximately 30% of the country's population experiencing food insecurity[63]. Children at the National Children's Forum on HIV/AIDS[64] voiced the desperation for food within their households. The children told how the lack of food impacted on their ability to learn and concentrate in the classroom setting.

"I do not have a mother. I stay with my grandmother and my father. At home there is no food most of the time. My grandmother and father do not have money…I need food." (8-year old)

Malnutrition in children remains a primary contributor to morbidity and mortality, although it is seldom reported as a cause of death[65].

Housing

Shelter is a basic need and a right enshrined in Section 28 of the Constitution. It serves as protection from the weather and provides living space and privacy. The quality of shelter impacts on an individual's general mental health and social well-being. Overcrowding is known to exacerbate a number of risk factors with regards to health and psychological well-being[66]. The extent to which this basic right is realised is an important consideration in relation to the impact of the environment on the physical, mental and psychological well-being of children.

Statistics South Africa reports[67] that the majority of children live in houses on separate stands, followed by traditional dwellings and then informal settlements. A large percentage of children (48%) live in dwellings with three rooms or less, with 20% living in four-roomed dwellings and 10% living in five-roomed houses. Another 21% live in homes with more than five rooms. These figures suggest that the majority of children are living in overcrowded households.

Energy

In households where children live, the most common fuel sources for cooking and heating are wood, electricity and paraffin[68]. In these households, household members,

including children, may need to walk long distances to collect wood. It is important to consider the negative health effects and risk factors associated with wood and paraffin in particular.

Water

Apartheid inequities had left between 12 – 14 million people living in rural and peri-urban areas without access to safe water[69]. Data from Statistics South Africa (2001[70]) indicates that racial inequities are decreasing, as just over 80% of African households have access to piped water, in comparison to 99% of White and Indian/Asian households and 97% of Coloured households. At a national level, 22% of households in South Africa used boreholes for water provision in 1997[71], while only 2.4% of households utilised boreholes in 2001[72]. However, these sources of water may be contaminated[73], placing the household and its children at considerable risk of contracting illnesses such as diarrhoea.

Rural provinces continue to have less access to water than urban provinces[74], although access to water in rural areas appears to be improving. According to the Department of Water Affairs and Forestry[75], by the end of 1999 more than 4.4 million people in rural areas had gained improved access to safe water.

The distance that household members travel to reach a water source is another indication of the status of basic services in poorly resourced areas. In rural areas, 17% of African households travel at least one kilometre to reach the nearest water source[76]. Most of this responsibility falls on girls of school-going age. From this group, 31% from poor households spend an average of one hour per day fetching and carrying a total of 75 litres of water[77].

Sanitation

According to 2001[78] data, the largest percentage (52%) of South African households used flush toilets, either via a sewerage system or septic tank. There are however discrepancies across the provinces[79]. An analysis of the living circumstances of children (using Census 1996) found that the majority of children use pit latrines as toilets.

In 2001[80], 17% of households in South Africa had no toilet facilities whatsoever. The majority of these households resided in the Eastern Cape (31%), Limpopo (23%) and the KwaZulu-Natal Province (16%). Of the nine provinces, four had more than 15% of households without any toilet facilities[81].

What Government is doing

The Constitution recognises that children are a particularly vulnerable group requiring special protection. Government's response at policy level has been to employ a developmental approach, paying specific attention to poverty alleviation and the extension of basic services to all communities in an equitable framework. In 1994, the restructuring of an extremely fragmented welfare system required the establishment of a single national welfare department, the phasing out of race-based welfare disparities, legislative reform at all levels of Government, and the re-orientation of personnel towards a developmental social welfare framework.

At a programme level, the State has relied heavily on social assistance as its primary response to child poverty. There have been impressive increases in the extension of grants to children. Not only have more children been registered for the Child Support Grant (3.4 million as of August 2003), but provision has been made for the progressive inclusion of children to the age of 14 over the next three years. The Department of Social Development's social security programme accounts for approximately 90% of the social development budget. The current social security system targets children most in need of special protection, children in poverty, children with severe disabilities and children requiring alternative care[82]. Targeting mechanisms such as the means test are however often barriers to access for those most in need.

Two important pieces of legislation govern social welfare and development services and provide support for children and their caregivers: the Child Care Act (to be replaced by a Children's Act) and the Social Assistance Act[83]. Together they form the cornerstone of the legislative framework that underpins social development initiatives, including policies, programmes and campaigns.

The Social Assistance Act (No. 59 of 1992) and Regulations (1998 & 2001) govern the provisioning of social security grants for children. The Act has undergone review and was tabled in Parliament in September 2003. Non-contributory cash transfers aimed at children and 'families' include the Child Support Grant (CSG), which goes to the 'primary caregiver' of the child; the Child Disability Grant (CDG) for severely disabled children requiring permanent home care[84], and the Foster Care Grant (FCG)[85].

The Department of Social Development has taken additional steps towards realising its commitments to children and their caregivers. It has launched a campaign to

improve access by raising awareness about grants and fast-tracking birth registration. It also set up an inter-ministerial Committee of Inquiry into a Comprehensive Social Security System to undertake research and consult about the current system's limitations and reform requirements. The committee's many far-reaching and important recommendations cover a wide range of aspects. Of particular relevance to children is the call for a Basic Income Grant (BIG) for all South Africans. The committee has also made recommendations for improving access to grants for children without adult caregivers, such as those living in 'child-headed households' or living on the streets.

The national Department of Social Development has been developing norms and standards to improve the delivery of social security benefits across provinces. These aim to improve and standardise administrative procedures.

Respondents' views

In general, respondents felt that there is poor realisation of socio-economic rights at all levels, and that children and families lack knowledge about resources within their communities.

They concurred that Government's provision of social security and basic services to children is lagging. Despite relevant legislation, children are denied their rights to resources because of slow, lacking in capacity service delivery. Plans to address these challenges do not seem to exist or are poorly advertised: for example, one respondent had the impression that there are no co-ordinated plans to register children for social security grants.

Many children do not know anyone who can assist them, and therefore do not receive the grants to which they are entitled. Some respondents suggested that a system to fast-track the most desperate cases is needed to speed up grant access.

Respondents also felt that the government's budget fails to acknowledge the need to prioritise the financial needs of children. Although Government is extending the age limit of the CSG, it is not committing funds to delivery. There is little information on intra-household expenditure, especially regarding children's expenses. Key respondents were fearful that CSGs are not being spent on children.

In addition, respondents identified that children's right to be fed and healthy is being violated through situations of extreme poverty. One participant mentioned that the country's policy around the provision of food security for children was calamitous:

> *"We need to get food to children within two weeks or they will die, or prostitute themselves, or go on the street."*

She suggests that the State enable credible NGOs and faith-based organisations to deliver food to children in desperate need.

Children's right to shelter is also jeopardised: although houses are being built, they are of inferior quality. Overcrowding in townships also affects the right to shelter.

Another key respondent questioned whether a strong focus on poverty alleviation is necessarily the only solution. South Africa appears to apply a fairly conventional market-oriented economic strategy and, although this may ensure a fairly strong tax base for redistribution purposes, income disparities appear to be on the increase.

The highly unequal distribution of income and other resources continues to perpetuate some of the injustices of the old apartheid system. Another important issue is whether an improved economic situation at all levels of South African society will be sufficient to create an enabling society for the realisation of children's rights. Unequal income distribution ensures a high degree of segregation, unequal opportunities, racial discrimination, social distrust, violence and criminality, which in turn negatively affect the rights and lives of children. The fact that the situation for poor children is worsening despite some alleviation measures is highly alarming.

Conclusion

Government has responded to children's vulnerability and historical and current inequality by making a policy shift towards a developmental approach, with specific attention to poverty alleviation. However, South Africa still lacks a co-ordinated and integrated poverty reduction strategy.

At a programme level, the State has relied heavily on social assistance provisioning as its primary response to child poverty. Interventions appear unco-ordinated and fragmented, and there has been limited evaluation to determine impact and improve effectiveness. Contributing to this failure is the absence of centralised, reliable, accurate and routinely collected indicators of child well-being. There is an urgent need for updated information on the situation of children in South Africa, together with interventions to reduce the influence of poverty on their lives.

Although the State has made some progress in providing housing, water, sanitation and electricity to previously disadvantaged communities, there are huge shortfalls. Social assistance provisioning is one of the main interventions used by Government to target poor children and their families. Despite the impressive increases in the uptake of the CSG and the extension of the grant to children under-14 years, only 3.4 million of the 14.3 million children living in poverty in 2002 were receiving the CSG. Also, the grant does not meet the needs of children between 14 – 18 years of age. Furthermore, the value of the grant is very low, currently set at R160 per child per month. Special consideration must be given to the plight of those HIV-affected children who are not receiving the CSG and the CDG, particularly those who are orphans without traditional carers.

While the government has implemented other poverty alleviating mechanisms and intends to extend social assistance provisioning to children, these efforts still fall short of meeting children's basic needs and fulfilling their socio-economic rights. There is therefore an urgent need to re-examine the government's poverty alleviation interventions.

The Treatment Action Campaign judgement of the Constitutional Court confirmed that, while it is the parents' primary responsibility to provide for children's needs, where the parent is absent or unable to do so, the State has the responsibility to provide for the child's needs[86]. Prior to this, the Grootboom[87] judgement of the Constitutional Court ruled that the child's rights to 'basic nutrition, shelter, basic health care services and social services' must be read in conjunction with the right of the child to 'family care or parental care' or 'to appropriate alternative care when removed from the family environment'. Thus parents have 'primary responsibility to provide for children's socio-economic rights and … the State only has an immediate obligation to provide the socio-economic rights for those children without parental care or when parents are unable to provide for them'[88].

The government's acceptance or rejection of the recommendations made by the Taylor Committee of Inquiry into a Comprehensive Social Security System will greatly influence the progression of children's socio-economic rights in South Africa.

Children's right to the enjoyment of a high standard of health

The CRC states that state parties should recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health (Article 24[89]).

The South African Constitution states that every child has the right to basic nutrition, shelter, basic health care services and social services (Section 28(c)[90]).

The scope of the problem

In South Africa, one in every 22 children dies before her or his first birthday[91]. The national infant mortality rate (IMR) is 45 per 1000 live births[92]. *Figure 2* illustrates the variation in child mortality rates across South African provinces.

The 1998 Demographic and Health Survey reports a national under-5 mortality rate of 59 per 1 000 live births[93]; while the WHO has indicated more recently that South Africa's under-5 mortality rate is 67 for girls and 85 for boys. The increase is probably due to the impact of HIV/AIDS[94]. Under-5 mortality in non-urban areas is 71 per 1 000 live births. In urban areas it is significantly lower, at 43 per 1 000 live births[95].

Though morbidity rates are less easily obtained, it is apparent that poverty is the greatest threat to child survival.

Poverty

The high rate of poverty among South African families clearly impacts on health status and, more importantly, decreases the probability of survival for newborns and infants. Low birth weight, which is strongly linked to poverty, is the second leading cause of death (19.7%) in infants younger than one year[96]. The *South African Health Review*[97] reports that 22% of infants under one year die as a result of perinatal problems, the leading cause of death in this age group.

HIV/AIDS

The IMR has increased steadily from 1991 to the present[98], probably as a result of the HIV/AIDS pandemic. It is estimated that the under-5 mortality rate will almost double by the year 2010 to 99.5 per 1 000 for the same reason[99]. Approximately one-third of infants infected with HIV through mother-to-child-transmission (MTCT) die before their first birthdays and two-thirds die by their fifth birthdays[100]. The Demographic and Health Survey reports that socio-economic factors are the key underlying causes of infant and child mortality. Poor access to health care in rural areas is a primary concern[101]. HIV/AIDS may be the origin of many deaths among young people, where the presenting cause is attributed to tuberculosis, diarrhoea, or other infections[102].

Representative studies suggest that the average national age for first time intercourse is 15 years for girls and 14 years for boys[103]. Estimates are that approximately 4 million episodes of STDs occur annually, with more than 50% of these infections occurring amongst the adolescent and young adult age group. However, adolescents generally have little knowledge of sexuality and reproductive health matters[104].

As a result of the high prevalence of HIV among young women, 89 000 children (around 7.5% of the total number of children born during this period) were infected with HIV between 1st January and 31st December 2002, either at birth or through breastfeeding[105]. Children between the ages

Figure 2:
Child mortality rates in South African provinces
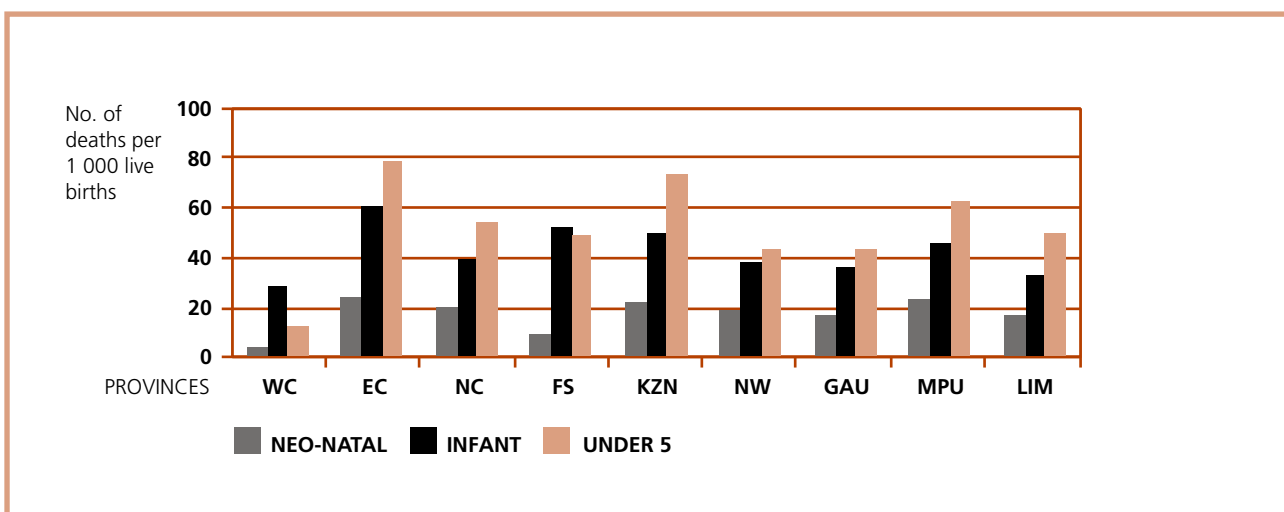
of 15 – 18 are most vulnerable to HIV-infection through sexual contact. Other particularly vulnerable groups include child sex workers, street children, children in detention, and children using intravenous drugs or other substances that lead to risk taking behaviour[106].

The increasing number of HIV-positive children is affecting health service delivery to all children[107]. In areas where infection rates are very high, up to 75% of beds in the children's wards were occupied by children with AIDS-related conditions in 1999, and this figure is expected to have increased since then.

With the increased demand for health care and reduced capacity in the formal health care sector, home-based care is expanding as an alternative for the management of HIV[108]. However, professional and financial resources need to be directed at strengthening home-based care services and improving collaboration between home-based care organisations and other organisations providing care and support services to vulnerable children[109]. There is also an urgent need to address the paucity in voluntary counselling and testing services for children at primary level health care facilities, and the almost complete absence of psychosocial support services for children who are HIV-positive or whose caregivers are HIV-positive[110].

Preventable Diseases

In the South African context, the progression of disease is exacerbated by malnutrition, increased exposure to opportunistic infections and poverty[111]. Prophylaxis and treatment for opportunistic infections (such as TB and pneumonia) for children at primary level health care facilities is not consistently available and, when it is, is often inappropriately administered[112].

Reports indicate that over 500 babies a year are infected with syphilis, a disease that is fully preventable if mothers receive adequate antenatal care[113]. Child morbidity is also related to other infections, most of which prevail in poverty-stricken communities and remain a threat to the health and well-being of children. They include tuberculosis (TB)[114]; malaria; meningitis[115] and typhoid[116].

Injuries, Trauma and Violence

The main causes of death among young people are injury-related, including all forms of accidents, homicide and suicide. A Western Cape survey revealed that nearly 2 000 children up to the age of 19 years were injured with firearms over a five year period[117].

Trauma and violence involving children are the most common causes of death in the 5 – 19 year age group[118].

Trauma accounts for nearly one quarter of deaths in children aged 1 – 4 years, while 77% of deaths in the 5 – 19 year old age group are trauma-related[119]. It is estimated that approximately 3 000 children under the age of 15 die from trauma-related causes every year[120]. Moreover, for every trauma-related child death, a further five children are injured. Figures from a national mortality surveillance system suggest an estimate of more than 12 000 injuries in children annually[121].

These figures indicate that trauma is a significant contributor to child morbidity and mortality in South Africa[122]. Considering the vast numbers of children affected by all forms of trauma, one must conclude that mental health services for children are grossly inadequate[123].

Sexual Abuse and Reproductive Health

Young people[124] are particularly at risk of becoming victims of sexual abuse, gender-based violence and other forms of physical violence and accidents. Sexual and reproductive health disorders, STDs, HIV/AIDS, unwanted pregnancies, and pregnancy-related complications are also crucial health concerns. Teenage pregnancy rates continue to be high, with 35% of all teenagers having been pregnant or had a child by age 19[125]. Approximately one in every five children in South Africa is born to a teenage mother[126]. Although South African law allows pregnant teenagers to continue their schooling, some communities insist that schools prohibit them from attending classes.

Chronic Illness and Disability

A chronic illness is defined as an illness that lasts for a year or longer. Although the number of children affected by chronic illnesses in South Africa is unknown, it is estimated that at least one in every ten children is affected[127]. HIV-infection is expected to increase the number of children living with a chronic illness. Despite the seriousness of the situation, chronic health conditions are neglected by the South African health system[128].

The impact of chronic illness extends to the caregivers of the child. Despite this, access to genetic counselling is limited, increasing the risk of families having more than one child with a genetic condition.

Children living in poverty are more vulnerable to disability[129]. It is estimated that the number of children in need of disability services is approximately half a million[130]. Rural children are twice as likely as urban children to acquire three or more disabilities between birth and 10 years[131]. Moreover, South Africa has the highest prevalence of Foetal Alcohol Syndrome in the world. Children of farm workers are the primary victims of this condition[132].

Child disability has wide-reaching effects on many children and their families. Such children are subject to discrimination and stigma, demanding a response not only to the health needs of these children, but also their social and educational needs. It is important to recognise the contribution of poverty to a child's impairment and its chances of alleviation[133]. It is commonly perceived that sexual abuse and its consequential threat of HIV/AIDS pose a significant challenge for these children.

Programmes often fail to impact significantly on the circumstances of persons with disabilities. Although free health care for children under-6 years of age is government policy, this does not consistently include rehabilitation, while assistance devices are excluded altogether. School nutrition and other programmes do not reach a large number of children with disabilities, as they are presently not attending public schools.

Mental Health and Substance Abuse

Mental illness and substance abuse are major causes of morbidity and mortality in South Africa's young adults[135]. Existing estimates and international data make it safe to assume that approximately 15% of young people in South Africa suffer from mental health problems requiring psychiatric diagnosis[136].

What Government is doing[137]

The transformation of South Africa's health sector is founded on principles of primary health care (PHC). The 1997 White Paper on the transformation of the health system recognised children as a priority group, with special consideration for those living in poverty. Yet, despite significant legislative reform in health over the past decade, the challenge of formulating specific legislation to guide child health care remains.

Two pieces of legislation relevant to child health are currently under review. The revised National Health Bill provides a new framework for the governance, organisation, management and delivery of the health care system. However, beyond recognising their constitutional entitlement, the draft overlooks children as a special group[138]. The draft Children's Bill[139] addresses some of the health care issues overlooked in the National Health Bill, in particular the special health care and financial needs of children with disabilities and chronic illnesses. Given the repertoire and extent of adolescent health issues, it is disturbing that specialised adolescent health care in the South African public health care system is almost non-existent[140].

Over the past few years, a number of plans and programmes have been developed to address national health priorities for children. These include:

1   The Department of Health's Five-Year Strategic Framework[141] makes provision for specific child-related interventions in a number of areas.

2   The National Maternal, Child and Women's Health Policy[142].

3   A package of PHC services was launched in 2000[143]. A similar package for hospital care is being developed.

4   Free health care at the primary level to all users of public health care facilities, and free health care at all state health facilities for children under-6 and pregnant women not covered by a medical scheme. However, many hospitals charge user-fees[144] based on a sliding scale. This could have serious consequences for children living in poverty, especially those requiring frequent hospital care.

5   The Integrated Nutrition Plan (INP)[145] contains some specific interventions for children. However, the INP is not yet fully functional in all areas and still requires significant planning and co-ordination if its intentions are to be realised[146]. From 2004, the Department of Education will be responsible for the Primary School Nutritional Programme.

6   The implementation of the Vitamin A Supplementation Programme is beset by difficulties relating to the procurement and availability of vitamin A capsules. A rapid appraisal[147] showed that only 35% of clinics reported administering vitamin A supplementation to HIV-positive children.

7   Several programmes to reduce morbidity and mortality in young children focus on common preventable childhood infections.

8   Several health-related policies target children of school-going age. The full implementation of these policies is being finalised.

9   Youth and adolescent health policy guidelines[148] present a holistic and integrated approach to health for children and youth aged 10 – 24 years.

10 The Mother-to-Child-Transmission-Prevention (MTCTP) Programme has been implemented to nearly universal coverage in some provinces, although a number of provinces lag behind. However, there are indications that some roll out sites are not operational due to infra-structure constraints.

11 A number of clinical protocols have been developed to guide health practice for the management of adults and children infected with HIV/AIDS.

Respondents' views

Many respondents felt that access to health care services is inadequate. For example, parents often queue at community health centres from the early hours of the morning to make appointments with health care specialists. Children who are not accompanied by adults are not able to access health care facilities. Respondents were also concerned that health services are under-resourced.

Respondents identified major policy gaps with regard to disability. Children with disabilities are often excluded from mainstream and specialist services and their needs are forgotten in systems geared for so-called 'normal' children. There is a concentration on vulnerability; however, children with disabilities are not perceived as vulnerable within the same paradigm.

Children with disabilities are considered extremely vulnerable to neglect and abuse because levels of inequality and resource distribution have a greater effect on them. The respondents claimed that most children with disabilities have difficulty in communicating their needs and defending themselves from abuse and that this poses a great threat to their safety. Parents of children with disabilities require additional assistance, particularly those living in rural areas.

Respondents said that the health and rights of parents as caregivers are not protected, with the result that their children become vulnerable to orphanhood and illness. The HIV pandemic is compounded by the State's failure to provide adequate medication and services. They were of the opinion that health should be approached holistically, with attention to physical, mental, psychological and social aspects.

Respondents also felt that children affected or infected by HIV/AIDS are particularly at risk of having their rights violated. Large numbers of children are losing their caregivers to HIV/AIDS, placing additional and unsustainable burdens on the extended family and community support systems.

With increasing dependency ratios, the elderly in particular have to assume greater responsibility for the care of large numbers of young children.

Service providers reported what they perceived to be an increase in the number of 'child-headed households', a phenomenon believed by many to be the result of the over extension of the 'traditional' social safety net and its inability to provide care and support to all vulnerable children. Some respondents also pointed to the particular vulnerability of children who are living with, and frequently caring for, sick adults. Children affected by HIV/AIDS, with or without adult caregivers, therefore bear the burden of rights violations in a number of different areas, many of these the consequence of their lack of access to basic health and social services.

In addition, respondents are concerned that teenage mothers between the ages of 12 – 18 are regarded as adults within the healthcare system and are not provided with the specialist care they require as children.

Conclusion

Over the past decade, there has been significant progress in the development of a comprehensive set of policies and programmes to address the health needs of children. Despite this the health indicators highlight the effects of poverty and poor access to quality services, particularly in under-resourced provinces. Significant inequities in health status continue to exist. There are, in addition, major infrastructural and capacity disparities between health facilities, with rural facilities the most seriously affected.

Of particular relevance is the government's continuing failure to fully implement the Constitutional Court ruling on the provision of MTCT for HIV-positive pregnant women (Treatment Action Campaign Case)[149]. The Court ruled that parents who can afford to do so must provide health care services for their children. However, if they are unable to do so, the State retains an obligation to provide health care services to every child. This has positive implications for the interpretation of other socio-economic rights[150] in the Constitution.

One key challenge therefore is how to use available resources in a way that allow all children access to a freely available basic package of services. Another is the government's response to the impact of HIV/AIDS on the health of children and their carers, and consequently on the quality of over-burdened health care services.

Children's right to education

The CRC states that state parties should recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity (Article 281[151]).

The South African Constitution states that everyone has the right to a basic education[152].

The CRC requires that governments make primary education compulsory and available free of charge to all, and that they take measures to encourage regular attendance at schools and to reduce drop out rates.

The scope of the problem

South Africa has adopted the approach of education for all, and development and reform initiatives towards these goals are integrated into national strategic plans, policies and programmes[153]. Education is one of the highest priorities in national resource allocation, consuming 6% of the gross domestic product[154]. Despite this, there are high repetition rates and poor learning outcomes at all levels. Matriculation results show generally poor performance and reflect marked gender, geographic and racial differences. Teachers and educators are poorly skilled[155].

In 2000, nearly 12 million learners were enrolled in South Africa's just over 27 000 public schools: two-thirds in primary schools and the remaining third in secondary schools[156]. In the same year, there were over 280 000 learners enrolled in pre-primary classes[157]. However, Biersteker estimates that only 21% of children aged 5 – 7 years were attending ECD facilities in 2000: on average, only 5% of children under-3 years, and 15% of children aged 3 – 5 years[158]. Most ECD facilities in South Africa are located in non-rural areas (40%)[159] and the majority of young children continue to face barriers.

Provinces reported that there were approximately 350 schools for Learners with Special Education Needs (LSEN) in 1999, catering for only 16% of the approximately 400 000 children requiring special needs education[160]. Progress in reducing discrimination against children with disabilities is slow. The current rate of growth in allocations to education for LSEN is unlikely to increase these children's access to education[161].

Attendance
There are no accurate statistics on the numbers of children who are out of school. The Office of the Deputy President[162] estimates that 5% of children aged between 10 – 16 years are not attending school. The Education Atlas[163] reports that over 1.2 million children of school-going age are not attending school, while some 40 000 do so on a part-time basis. Those attending school irregularly include those working on farms, learners attending school part-time because of work or family circumstances, street children, children with disabilities who cannot access schools that accommodate their needs and children who leave school early for other reasons[164].

Children also reported leaving school because their parents were ill or HIV-infected[165]. According to the Education Atlas[166] only 7.8 million children attend school on a full-time basis. Factors affecting attendance include chronic poverty: this incorporates income, physical and social poverty. Another common factor is lack of support from families. Some children are forced to walk long distances from their homes or to travel through unsafe areas. Transport to and from school is a critical area of concern.

> *"It takes about an hour to get to school. I walk a long distance to school… "* (Child participant, National Children's Forum on HIV/AIDS[167])

Provincial inequities play a role in hindering children's access to basic education. Many children living in poverty report being denied access to basic education because they cannot afford to pay school fees or purchase school uniforms[168].

> *"I am sent back home every time they want school fees and I do not have."* (Child participant of the National Children's Forum on HIV/AIDS)
>
> *"They will allow you to attend the school but at the end of the year she would not get her results."* (SA Child Rights Survey)[169]
>
> *"Another problem is that they [children who have been orphaned] do not have tracksuits for school, and then they struggle and they cry to have uniforms."* (An 11-year old, National Children's Forum on HIV/AIDS[170])

Performance
Poor performance in schools is directly related to problems of quality and inequitable funding[171]. These include poor teacher-pupil ratios, equipment and resource shortages, inadequate teaching practices, inadequate facilities and limited provision for pre-school and special education[172]. Despite decreasing variation in learner-educator ratios across provinces in 2000[173], the provincial averages hide substantial differences within provinces. Schools situated in poorer areas continue to have unfavourable ratios[174].

Children in Save the Children Sweden's Child Rights Survey reported that they experienced poor teaching and consequently expected poor results.

> *"I think I will be happy if teachers can get supervisors…they are not doing their work…we are not going to get good results…[175]"*

Learners are spending an average of 12 – 13 years in school, with only one third of each cohort achieving a matriculation pass[176]. The 2000 figures show a 42.1% matriculation failure rate amongst the close to 500 000 candidates[177], the lowest failure rate since 1996. The number of candidates has also dropped considerably since 1996. The matriculation exemption rate in 2000 was a mere 14%[178].

Resources

Many learners do not have access to educational resources in their homes and schools. The largest portion of provincial education budgets is spent on personnel costs, leaving very little for infrastructure, school security, maintenance, stationary, equipment and textbooks[179]. With the implementation of the National Norms and Standards Funding Bill, budgetary provision for learner support material has almost doubled, now averaging R47.80 per learner. However, differences in allocations between provinces remain substantial. Ideally, expenditure should be R100 per learner, which remains out of reach for all provinces[180].

Facilities

The 1996 School Register of Needs audit found a national shortage of over 64 000 classrooms[181]. Only 38% of South African schools have water available on site and an even smaller percentage (26%) have water indoors[182]. A further 24% of schools do not have access to water within walking distance of their premises[183].

Pit latrines (45%) are the most common form of sanitation. Slightly more than one quarter of schools use a flush system (29%), while an alarming 12% offer no form of sanitation to their learners[184]. Electricity is also scarce. The provinces most affected are Eastern Cape, Northern Province and KwaZulu-Natal[185].

Poor Socio-Economic Conditions

Large numbers of children attending school come from homes that lack basic resources, including food. A survey conducted by the Department of Education found a high level of unemployment among parents of school-going children[186].

Findings from this survey also supported the need for the School Nutrition Programme. A quarter of parents nationally – and half in the Eastern Cape – felt that children in the surveyed schools were not well fed or healthy[187]. Children in families affected by HIV are particularly at risk.

> *"Once when my sister collapsed at school, the other children laughed at her and teased… "* (17-year-old, National Children's Forum on HIV/AIDS[188])

Children also said they had difficulty concentrating at school because of the number of responsibilities at home. Many children were breadwinners or caregivers, and the extra pressure of caring for a sick adult or having to earn an income made it very hard for them to cope with schooling.

> *"When your mother has HIV… and she dies and leaves that small baby also with HIV, then you have to go to school, but also look after the baby"* (13-year old[189])

Some children said they were unable to concentrate at school because they were anxious about arriving home and finding that a parent had died[190]. Children also said they were often bullied and teased by other children at school because they are HIV-positive or living in a household that is HIV-affected[191].

Violence

A recent Constitutional Court judgement noted that corporal punishment "…involves subjecting children to violence and degrading punishment". The Court ruled in favour of the prohibition of corporal punishment in schools, based on the State's obligation to reduce violence in public and private life and its special duty towards children[192].

There is growing concern about the levels of violence within schools, between teachers and students, and between students themselves[193]. Despite legislation prohibiting the use of corporal punishment, there are many reports that schools continue to use it. Educators need training and support to use other forms of discipline before it will decrease effectively[194].

> *"Teachers beat us with a duster[195]. I would have to be a mum, babysitter, washing nappies, dishes, all the jobs in the house I was doing by myself…I was also beaten at school. My teachers didn't understand I never had time to do my homework…"* (13-year old)

For girls in particular, violence and abuse are endemic to the school environment. A study in 1998 found that one in three Johannesburg schoolgirls had experienced sexual violence at school[196].

> *I left [school] because I was raped by two guys in my class who were supposedly my friends."* (13-year old girl)[197]

A study of three provinces by Human Rights Watch found that South African girls face multiple forms of sexual violence

at school, including rape, sexual abuse, sexualised touching and sexualised verbal degradation. Fellow students usually commit this gender violence. Furthermore, the findings identified that "…teachers engaging in serious sexual misconduct with under-age female students is widespread"[198].

Despite the vulnerable circumstances under which children are being educated, a national policy addressing sexual harassment in schools does not exist.

What Government is doing

The South African Schools Act (No. 84 of 1996) defines the right to basic education as compulsory education for all children aged 7 – 15 years (or in Grades 1 – 9). Education beyond Grade 9 is considered 'further education'. To give effect to this right, a large number of laws, policies and programmes have been developed. The first White Paper (1995) formed the principal reference point for subsequent policy and legislative reform in the education system[199]. The last few years have been devoted to incremental implementation under the banner of *Tirisano*.

Some important legislative developments include the National Education Policy Act (1996) and the South African Schools Act (1996). The Schools Act makes provision for a school fee exemption process and stipulates that no child may be refused admission to a public school because of non-payment. However, all parents are liable to pay a fee agreed upon by a school governing body, unless exempted[200].

The Employment of Educators Act regulates the professional, moral and ethical responsibilities and competencies of educators, and is of importance in relation to practice in schools with regard to vulnerable children.

Other statutes relevant to education but managed by other government departments include: the National Health Bill, the Child Care Act, and the draft Children's Bill, which makes provision for the exemption of certain categories of children from payment of school fees and the provision of subsidised uniforms, shoes and stationery to children in court-ordered care.

Some important recent policy developments and education campaigns are described below.

1. The Education for All Campaign includes the target of providing comprehensive ECD services by providing a Reception Grade for all 5-year olds by 2010. There are related plans to implement poverty-targeted nutrition, particularly to children made vulnerable by HIV/AIDS. The goal is to ensure that all children by 2015 have access to and are able to complete primary education that is free, compulsory and of good quality.

2. The priorities of the Ministerial *Tirisano* Call to Action include a focus on expanding the role of schools in the community, expanding education coverage for youth and adults in response to development needs, and addressing HIV/AIDS through the education and training system[201]. The Department of Eduction has identified three important gaps within the proposed implementation of *Tirisano*, namely programmes to address problems related to gender equality, ECD, and education for learners with special needs[202]. However, 'special needs' initiatives appear to prioritise needs related to some form of physical or mental disability, while delaying considerations for children with special needs related to socio-economic vulnerability.

3. Whole School Evaluation provides a focus on school effectiveness and educator professionalism[203].

4. Education White Paper 5 addresses ECD and emphasises the development of integrated and intersectoral plans, focusing on health, nutrition, physical development, clean water supply and sanitation[204].

5. Education White Paper 6 provides an overview towards establishing an inclusive education and training system[205].

6. The National Policy on HIV/AIDS for Learners, Educators in Public Schools and Students in Further Education and Training aims to increase learner knowledge about HIV/AIDS through schools and the curriculum, reduce discrimination against those affected by HIV/AIDS, and introduce universal precautions for the safety of learners and educators at education institutions. Implementation has been supported by the development of resources and materials, together with a plan to monitor progress.

7. Through the Safer Schools Programme, the government has introduced various initiatives to address crime and violence in the school environment, such as training on alternative modes of discipline to replace corporal punishment. A National Crime Prevention Strategy for schools has also been developed. However, a national policy on how to address sexual violence and harassment in schools has yet to be developed[206].

Respondents' views

The respondents were of the opinion that children find it increasingly difficult to attend school because of the HIV/AIDS pandemic. The increase in child-headed households, where there is no adult care and supervision, directly affects school attendance. Girl children are more likely to be refused an education and suffer from social barriers to education than boys.

Respondents voiced their concerns about corporal punishment as a violation of children's rights. An underlying cause is the assumption that learners do not have the same set of rights as teachers. Teachers are not educated in children's rights and alternative methods of discipline.

Conclusion

A great deal of progress has been made by the South African education sector since 1994, and developments since 1999 are particularly laudable. However, the data testifies to shortfalls in realising children's right to education. The evidence suggests that the quality of education is sub-standard, with unsatisfactory matriculation rates and persisting inadequate infrastructure.

The extremely high levels of violence within the school environment are of pressing concern. The education environment's response to gender inequality requires consideration. Although legislation and policies to regulate the behaviour of educators in this respect are in place, the stringent application and implementation of these laws and policies is essential to ensure a safer school environment for children.

The number of school-age children not attending school on a full-time basis is high. These children's right to education is clearly being violated. Factors hindering children's access to schooling and educational resources need to be addressed. The improper implementation of the school fee exemption policy is a barrier that perpetuates discrimination against poor children, who are in the majority.

ECD programmes and education for LSEN appear to be particularly neglected. The plan of Department of Education Department to provide comprehensive ECD programmes is commendable and implementation appears to be progressing. However, attention to the under-5 year age group seems to be lacking.

There is also an urgent need to establish the provincial distribution of LSEN to determine the extent of programmes required in each province. Where schools for LSEN are not available, access and support for mainstream schooling is imperative. Moreover, the narrow focus of LSEN on children with medical conditions excludes children who face learning difficulties due to other factors, such as socio-economic conditions. The proposed plan does however consider the response of the education environment to vulnerable children, such as those in poverty – a welcome inclusion.

Provincial disparities cannot be overlooked. Some provinces are impeded from making optimal provision for education. This requires urgent intervention. It is hoped that the 'school effectiveness and educator professionalism' programme will alleviate some of the existing disparities.

Children's right to protection from violence, abuse, neglect and exploitation

The CRC requires that state parties take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (Article 19[207]).

The South African Constitution provides that every child has the right to be protected from maltreatment, neglect, abuse or degradation (Section 28.1(d)[208]).

Figure 3:
Crimes against children for the period 1996 – 2001
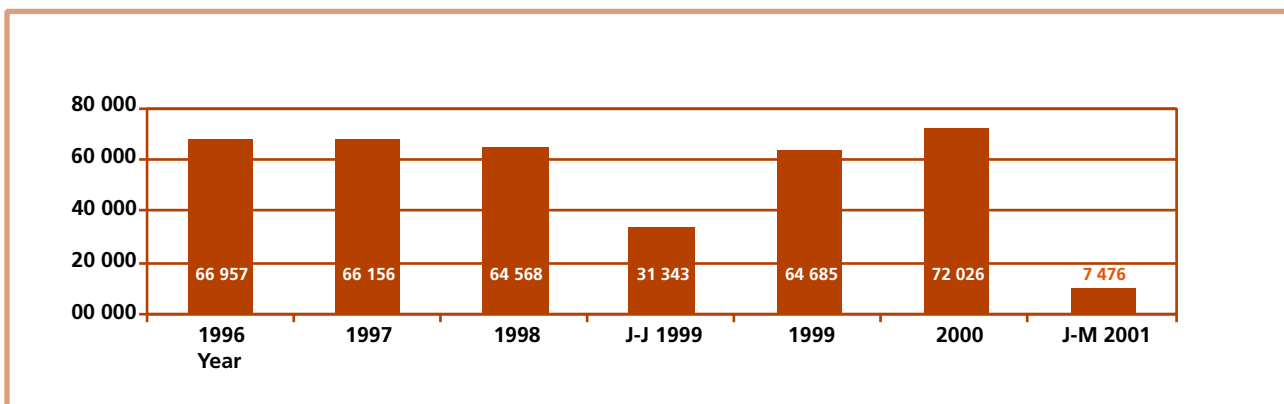
SOURCE: Data from South African Police Services, provided by RAPCAN

The scope of the problem

"From 1.30 pm we are on the streets. We want safe parks. We are scared to go to the parks because it is not safe to go to the parks." (Primary school girl, informal township[209])

The number of crimes reported against children in South Africa has reached alarming proportions. *Figure 3* illustrates crimes against children for the period 1996 – 2001, peaking at over 72 000 reported crimes in 2000. The years 1999 and 2001 represent the lowest figures, due to a lack of data for these years. There are no accurate statistics on children's exposure to violence, since much abuse and neglect remains unreported.

Crimes against children include kidnapping, assault, murder and attempted murder, rape and incest, amongst others[210]. In 1996, 59% of crimes reported by young people involved rape, 15% assault and 10% violence and intimidation[211]. In 2000, common and aggravated assault combined were the most common crimes against children, with over 36 000 reported cases[212]. Violence in schools is a growing problem and the incidence of domestic violence against women and children is extremely high. In urban areas, gangsterism is rife[213]. The result is that violence has come to be seen as normal, with child survivors inclining towards violence themselves[214]. Factors that increase the likelihood of persistent offending by children are poverty, limited opportunities for youth, alienation from school, and substance abuse[215].

Child Abuse, Neglect and Exploitation
Child abuse, neglect and exploitation appear to be on the increase in South Africa. The South African National Council for Child and Family Welfare reported just over 2 000 new cases of child physical abuse for the 1998/99 period[216]. Children are either the targets or witnesses of domestic violence and may, in some instances, be the perpetrators of violence in the home[217]. Many parents continue to practice physical punishment and chastisement as a method of discipline[218]. There is evidence that children who witness, overhear or see violence in their environment experience trauma.

Political and Intra-Community Violence
Political and intra-community violence has affected large numbers of children and families. Between 1991 and 1994, nearly 50 000 children were displaced, 2 000 physically traumatised and more than 7 000 abandoned as a result of intra-community violence.

Homicides and Gangsterism
Some 25% of the non-natural deaths of children younger than 18 years between January and June 1999 were homicides[219]. Nearly half were the result of firearms and a third were perpetrated with a sharp object. Homicide victims were predominantly male, black and on average 15 years old. Gun Free South Africa reports that South Africa has the highest firearm homicide rates in the world[220].

Many children are caught in the crossfire between gangs, or in drive-by shootings. A study found that an average of one in four children had witnessed incidents such as gang

fights or robbery[221]. Children faced with unemployment, boredom, violence and poverty in their environments turn to crime and violence themselves.

Exposure to violence impacts on the development of children in different ways[222]. Children who are victims of abuse may become abusers themselves if they do not receive effective intervention[223]. *Figure 4* illustrates the increase of violent crimes against children from 1996 – 2000.

Services are mostly concentrated in urban areas. Children suffering abuse and neglect are less likely to be identified and helped in rural areas, and they have less access to appropriate services[225].

South African Police Services (SAPS) precinct data and evidence (such as presented in *Figure 4*) indicates that crimes against children are likely to be significantly higher in poor areas. A number of poverty-related factors may cause poor children to be particularly at risk. Parents struggling to cope with the strains of poverty may resort to abuse. High levels of alcohol use increase the risk of abuse[226]. This and other data suggest that people who live near the child, who are acquainted with the child or the child's family and who have time on their hands, pose a particular risk. While the intra-familial statistics are alarming, it is clear that 74% of the offenders are not family, although they may live in the same household. In addition, and given the co-occurrence of 'race' and socio-economic status in this country, the racial profile of the victims suggests that girls living in disadvantaged communities are most vulnerable[227].

It is more difficult for parents living in dangerous neighbourhoods to protect their children from abuse. Children who live in abusive households tend to play outside the home, reducing the caregiver's ability to monitor their whereabouts, and making these children vulnerable to sexual and other forms of abuse in the neighbourhood[228].

Sexual Abuse

> *"A mother goes to work, leaving a child with the father. The father touches the child. The girl was crying when the mother got home…"* (11-year old[229])

In 2000, the second most common type of crime committed against children was of a sexual nature. These crimes included rape, sodomy, indecent assault and sexual offences, with the number of reported sexual crimes against children amounting to over 25 000. Sexual crimes against children for 2000 were the highest in KwaZulu-Natal, with just under 5 500 reported[230].

Rape is among the most prevalent crimes against children, amounting to almost 42% of total crimes against children in 1998[231]. Many reports indicate that the victims of this crime are infants and very young children[232]. In the first three months of 2001, just over 5 400 cases of child rape were reported nationally[233]. The prevalence of rape is 472 out of 100 000 of the female population in the 12 – 17 year age group. In the under-12 year age group, the prevalence is 130 out of 100 000 of the female population[234]. There is a common perception that children with disabilities are particularly vulnerable to sexual abuse. Furthermore, while girl children have traditionally been at risk of being abused, and are abused more often, many boy children are also sexually abused[235].

Figure 4:
Violent crimes against children for the period 1996 – 2000
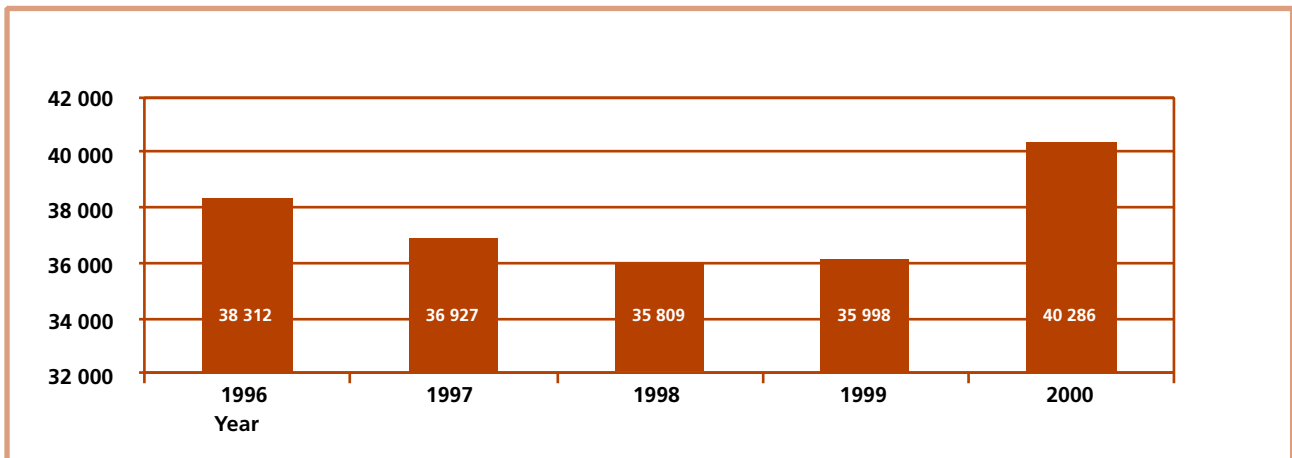
SOURCE: Data from South African Police Services, provided by RAPCAN[224]

However, even these figures do not accurately reflect the situation. It is well known that recorded sexual crimes greatly under-estimate prevalence, due to under-reporting. Also, less injurious crimes than rape are far less likely to be reported[236].

The extent to which sexual abuse contributes to HIV-infection in children is not known. Models (such as the Actuarial Society of South Africa's ASSA 2000) used to calculate the number of people infected in South Africa are based on the assumption that mother-to-child-transmission is 100% accountable for infections in children under the age of 14 years[237]. However, with the increasing prevalence of HIV-infection in the adult population, the risk of children acquiring HIV through sexual abuse is also increasing. A recent household survey on HIV-prevalence completed by the HSRC reported disturbingly high rates of HIV-infection in young children. Of children between the ages of 2 – 14 years, 6% were found to be HIV-positive. The figures could not be accounted for by MTCT alone[238]. These findings point to the urgent need to understand more fully children's risks of acquiring HIV through sexual abuse and the systems and services that need to be put in place to reduce these risks.

> *"After my mother died, my father started to rape me…When I got sick, I went to the clinic and they told me that I had HIV[239].* (16-year old girl)

Increased reporting of child sexual abuse indicates that this type of abuse is either on the increase or is being more widely reported and spoken about. However, inconsistent definitions of child sexual abuse and inadequate recording prevent the accurate collection of administrative and statistical data[240].

Child Trafficking and Sexual Exploitation

Despite the absence of official statistics, the number of children involved in the sex industry is increasing considerably, placing them at high risk of contracting sexually transmitted diseases[241] such as HIV/AIDS.

Social workers and the Child Protection Unit (CPU) estimate that 28 000 children work in the sex industry in South Africa[242]. In 1998, the Johannesburg CPU worked with an average of 15 new cases per month, involving girls aged 13 – 18 years participating in the sex industry[243]. The CPU also estimated that 25% of Cape Town's street children were working in the sex industry in 1997[244]. The Sex Worker Advocacy Taskforce (SWEAT) has verified these findings for Cape Town[245]. However, various estimates for the number of children involved in the sex industry exist, as it was for example reported in 1998 that the police dealt with 38 000

children involved in the sex industry in that particular year[246]. Molo Songololo found that the trafficking of children for sexual exploitation occurs predominantly within South African borders. Girls from 4 – 17 years of age are the primary targets, although boy children are also victims. The study showed that parents and local gangs are the primary traffickers of children, sometimes in collusion with each other. Where cross-border trafficking occurs, traffickers are foreign individuals or crime syndicates from Eastern Europe, Mozambique and Thailand[247].

Several sources have identified Gauteng and Western Cape as provinces of destination for children originating from the Eastern Cape and KwaZulu-Natal. Children are also trafficked from informal settlements to nearby suburbs. In gang-infested communities, children are abducted and held captive in their own communities[248]. A wide range of individuals and groups are involved in such trafficking, including club owners, taxi drivers, gangs and syndicates, as well as family members. Teachers and police officers have also been identified as sex exploiters of children.

The underlying causes for children becoming involved in the sex industry are economic. Families, particularly single parent families, are faced with finding alternative means of obtaining an income. This, together with the related breakdown of families and changes in cultural attitudes and practices, places children at risk. Most of the children involved receive no payment, though their traffickers are remunerated in amounts ranging from R10 to R150[249].

Child Neglect and Abandonment

The incidence of child neglect is not well established as only extreme cases reach the attention of authorities. For the 1998/99 period, over 8 000 cases of child neglect were reported to the South African Council for Child and Family Welfare, an increase of 121% on the previous year. Provincial social development (then welfare) services reported over 23 000 cases of child neglect in 1997/98[250].

Cases of abandonment received by child welfare agencies increased by 112% for the year 1998/9. Most babies are abandoned in hospitals, chiefly as a result of HIV and poverty. The National Council for Child and Family Welfare had over 1 000 existing cases of abandonment on their caseload in 1998/9 and nearly 3 000 newly reported cases. More than one-third of the cases were in KwaZulu-Natal, followed by Gauteng and the Eastern Cape[251].

Child Labour

A household-based Survey of Activities of Young People (SAYP) conducted in 1999 found that 36% of children in

South Africa were working in 'economic' activities for a minimum of three hours a week, and a smaller number (12.5%) were engaged in 'economic' activities for 12 hours per week. Of these, 30% are between 5 – 14 years of age, and some of their work-related activities may be in contravention of the law[252]. Of the children working in economic activities for a minimum of three hours per week, 59% felt they had a duty to help their families, and an additional 15% said they worked to assist the family with money[253]. These children were also engaged in several hours of household chores per week. Some of the work children engage in may be harmful to them, either because of the environments in which they are required to perform duties, or because they are physically, mentally or emotionally immature for the work required of them.

In predominantly rural areas, approximately 200 000 children are forced to work on farms, where they are generally under-nourished and exposed to a variety of hazards such as pesticide poisoning and injuries related to farming equipment. Children living on farms are also at risk of drowning in unfenced dams and the majority are victims of, or at risk of developing, Foetal Alcohol Syndrome[254].

What Government is doing

The Department of Social Development has taken several steps towards realising its commitments to children and their caregivers[255].

1. The Child Care Act (No. 74 of 1983) provides a regulatory framework that focuses on the child who has already suffered abuse or neglect.

2. The Children's Bill is aimed at harmonising all relevant childcare legislation in South Africa and at ensuring that the new provisions take into account South Africa's international law and constitutional obligations towards children. The Bill was intended to make provision for a system that focuses not only on supporting children who are already 'in need of care' but also on preventing abuse and neglect and actively supporting caregivers to care for their children. The Bill originally emphasised primary prevention with regard to child protection[256]. In particular, it proposed the development of a comprehensive national strategy to identify, assist and promote the best interests of children in need of protection[257]. However, the aptitude of the original Bill has been drastically reduced and it no longer includes vital provisions for preventive measures and inter-

departmental accountability. The abridged Bill has been tagged into Section 75 and 76 Bills, and Section 75 tabled in Parliament in November 2003.

3. The South African Law Reform Commission (SALRC) has drafted a discussion paper and draft Sexual Offences Bill[258], in which the child is defined as being under the age of 16 years. It is a landmark Bill in a number of ways. It broadens the definition of rape, widens the definition of 'vulnerable witnesses', and limits the amount of harassment to which a witness in a rape case can be subjected by the defence. The Sexual Offences Bill is currently being discussed by the Portfolio Committee on Justice, which intends to have it passed by Parliament before April 2004[259].

4. A draft policy on the notification of suspicion of possible ill-treatment of, or injury to, children from nutritional deficiency diseases has been developed, as well as a computer programme to register these cases. Training is underway and police officers have been attached to CPUs[260].

5. A draft Integrated National Strategy on Child Abuse and Neglect was developed in 1996[261]. However, due to administrative delays, this draft document did not become official. Recently the Department of Social Development have engaged in a series of processes to review and rewrite the document, and are now finalising the redrafting process[262].

6. The purpose of the National Child Protection Strategy is to address child abuse, neglect and exploitation in an effective and integrated manner. This strategy is being prepared by the Department of Social Development, and should be clearly linked with the National Plan of Action[263]. In theory, the strategy is based on a 'holistic, intersectoral and multi-disciplinary partnership' at national, provincial and local levels.

7. The Criminal Procedures Act offers child victims of crime special protection. Some specialised courts for victims of sexual offences have been developed; alternatively, specialist personnel are used to deal with these cases. There is a move towards family courts in South Africa, with pilot projects already established[264]. Although the development of a specialised court system and the provisions made for child survivors is commendable, a lack of efficiency in the system is likely to exacerbate

rather than alleviate the effects of the crime on the child. However, the appointment of an intermediary remains at the discretion of the court. Practitioners are concerned that, in many instances, intermediaries are not used, placing the child witness under unnecessary duress[265].

8. The Domestic Violence Act, 1998, provides a quick and cost effective procedure to obtain a protection order.

9. The Draft Firearms Control Bill was approved by Cabinet in 1999 and was passed by Parliament in 2000. Its aim is to reduce the proliferation of firearms by restricting the number of licenses issued by the State, and ensuring that persons unfit to own guns do not obtain licenses.

10. The South African Schools Act, 1996, outlawed corporal punishment in schools[266]. Regulations under the Amended Child Care Act, 1998, ban the corporal punishment of children in residential care. The Abolition of Corporal Punishment Act, 1997, repeals any law that authorises corporal punishment by a court of law[267]. Corporal punishment has not been banned in the private sphere (i.e. in family homes). However, the SALRC draft of the Children's Bill, handed to the Department of Social Development in January 2003[268], included an indirect ban on corporal punishment in the home by revoking the common law defence of 'reasonable chastisement' that is available to a parent facing a charge of assault. This means that caregivers who are charged with injuring or assaulting their children cannot use 'discipline' as a defence. The Commission's recommendation is coupled with the suggestion that the State will have to take concrete measures to educate the public about the abolition of the parental right to chastise children physically, as well as making parenting programmes available to promote appropriate discipline strategies[269]. The latest version of the Children's Bill has, however, been watered down and no longer revokes the common law defence of 'reasonable chastisement'[270].

Although the provisions of the above policies and legislation may apply to child labourers, there is currently no child labour policy[271]. Legislation was due to be passed in 2000 but this did not occur. However, the Basic Conditions of Employment Act, 1997[272], does make some provision for the protection of children who are employed. It also prohibits the employment of children younger than 15 years, or under the minimum school-leaving age. The Act prohibits the employment of children for work that is inappropriate for the

child's age, or work that places the child's well-being, education, health or development at risk. In accordance with the Constitution, the Act also prohibits forced labour. Although the conditions set forth in this Act are commendable, grey areas and gaps pertaining to children engaged in various forms of labour still exist. Adherence to this law and its enforcement is also uncertain.

A White Paper on child labour is presently being developed[273], and it is hoped that the Paper will address these concerns.

Existing child abuse services are fragmented and under-resourced, and many practitioners are inappropriately trained[274]. The child protection system is fragmented and unresponsive[275], with insufficient personnel. In 1997, only 2.8% of detectives were dedicated to child protection services. In 1999, only four provinces had Family Violence and Sexual Offences Units, with a total of 13 in the country. CPUs are also insufficient, totalling 27 across the country[276].

Reports of the breakdown in service provision of child protection and intervention services are numerous, partly due to a lack of communication and co-ordination between service providers. Civil society organisations are the major role players in the provision of services to children and their families, and are often over-burdened by the demand for their services and obliged to provide services with limited human resource capacity and under severe financial constraints.

Respondents' views

Respondents were unanimous that the abuse of children is one of the greatest violations of their rights. Children's right to protection from all forms of abuse and violence is persistently violated, as is evident from the very high rate of child abuse nationally. The right to protection is also violated because protection measures are not implemented. For example, the police are reluctant to get involved in domestic violence matters.

Respondents concurred that drug and alcohol contribute to high levels of abuse. Lenient sentences for child rapists and molesters are degrading to the child. Children who are forced to sell their bodies for sex, one of the worst forms of violation, experience a lasting impact on their characters, personalities and well-being. Not enough is being done to prevent sexual exploitation in terms of programmes. Respondents felt that, although there is legislation and policy to control the commercial exploitation of children, implementation is insufficient.

Girls are far more vulnerable than boys – to HIV/AIDS,

sexual abuse and abduction for the sex trade. They are also more vulnerable to abuse and neglect when they grow up in communities that do not afford girls an equal voice.

> *"If a girl has been raped the boy is considered a man, and no consideration is given to the girl."* (Respondent)

In contrast, one participant mentioned that she felt that boys might be more vulnerable than society has given credence to.

Respondents also voiced their concern that many South African children are afraid. The issue of safe communities, safe places to play and access to recreation activities is a very important, albeit neglected area. It should be linked to programmes that build resilience. Moreover, issues of drug abuse and gang formation have not been adequately addressed. The effects of gang violence on children in gangs or living in gang-infested neighbourhoods need to be studied to provide alternative places of safety for children in unsafe communities.

Conclusion

Child abuse statistics indicate either an increase in the occurrence of abuse or an increase in reports of abuse. However, the need for education and training in early identification and appropriate responses remain, particularly in rural areas. Under-reporting of child abuse continues to be an obstacle to ensure timely and appropriate interventions for child survivors.

Poverty is indicated as a factor that places children at greater risk of abuse. Studies of child trafficking for sexual exploitation, as well as child neglect and abandonment and child labour, highlight similar factors: poverty and HIV, family breakdown, and community attitudes and practices.

Service delivery is described as fragmented, piecemeal and ineffectual. Although legislation, policies and programmes are relatively well developed, co-ordination between these is necessary, as proposed by the draft Children's Bill. A number of relevant policies are currently in draft form and it is hoped that they will be prioritised to expedite appropriate child protection systems and programmes. There is an urgent need to identify the obstacles preventing effective service delivery and programme implementation in the arena of child protection services. Budgetary constraints on welfare services therefore require careful consideration.

Children's right to special care, special protection and assistance

The CRC states that the State must provide special protection for children deprived of their family environment and ensure that appropriate, alternative family care or institutional placement is made available to them, taking into account the child's cultural background (Article 20).

Further, state parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee...shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance... (Article 22).

The South African Constitution provides that every child has the right to family care or parental care, or to appropriate alternative care when removed from the family environment (Section 28 (1)(b)[277])

A number of children require special care and protection due to particular circumstances that render them vulnerable. For some children, a combination of factors, such as being affected by HIV/AIDS and poverty, exacerbate these vulnerabilities.

The scope of the problem

HIV/AIDS

One of the greatest threats to the realisation of child rights in South Africa is the HIV/AIDS pandemic.

South Africa currently has more people infected with HIV (approximately 6.5 million) than any other country in Africa. The incidence of new infections peaked in South Africa in 1998 at around 930 000 new infections per year. In the absence of any significant treatment interventions, HIV-prevalence is expected to peak in 2006 at around 7 – 8 million infected individuals; by 2010 we can expect over 800 000 AIDS-related deaths annually[278].

Of particular significance to children is the fact that four times more women are infected than men. An estimated 3.2 million women of childbearing age (15 – 49 years) were living with HIV/AIDS in July 2002. The number of children who have been orphaned is rapidly increasing, as is the proportion of parental deaths that are AIDS-related, with over 150 000 children losing a mother to HIV/AIDS in 2002 alone[279].

Estimates show that treatment interventions – specifically the provision of voluntary counselling and testing and antiretroviral treatment (ART) programmes – would reduce the number of children orphaned due to HIV/AIDS in South Africa[280]. This assumption is based on exceptionally optimistic estimates of an ART roll out – 54% by 2005 and 90% by 2007. If ART roll out were to occur at these rates, the numbers of children orphaned would be reduced by 25% in 2020 in the case of maternal orphans, and by 44% in 2020 in the case of double orphans[281].

While much of the literature around the impact of HIV/AIDS on children focus on children who have been orphaned, where orphanhood is preceded by terminal illness such as HIV/AIDS, children are frequently rendered vulnerable long before a caregiver dies[282]. While there are no national figures for the total number of children living with sick/dying caregivers, the number is likely to be substantial and growing in the shadow of every new HIV-infection.

Children living in HIV/AIDS-affected households typically face increased social, emotional and physical risks, including the risk of contracting opportunistic infections. Poverty in many HIV/AIDS-affected households is exacerbated by reduced income earning capacity and increasing expenditure[283]. Children in these households frequently assume increasing responsibility for household income and care, often resulting in reduced opportunities for education[284]. In addition, several reports document the discrimination commonly faced by HIV/AIDS-affected children[285].

Government's response to the needs of HIV/AIDS-affected children has been slow. By far the majority of services are delivered through the non-governmental sector, with a heavy reliance on the poor to care for the poor[286]. Existing state services are grossly inadequate. For example, social security grants are inaccessible to children living without adult caregivers or children living with only very young adult caregivers. Where caregivers succeed in accessing grants (overcoming massive administrative hurdles), the grant is automatically stopped when the caregiver dies, leaving children with no financial support at a time that they arguably need it most.

While the government has put in place a National Integrated Plan to address the needs of HIV/AIDS-infected and affected children, many of the goals of this plan remain unrealised, partly as a result of insufficient human and financial resources and poor inter- and intra-sectoral collaboration. The National Action Committee on Children Affected by HIV/AIDS (NACCA), hosted by the Department of Social Development, provides a multi-stakeholder forum for Government and civil society to share experiences and promote policy implementation. This co-ordination structure is suppose to operate on provincial, district and municipal levels. Whilst NACCA and district level structures are fairly active, the challenges are to support this co-ordination structure to become more effective at the provincial level. Opportunities for the identification, care and support of potentially vulnerable children within existing services, such as schools and health care services, are frequently unrecognised and, in some instances, these services contribute to rather than address the vulnerability of HIV/AIDS-affected children[287].

Children in Need of Alternative Care

Children found to be in need of care during Children's Court proceedings are placed in alternative care. In a crisis, a child may be removed without a court order and placed in a place of safety pending investigation. Children's Court orders are usually of two-year duration but can be extended if this serves the best interest of the child[288].

In 1997/98, there were close to 150 registered children's homes (over 10 000 beds) in South Africa, and close to 40 places of safety (over 2 000 beds[289]). Currently in the Western Cape, over 2 000 children are accommodated in 42 children's homes across the province[290]. It is unlikely that poorer provinces have as many children's homes. Just over 104 000 foster care clients received supervision in 1997/98[291]. There have been reported incidents of child rights violations in

children's homes and places of safety in recent years.

All services to children and their families should promote family preservation, the principle being that children should remain within families or communities of origin. When a child is placed in foster care, communication with his or her family should be maintained unless this is proven not to be in the best interests of the child[292].

Children in Prison with their Mothers

A female prisoner may be allowed to care for her baby or young child who accompanies her on admission to, or who is born in, prison. This is an interim measure and suitable placement is actively sought. While the child is in prison, the Department of Correctional Services is responsible for its appropriate physical, mental, and social care and development[293].

In 1999, there were over 200 infants and young children with their mothers in correctional institutions; two children were born in prison, and just over 100 were admitted with their mothers. Of the total number of children in prison, slightly more than 80 were transferred to foster care[294].

Children Living on the Streets

South Africa has roughly 10 000 – 12 000 homeless children, the majority of whom live on the streets of major cities. These children are exposed to and suffer from a variety of health-related problems. They are also at greater risk of contracting illnesses and diseases. Their abuse of substances and lack of access to, or denial of, health care services contributes to their persistently poor health conditions[295].

Children living on the streets are also exceptionally vulnerable to sexual exploitation, increasing their exposure to HIV-infection and other sexually transmitted diseases. There is also a high incidence of teenage pregnancy among female street children, which result in high rates of infant mortality and low birth weights[296].

Non-National Children

Foreign or non-national children have limited protection in South Africa and are often vulnerable to abuse and neglect[297]. The determination of the status of foreign children is a great challenge. Citizenship in South Africa is determined by the nationality of parents. A child who is a non-citizen cannot enter or reside in South Africa without the government's permission, unless the child fulfils the requirements of acquiring refugee status[298].

A child's refugee status depends on the status of his or her parents but unaccompanied children may seek asylum in their own right. According to the Child Care Act, any unaccompanied child from a foreign country is considered to be a child in need of care, and the Department of Social Development is required to deal with the case in terms of existing welfare legislation[299]. In reality however, foreign children struggle to obtain recognition as children in need of care due to barriers in accessing the Children's Court. These barriers are mainly due to children's lack of documentation and authorities' uncertainty regarding their responsibility towards these children[300].

South Africa is currently home to 23 344 recognised refugees, of which approximately 1 700 are children[301]. Refugee children are often traumatised; most have lost family members or have been exposed to the horrors of war and find themselves in situations of extreme poverty and distress. Most of them do not speak local languages and are often victims of xenophobic attitudes and practices, particularly in the school setting[302]. Children of refugees are also vulnerable to removal from their families, as these families often struggle to support their children and have limited access to social assistance[303].

There are no statistics or estimates of children falling into the undocumented migrants category[304]. Lack of correct documentation and fear of registering children are renowned problems[305]. Currently, children who are not awarded refugee status and who are deported are left at border posts or train stations. It is imperative that the circumstances of these children are thoroughly investigated, to prevent their return to harmful situations in their country of origin. If it is deemed inappropriate to return children to their country of origin, provision should be made for children to remain temporarily in South Africa. A comprehensive plan for the safe return of such children into a protective environment is required[306].

The government does not provide refugees with accommodation, food or other material assistance. The United Nations High Commissioner for Refugees and local NGO partners provide basic assistance to a limited number of vulnerable, needy refugees[307]. Likewise, foreign, undocumented children are vulnerable and may be denied critical access to medical, social and other forms of assistance due to a lack of clearly defined legislation[308].

Children in Conflict with the Law

Despite the provisions of international and local instruments on the rights of children, many children continue to be detained under unsatisfactory conditions in South African prisons. In March 1997, close to 800 children were detained while awaiting trial. In 1999, the numbers of children awaiting trial in prisons had more than doubled to just less than 2 000. The

numbers of children sentenced to terms of imprisonment have increased, as has the length of prison terms[309].

Unconvicted children are worse off than sentenced children and adult prisoners in respect of clothing, bedding, recreation, health care and education. In most prisons, unconvicted children cannot access educational and recreational programmes, and are restricted to their cells for most of the day[310]. The Department of Correctional Services does not have the staff, resources or facilities necessary to ensure that children's rights are protected, or to keep children in appropriate conditions[311].

There is at present no dedicated legislation that addresses children who come into conflict with the law and, according to the Child Justice Alliance[312], the various departments, policies and laws that currently guide responses to child offenders are incoherent, often resulting in serious violations of children's rights.

What Government is doing

A draft Child Justice Bill was released by the SALRC and tabled in Parliament in August 2000. It applies to children who have come into conflict with the law[313]. The Bill will be presented to the Portfolio Committee for further discussion and debate after departmental redrafting to include recommendations made at public hearings[314].

The Department of Social Development has taken several steps towards realising its commitments to children and their caregivers. These include:

1. Minimum standards for South African child and youth care – transformation of the child and youth care system. The new framework emphasises prevention and early intervention[315].
2. Policies relating to children in prison with their mothers[316].
3. The Department of Social Development has introduced mechanisms to monitor and ensure quality childcare at residential care facilities[317].
4. The Department for Social Development hosts the National Action Committee on Children Affected by HIV/AIDS (NACCA) and in early 2004 the department will be developing an OVC policy framework with implementation guidelines for government and non-government service providers.

Respondents' views

Respondents felt that children without adequate supervisory care, such as those living in child-headed households or orphans, are at risk. Girl children in these environments are of particular concern. Children on the street were considered most vulnerable, as their rights are most likely to be violated by official and civilian forces.

One respondent linked the issue of increasing numbers of children lacking adult care with the notion of encouraging a 'foster society'; making South Africans more responsive to the adoption and fostering of children. Within the fostering system, the Child Commissioner's slow response to cases is a matter for concern. The lack of speed in placing children and advising Government was discussed as an important stumbling block to the provision of satisfactory alternative care for children who live in dangerous situations.

Respondents also highlighted refugee children as a 'forgotten group'. Another respondent confirmed that very little work has been done for migrant children in South Africa, and that they do not receive services because their parents do not have the appropriate papers.

Conclusion

Some children are particularly vulnerable due to their circumstances. They remain neglected and without appropriate systems of care, special protection and assistance. They are made increasingly vulnerable because of inadequate service provision and care arrangements.

Most alarming is the fact that children affected by HIV/AIDS are faced with crises on a daily basis; yet few processes exist whereby they can access assistance. Government initiatives to support for example children affected by HIV/AIDS, such as the Child Care Forums should be rolled out and supported as a response to the protection of vulnerable children, and in future promote their participation. Children in prison, too, are not accessing their right to protection and special assistance. On the contrary, they continue to face discrimination and neglect. The Child Justice Bill is a welcome response to this and it is hoped that the Bill will expedite appropriate programmes and services for children in prison.

The child and youth care system is under-resourced financially and in terms of human capacity. The quality of care given to children in residential facilities is often sub-standard. It is heartening that the Department of Social Development has introduced mechanisms to ensure quality childcare in these settings. It is hoped that the focus on prevention and early intervention will divert children from entering more restrictive forms of care. The department's welfare services budget is however a key concern due to the low priority it receives.

Children's right to a safe environment

The CRC states that children have the right to be protected against the ill-health effects of environmental pollution. They have the right to be provided with clean drinking water, and a clean and safe environment in which to grow and play (Article 24).

The South African Constitution states that everyone has the right to an environment that is not harmful to their health or well-being (Section 24).

The scope of the problem

The problems that children who live in poverty face in accessing safe water supplies were dealt with earlier. Other elements of environmental conditions are under-researched. There is a lack of systematic enquiry into the effects of many pollutants on the health of children; hence the data presented here is sparse. While South Africa has introduced some important pieces of legislation on general environmental health safety, none focuses specifically on the protection of children.

Tobacco

Research shows that 70% of unborn babies are exposed to the effects of tobacco from maternal smoking and pregnant mothers' exposure to passive smoking[318]. Maternal smoking during pregnancy increases the risk of lower birth weight and vulnerability to infections and illnesses in newborn babies[319].

More than half of the child population in South Africa live in households where parents smoke heavily. It is more likely that these children will become smokers, and are generally regular smokers by their early teens[320].

Lead Exposure

Children in urban and peri-urban areas particularly are continuously exposed to chemical emissions, smog and lead. There is considerable lead content in soil, paint, and especially petrol. In Greater Johannesburg, more than 80% of children and newborns have blood lead levels higher than the acceptable limit in factory workers[321]. Similar findings were reported from a study conducted in the Western Cape[322]. Another study of inner city Grade 1 children found that 13% had blood lead levels of more than double the acceptable limit indicated by the United States Centres for Disease Control. This confirms children's remarkably high rates of exposure to lead within South Africa's metropolitan regions[323].

Household Fuels

Many South African households, particularly rural households, use fuel such as wood, paraffin and gas on a regular basis. In addition to the labour required to fetch wood for fuel, children are exposed to the effects of these emissions and other pollutants. The highly industrialised area of the Vaal Triangle is found to contain average annual levels of atmospheric pollution that exceed international health standards by 2.5 times[324]. In communities where people used coal as a fuel source, pollution levels were found to be four to six times higher than the average for the region[325]. An estimated 8.4 million children below 15 years of age are exposed to particles from household coal and wood burning, a combination that has serious effects on child health.

Outdoor Pollutants

Pollutants such as dust and emissions from refuse burning and industries were reported to be problematic in half of Port Elizabeth's households[326].

When waste is not disposed or managed adequately, it becomes a serious health risk to children and households living in the vicinity of refuse dumps. The disposal of industrial and other forms of waste is also a concern due to the incidents of children playing with dumped medical waste[327].

Accidents and Trauma

The most frequent trauma injuries among children include falls, motor vehicle accidents and poisoning. Falling as a cause of trauma injury is most common in the 1 – 9 year age group. The majority of motor vehicle accidents involve pedestrians and child passengers without restraints. The most common occurrences of poisoning in children involve medicines (at least 400 cases per year) or paraffin (at least 250 cases per year)[328]. Other forms of poisoning include pesticides, other agricultural products, and a range of household cleaning agents[329].

What Government is doing

Health policy, legislation and programmes have been put in place to prevent and reduce the ill effects of pollution. None of this legislation has paid specific attention to children and their right to protection[330].

1. The development of an Environmental Management Policy for South Africa began in 1997.

2. The Tobacco Products Amendment Act (1999) aims to protect children from the effects of environmental tobacco smoke and the influence of advertising campaigns. In 1993, the sale of cigarettes to minors was banned. However, the enforcement of this law is ineffectual, with many children continuing to purchase cigarettes from a variety of outlets[331].

Conclusion

In an environment of poverty and violence, the emphasis has tended to be on providing an environment for children that is safe from physical and sexual abuse. Indeed, children themselves confirmed that their right to a safe environment was the one most frequently violated[332]. Children's feelings of fear and insecurity as a result of violence in their homes, communities and schools must be seriously acknowledged and given priority to improve their sense of safety. This can only be achieved through plans to ensure "…safer places for children to live, play and study"[333].

Children's right to participation

The CRC states that state parties shall assure to the child who is capable of forming his or her own views in all matters affecting the child, the views of the child be given due weight in accordance with the age and maturity of the child (Article 12(1)).

Article 13(1) states the child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of the child's choice.

There is very little information available on children's real participation in society as a whole. In particular, analysis of the impact of traditional and cultural values regarding the position and role of children and their participation in society is limited.

Child participation initiatives

In 1992, NGOs hosted the first South African National Summit for Children in the Western Cape, bringing together children from all over the country. Their discussions resulted in the Children's Summit Declaration, which was incorporated into the National Programme of Action for children (NPA), formulated under the banner of the National Committee for the Rights of the Child in 1993.

More recently, there have been a few national initiatives that included children's voices on matters pertinent to their lives. In 2001, the NPA initiated a 'Hear Our Voices' campaign[334], which polled South African children through an Internet and postal questionnaire. This poll considered children's views on rights in general but did not explore their experiences of rights violations.

South African Child Rights Survey

In 2002, Save the Children Sweden[335] commissioned the *Children's Poll: a South African Child Rights Survey*, which involved 1 200 children from across the country. The aim of the study was to highlight the importance of listening to children's experiences of rights and their violations, and to assist Government and civil society to focus their work around issues of importance to children themselves.

Children ranked the rights most often violated in their lives as follows: the right to a safe environment, the right to protection from abuse and the right to participation – to be heard and taken seriously. The next most violated rights were education, non-discrimination and parental care, including health care. Finally the right to protection from work, and to food, water, clothes and shelter, were mentioned. The authors comment: "This does not mean that these rights are not violated…Basic needs, on the other hand, are ongoing and not as easily perceived as immediate violations.[336]"

Discussing the right to participation, the children said they were denied the right to make their own informed choices. They also said they were denied the right to information to make informed choices.

> *"This thing of culture is a big problem, especially to young girls. My best friend – her parents don't want her to prevent and she had two children because they believe you need to get children for in future. But she*

> *is still young and she is not ready to be a mother. She cannot go to school, she cannot choose."* (Girl, secondary school)

> *"I think we have the right that our parents should talk to us about love life (sex). At home they don't care about my love life and security. I only get information about love life on the streets like with friends. This is how girls get pregnant."* (Boy, secondary school)

They said they were denied the right to be listened to as children, to be respected and heard by adults.

> *"Adults make the decisions because they have the power… we can't tell them because we are young, even if we don't agree with them on some of the things."* (Boy, primary school)[337]

They also said they were denied the right to express their own opinions and ideas.

> *"We need to have the right to explain our case before they [parents] punish us. This happens to me – we don't feel free at home to explain our side."* (Girl, secondary school)[338]

National Children's Forum on HIV/AIDS

An important child participatory process initiated by the Children's Institute in 2001[339] was the National Children's Forum on HIV/AIDS. This forum brought together 90 HIV-affected children, aged 7 – 18 years, from around South Africa. The aim was to provide these children with the opportunity to talk about how HIV/AIDS was impacting on them, and for their voices to be heard by national decision-makers. The key issues for children that emerged were:

1. Denial of access to education because of an inability to pay school fees, discrimination, stigmatisation, and the failure of schools and teachers to identify vulnerable children.
2. Inaccessibility of health care, due to the fact that many facilities are not child- and youth-friendly, attitudes of staff, lack of medication at clinics, and the long distances of clinics from homes.
3. Conditions of poverty, and that the existing social security measures are not meeting the needs of poor children and their families, forcing children to work or beg.
4. High levels of sexual abuse in South Africa.
5. Stigma and discrimination.
6. Caring for sick parents.
7. Increasing numbers of children without adult carers.

Child Poverty Participatory Project

The Alliance for Children's Entitlement to Social Security conducted a Child Poverty Participatory Project in 2002[340]. This involved nine provincial workshops with children living in poverty, children with disabilities or chronic health conditions, children living on the streets, children in residential or foster care and children affected by HIV/AIDS. The key themes emanating from the discussions were:

1. The current social security is non-comprehensive.
2. Current social security is limited to cash transfers. The need for school fee exemption was emphasised.
3. Lack of knowledge about existing grants for children.
4. Administrative problems with the grant system.
5. Children's resilience in situations of poverty.
6. Children's ideas to improve social security provisioning.

The process confirmed the value of engaging children as partners in decision-making, and also highlighted the insights that arise from viewing the shortcomings of the social security system from a child's perspective[341].

These meetings and referenda illustrate the feasibility of soliciting children's views on child rights and other issues, and emphasise the importance of hearing their voices and taking them seriously.

Respondents' views

Respondents felt that the child's right to participation is often perceived as unrealistic or dismissed as tokenism because of the prevalent view that children's contributions are inferior to that of adults. They identified the need for a comprehensive and holistic approach to enable children's voices to be heard.

A few respondents said children should be able to express their views on key issues at different levels of society: including the home, at school, through community forums, and in the arenas of policy-making and legislation. Parents and educators should be educated about their children's rights and parental responsibilities in promoting and respecting these rights. Student councils, in which children are regarded as equal partners with principals and governing bodies, are a potentially effective site for child participation in school governance. It would be desirable to establish these in all junior and senior schools.

Respondents said that there is an urgent need for greater political commitment to the concept of child participation. Decision-makers must be thoroughly educated about child participation and, as one respondent said, "*understand that children can make fundamental input into decisions about aspects of life that affect them*". They also felt that dedicated budgets should be allocated to child participation. Children

in state care particularly need opportunities to become involved in programme planning and implementation. Children should be allowed to voice their opinions on budgets that affect them. This strategy needs support from senior members of Parliament and Ministers, and a commitment from them to take the views of children seriously.

The respondents mentioned that the Constitution and the CRC refer explicitly to children having the right to participate in decisions affecting their own lives in accordance with their evolving developmental capability and understanding. Those who make decisions about children must allocate sufficient time to ensure that children can "*engage meaningfully with actual policy*". This could be facilitated by having a child spokesperson who look at issues that affect children in every sphere of Government; engaging young people from different economic strata in junior city councils; establishing youth desks in every city council; providing more child forums (like the girl's parliament), and holding a children's parliament with regular sittings.

Respondents stressed the importance of improved communication with children at a level they can understand. Moreover, children should be safeguarded from participation processes designed to advance the political agendas of adults, rather than the rights of children. This was linked to concerns about ensuring representation of all children, including the vulnerable and marginal, and not just those who are urban and articulate. However, one respondent expressed concern that too much effort in ensuring children's participation should not be allowed to compromise attention that needs to be paid to address the lack of essential services and their delivery.

In general, respondents felt that there is a lack of debate on the definition of childhood, the prioritisation of needs, and on cultural diversity of values in relation to childhood. To give effect to all these suggestions, respondents said that there is a need for an infrastructure that includes a regulatory framework and clear ethical guidelines, as well as people highly skilled in working with children, building their support and confidentiality and giving them a sense of worth.

Conclusion

The issue of child participation is broadly regarded as crucial to the promotion of child rights. It is as important as recognising the child's entitlement to play and to recreation and to the enjoyment of childhood.

Adults need to provide a supportive environment in which children can participate appropriately and with dignity.

Key actors in the children's rights arena

This chapter lists some of the key organisations and agencies, including donors, involved in the children's rights arena, as identified by the respondents in this assessment and by Save the Children Sweden. It was not possible to list all organisations involved in children's rights in this short project; nor is an evaluation of their activities included. The information on the organisations' activities was obtained through the key respondent interviews. There was insufficient time to allow for verification of information.

The non-governmental sector

In South Africa, the non-governmental, or non-profit, sector is well developed and provides a wide range of services for children and their families. Civil society involves many community and faith-based organisations. Indeed, it may be argued that it is the NGO sector that provides the majority of crucial services and on-the-ground care for children. Those focusing specifically on child rights issues are fewer in number.

While the State has ratified the CRC and develops legislation and policies regarding children, it is mainly NGOs that implements these policies and programmes and safeguards their rights. Yet, despite their crucial role, NGOs do not receive adequate state financial support; nor are there mechanisms for monitoring and evaluating their performance. Some respondents expressed dismay that, while excellent policy is in existence and emerging, Government still lacks the capacity to ensure that vulnerable children can access its benefits.

The NGO sector also suffers from problems such as shortage of staff, resources and support mechanisms, all which reduce their effectiveness. These issues are not discussed here but are alluded to in many other evaluations.

Table 2 lists, in alphabetical order, some of the key NGOs, Non-profit Organisations (NPOs), Community-Based Organisations (CBOs) and Faith-based Organisations (FBOs) in the field of child rights in South Africa. The list is by no means exhaustive and identifies only some of their key activities.

Table 2:
NGOs, CBOs and NPOs

ORGANISATION	MAIN CHILD-FOCUSED ACTIVITIES
Afrikaanse Christelike Vroue Vereeniging (NPO)	Child and family welfare organisation.
Atlantis United Sanctuary Against Abuse (CBO)	Community-based advocacy activities against child abuse.
Black Sash (NPO)	Advocacy organisation active in human rights, especially social security. Monitors government legislation and eligibility for social security grants.
CAFDA (NPO)	Child protection and youth development.
Centre for Law and Rural Development, KwaZulu-Natal (NPO)	Supports legal and development advice offices.
Child Welfare Societies (NPO), nationwide	Network regional child and family welfare organisations. See below for activities of their various offices.
Child Welfare Society, Cape Town (NPO)	Broad focus on children's welfare. Child abuse awareness programmes. Parent training and support. Job and basic skills training to counter negative impact of poverty on family life. Home-based centres and crèches. Emergency short-term childcare by trained and resourced community people. Caregiver training to minimum government standards. Screening to eliminate potential abusers. Group therapeutic processes. Support for children who have children. Tracing absentee parents. The Eye on the Child protection programme. The Hope For Our Children project includes intervention in cases of child abuse and the visiting of sick children.Children's committee:drafting a constitution for youth and children to participate and hold their own elections within the organisation.Services directly to children.Protection services in general.Protection of children's rights.
Child Welfare Society, Johannesburg (NPO)	Range of statutory services to children. Investigates reported cases of neglect,abandonment and abuse. Works within the Children's Court process:follow-up services, foster placement,adoption,and reunification with family. Life skills development programme for children living on the streets in Johannesburg's inner city. Foster care programme. Residential childcare centres. Early childhood development centres. Services directly to children. Protection services in general.Protection of children's rights.
Childline (NGO)	24-hour early intervention crisis counselling and helpline for children and adolescents. Trains volunteer counsellors. Therapeutic services for abused children and their families. Rehabilitation services for adolescents and adults who have committed offences against children.Court preparation and support programmes for abused child and adolescent complainants. Awareness and training programmes for professionals involved in the care and management of children and adolescents. Preventative educational programmes in schools and community groups. Training of and consultation with lay trauma counsellors in unresourced peri-urban and rural areas. Advisory services to national,provincial and local policy development initiatives that impact on the rights of children;liaising and co-ordinating with others who provide services to abused children.

ORGANISATION	MAIN CHILD-FOCUSED ACTIVITIES
ChildrenFIRST (NPO)	Rights awareness for children and youth:articles, advocacy, lobbying and focus groups.
Children's Resource Centre (NGO)	Children's social movement centre: programmes for children 7 - 14 with separate youth section. Child-to-child approach of children caring for each other. Environment programme: children taught to care for environment, to help alleviate poverty and create self-sustainable communities. Quarterly newsletter with content from child and organisation members. Radio training programme about culture, environment,and child-to-child programmes. Puppetry-making project focusing on HIV/AIDS, child abuse and crime awareness. Anti-bullying programme incorporating HIV/AIDS awareness. Sex education programme. Girl power programme. Values programme:respect for self, others and environment.Child-to-child health programme. Free access to health centres at organisational offices and schools. Children teach each other personal hygiene.
Children's Rights Centre (NPO, Registered as a trust)	All activities are child-focused,with broad focus on children's rights. Several trusts address specific issues. Core trust addresses HIV/AIDS issues. Works to promote child-friendly societies. Engages with local government (in KwaZulu-Natal) on issues that affect children, e.g.social security. Programmes for children in especially difficult circumstances: play project for children in hospital;active learning libraries project,and child participation projects. Emphasis on children's empowerment.
Cotlands (NGO)	Residential care facility for children with HIV/AIDS.
Criminal Justice Centre (NPO)	Legal and other support for child-focused organisations.
Disabled Children's Action Group [DICAG] (NPO)	Advocacy work:legal literacy, inclusive litigation, attitude and awareness-raising. Trains parents to be advocates for rights of disabled children. Youth leadership and life skills training.HIV/AIDS awareness. Child participation.Human rights awareness. Development of the disabled child.
Grassroots (NPO)	Early childhood development centre.
Hawk Worldwide International (NPO)	HIV/AIDS and home-based care.
Homestead,Homestead Organisation (NGO)	Cape Town-based home for children on the street.
Initiative for Participation and Development (NGO)	Assists community-based organisations with issues around unemployment and poverty.
Christelike Maatskaplike Raad (NGO)	Addresses all welfare needs, including those of children.
Lawyers for Human Rights (NGO)	Works within legal rights framework for children.
Legal Resources Centre (NGO)	Litigation service (open to public and other organisations). Child-focused project in education sector. Schooling problems in KwaZulu-Natal. Social welfare project dealing with social welfare tensions, including access to grants. Treatment Action Campaign project.
Molo Songololo (NGO)	Child-rights organisation concerned with the survival and development of children. Protection of children,especially against sexual exploitation. Focus on child trafficking, gangs, street children. Lobbying and advocating for children's rights. Creation of environment for child participation and their responsibility. Empowering and teaching young people skills through human rights awareness.
NACOS (NGO umbrella body)	Executive funding and advocacy. Overarching advocacy amongst formal NGO sector.
National Association of Child Care Workers (NPO)	All activities child-focused.Main focus: professionalism in child and youth care, including capacity-building and training and consultancy. Currently developing statutory board for child and youth care workers. Advocacy on behalf of children and youth at risk.Community-based child and youth care programme dealing with HIV/AIDS in partnership with other organisations. Targets child care workers to share expertise and knowledge. Grant-maker for Royal Netherlands Embassy.
National Community-based Paralegal Association of South Africa (NGO, registered as a Trust)	All areas of law, including those directly or indirectly affecting children. Consumer rights. Discrimination, sexism, racism in schools. Family matters, e.g.child abuse, custody, and adoption.Home Affairs-related matters, e.g.birth certificates, completed forms and issues around citizenship. Justice, safety and security issues, e.g. criminal activities, gangsterism,and drugs. Land and housing issues. Children and labour issues. Medical and health counselling around HIV/AIDS. Labour: unfair labour practices for adults and impact on children.Social security:destitution,foster care grants, old age pensions. Training manual on legal issues pertinent to children. Training to apply children's rights at office level. Training paralegals in basic counselling.
Nelson Mandela Children's Fund (NGO)	Donor organisation.Core work in child rights arena, but also implementation and evaluation. Addresses issues around children and HIV/AIDS, skills development and disability. Key area to ensure children's participation:encourage ability to express views on what they want addressed in their lives. Much work done through organisations working within communities.
Planned Parenthood Association of South Africa (NPO)	Sexual and reproductive health issues and sexual rights of individuals. Adolescent reproductive health programmes, involving training and workshops on health for age group 10 – 25.Refugee project. Strong focus on HIV/AIDS.

ORGANISATION	MAIN CHILD-FOCUSED ACTIVITIES
Resources Aimed at the Prevention of Child Abuse and Neglect (NPO)	Child abuse issues. Policy work and advocacy for children's rights in line with the CRC. Focuses on prevention, with elements of rehabilitation.Programmes include training and resource development, a resource centre, legislative advocacy, and a child witness project for local sexual offences courts.
South African Society for the Prevention of Child Abuse and Neglect (NPO)	Co-ordination of planning around child protection issues in Mpumalanga, KwaZulu-Natal and Gauteng.Access to information in children's rights sector. Monitors legislation.
Soul City (NPO)	Works with mass media for promotion of health and development.Soul Buddyz mass media campaign,main vehicle for children aged 8 –12 and also caregivers and teachers. Draws up and distributes life skills material to children in Grade 7 through to secondary school. Produces source material for journalists on children's rights. Regional project with eight Southern African Development Community countries around awareness of children's rights. Increasing edutainment capacity-building focusing on children's issues. Soul Buddyz clubs based at schools and libraries.
South African Federal Council on Disability (NGO umbrella body)	Focus on facilitation between NGOs and Government.
South African National Epilepsy League (NGO)	Services for children with epilepsy.
Stepping Stones (NGO)	Drug rehabilitation centre.
Street Universe (NGO)	Works with children on the street.Based in Cape Town.
Trust for Community Outreach (NGO)	Works broadly in communities.
Valley Trust (NGO)	Works around issues of livelihood. Based in KwaZulu-Natal.
Young Men's Christian Association (NPO)	Developmental programmes for youth and children.

Many of the organisations listed above provide services, information, or perform advocacy activities around specific topics such as disability, HIV and abuse. This reflects the flexibility of NGOs in responding to and addressing the major rights violations facing children in South Africa. Due to increasing poverty rates and a growing number of children without adult caregivers due to HIV/AIDS, there is need to transform many traditional services to support children in such environments.

Respondents voiced their concern about the absence of co-ordinated and effective service delivery. Many felt that there are very few gaps in the sector but that the fragmented approach and existing activities of organisations and the State require urgent attention. Others felt that existing work in the sector was piecemeal and needs to be strengthened to produce a greater impact on the well-being of children.

Regarding sexual exploitation of children, it was noted that, although Molo Songololo does excellent work in this field, the sector "*fails children by not setting up programmes against child labour, especially commercial sex work*". Participants agreed that there was a lack of rigorous credible research on this topic. Respondents noted that children who live on the street suffer from a lack of adequate services, are highly vulnerable and are consequently more exposed to sexual abuse and exploitation. Work with street children needs to be documented and recognised as a crucial area of focus. One participant remarked that:

"Although pioneering work with children on the street has been taking place in South Africa since the 1980s, this work is still not strong enough and not effective enough."

A few key respondents noted that agencies offering psychosocial support services for children were limited. Despite the extent of grief and trauma to which children in South Africa are exposed, there are no large-scale projects that address this issue. One respondent commented:

"All initiatives are isolated, small scale and often inappropriate to the context of children in South Africa. The focus needs to be on helping vulnerable children to build resilience."

Strikingly, very few education-focused NGOs were identified, as education delivery has predominantly been the prerogative of the government. However, the provision of ECD services and schools for learners with special education needs is increasingly becoming the responsibility of NGOs, as the State fails to deliver in this respect. Attention has recently been focused on the issue of children being denied access to education due to their inability to pay school fees. The school fee exemption policy does not appear to be working effectively, mainly due to the State's failure to subsidise poorer

schools for the loss of income. The NGO sector and civil society need to put pressure on Government to address this gross violation of children's right to education.

Very few organisations are actively involved in child participation activities. The Children's Resource Centre, the Child Rights Centre and the Children's Institute, University of Cape Town, were the main agencies identified in this area. There is a serious need for additional NGOs to undertake activities that will enable the real and meaningful participation of children in the planning of service delivery, and in policy formulation.

Respondents identified some additional organisations but no specific details of their programmes were included. They were: the Western Cape Children and Violence Forum; Federasie Suid Afrika; Heartbeat; KwaZulu-Natal Christian Council; Network Nakelisiswe, KwaZulu-Natal; St. Nicholas; Cape Town Refugee Forum; Unaccompanied Children's Network; Child Labour Network; ECD organisations and networks and the Street Children's Network. Respondents also noted the role that religious welfare organisations and traditional leaders play in the child rights sector.

Networks and alliances

Table 3 lists the key alliances and networks involved in the child rights arena in South Africa.

There is a number of strong civil society movements focused on specific issues. For example, in respect of social security and treatment for HIV-positive persons, the activities of ACESS and TAC have been particularly successful and have relied on a range of strategies.

However, there are no alliances addressing the full range of children's rights in a holistic and integrated manner. It would appear that broader civil society action is required for children's rights generally. The National Children's Rights Committee (NCRC) provides a networking structure for NGOs, with the aim of protecting children's rights. However, some respondents felt that the NCRC does not accurately represent the children's sector; nor does it constitute a 'movement' per se.

Table 3:

Child rights networks and alliances

ORGANISATION	MAIN CHILD-FOCUSED ACTIVITIES
Alliance for Children's Entitlement to Social Security (National)	Improving children's access to social security. Distribution of information on social security. Work in member organisations:case handling,capacity building,lobbying for a comprehensive Children's Bill.
Basic Income Grant Coalition National,provincial branches	Alliance to lobby for basic income grant.
CHAiN (National)	Health and HIV/AIDS for children.Network of service delivery and interested organisations.
Child Justice Alliance (National)	Lobby, advocacy, and policy development work. Focus on children in conflict with the law. Includes National Institute for Crime Prevention and Reintegration of Offenders (NICRO) and other child justice-related organisations
Child Rights Information Network (UK)	Information provision system based on CRC. Informs public about steps to implement the Convention at international and national level.
ChildrenNOW Network (National)	A network of children's sector organisations. Their key activities involve preparing and compiling the alternate report to the UN committee responsible for monitoring the implementation of the CRC. The network has a few project committees, one of which is focused on child participation.
Children In Distress (CINDI) KwaZulu-Natal (Provincial)	Network of Government,NGOs and individuals concerned with the impact of HIV/AIDS on children in KwaZulu-Natal's Midlands region. Not direct service provider to children.Members unite for action in working groups and partnerships loosely aligned to rights:health care, nutrition,administrative justice, housing.
Concerned Parents of Missing Children (Atlantis-based alliance/network)	Community-based network of parents involved with locating missing children.
National Children's Rights Committee (NGO, umbrella body)	Network of NGOs and CBOs, also preparing an alternate report to the UN Committee on the CRC.
Street Children Alliance	Co-ordinates organisations dealing with issues around children on the street.
Treatment Action Campaign (NPO, national alliance)	Focus on treatment of HIV/AIDS. Advocates treatment to prevent MTCT and for a national treatment plan for people living with HIV.

Academic institutions and research agencies

Table 4 lists a few of the academic institutions and research agencies focusing on child rights in South Africa.

Table 4:

Academic institutions and research agencies

ORGANISATION	MAIN CHILD-FOCUSED ACTIVITIES
Child and Youth Research and Training Programme, University of the Western Cape (Academic research unit)	Research,training and programme development.Service development in government and civil society sector, with and for children. Focuses on child protection and children's well-being. Undergraduate and postgraduate training of social workers, including how to render services to families and children at risk.
Children's Institute, University of Cape Town (Academic policy research unit)	Contributes to policies promoting equity, well-being and fulfilling the rights of children.Research, teaching, technical assistance and support and advocacy. Core programmes:child rights, child health, HIV/AIDS and child poverty.
Community Law Centre, University of Western Cape (Academic research unit)	Research,advocacy and training around children's rights issues. Focuses on child justice and child law reform, as well as child welfare and socio-economic issues. Works for the general realisation of children's constitutional rights. Works with child victims of criminal activity, e.g.child abuse.
Education Rights Project, Education Policy Unit,University of Witwatersrand (Academic research unit)	Advocates for realisation of provision of education to previously denied communities, including children.Education policy unit.
Institute for Democracy in South Africa (NPO with strong focus on research activities)	Researches policy and laws on children, especially involving jurisprudence and socio-economic rights. Work on national and provincial government budgets. Service delivery of programmes to children. Trains Members of Parliament,provincial legislatures, government officials, academics and/or independent researchers. Evaluates national and provincial budgets for child-friendliness.
Technikon South Africa (Academic)	Offers degree in childcare.
Clacherty and Associates Pty Ltd (Private research company)	Participatory research with children aged 4 – 18 in South Africa and other Southern African countries. Includes work with children of both genders, children with disabilities and marginalised children such as street children.

There are, in addition, many other research agencies involved in research and analysis; some focusing specifically on children, others more generally on socio-economic conditions. Many of these use the collected indicators of child well-being to measure the attainment or violation of children's rights in South Africa.

Some additional research agencies were identified at a national child research workshop held in Cape Town in February 2003. They include: Human Sciences Research Council (HSRC); Council for Scientific and Industrial Research (CSIR); Institute for Socio-Economic Research (ISER), Rhodes University; School of Development Studies (SDS), University of Natal; Datadesk, University of Stellenbosch; The Medical Research Council (MRC); Economic Policy Research Institute (EPRI); Development Policy Research Unit (DPRU); Early Learning Resource Unit (ELRU); Centre for Comparative Law and Social Security (CiCLASS), Rand Afrikaans University; Centre for Social Science Research, University of Cape Town; Centre for Child Law, University of Pretoria.

There has been some criticism of fragmentation and isolation within the research sector. Agencies are often forced to focus on narrow topics due to shortage of funding and staffing, while competition for scarce resources hinders more effective collaboration. Even though child research activities have greatly increased over the last few years, there still appear to be large information gaps when trying to understand children's well-being in a holistic manner.

The national child research workshop began the important process of developing a rights-based research agenda, and highlighted the need for an appropriate mechanism to facilitate the co-ordination of rights-based child research.

Statutory bodies and government departments

Table 5 identifies the main government activities related to children's rights, as identified by the key respondents.

Table 5:
Statutory bodies and government departments

ORGANISATION	MAIN CHILD-FOCUSED ACTIVITIES
Department of Education,Education Management and Governance Development Directorate (Government)	Flagship programme is drug abuse policy and guidelines for schools. School safety initiative:crime buster programme, teaching self-awareness and self-defence to girls and boys under-10 years. Currently piloting best practice school safety programme for next three years, to ensure standardisation of safety measures at all schools. Co-ordinates collection of statistics on sexual abuse of learners. Provides national roll out of the Safe School Project Call centre in Cape Town – first point of contact for learners in distress. Interdepartmentally focused on school safety and victim empowerment processes.
Department of Social Development, Child Transformation Services (Government)	Main focus on broader concept of child protection; cuts across all vulnerable groups and includes for example children living on the streets. Preventative or intervention services to children:alternative care, foster care, adoption, removal from unsafe places, secure centres. Liaises with the Departments of Education, Health,Justice, Labour, Correctional Services, Agriculture and with provincial departments and local governments.
Department of Social Development, HIV/AIDS Directorate (Government)	Community home-based care project focuses on care of children infected and affected by HIV/AIDS within their own communities. Provides counselling services. Material assistance to families (e.g.food parcels).Addresses access to social security, social grants, childcare grants. The National Action Committee on Children Affected by HIV/AIDS also operates within the department.
Department of Social Development,Social Security Directorate (Government)	Focus on social relief of distress in society, which indirectly impacts on children.Provision of social security grants:care dependency grant, foster care grant and child support grant.
Office on the Rights of the Child (ORC), National Programme of Action (Statutory body)	Established with mandate to monitor implementation of the CRC, the African Charter on the Rights and Welfare of the African Child and the South African Constitution.Also responsible for co-ordinating input and facilitating reports to the United Nations and African Union. Ensures that Provincial Programmes of Action for Children structures function effectively and that Local Programmes of Action for Children are established. Responsible for co-ordinating child-focused policy development within Government.Promotes and advocates for rights of children in South Africa.Advises Presidency on issues affecting children.Main focus of NPA Steering Committee (of which the ORC is the Secretariat) is to facilitate, co-ordinate and monitor collaboration within Government and civil society, at all levels, in initiatives aimed at promoting and protecting children's rights. Co-ordinates policy development, monitors implementation of policy and evaluates government programmes earmarked for children. Also acts as clearinghouse for issues requiring a national and international response to children.When any department drafts a strategy document,it is normally tabled at the NPA Steering Committee meeting to enable all members to note cross-cutting issues impacting on other departments.
South African Police Services, Child Protection Unit and Social Crime Prevention Unit (Government)	Protection of children.
South African Human Rights Commission (Statutory body)	Ensures relevant legislation is implemented and observed.Training centre trains educators on corporal punishment. Focus on labour issues, child protection and abuse. Requests information from Government about annual activity around socio-economic rights. Develops protocols, asks questions of Government about housing,health,education,etc.Advocacy:sexual violence report.Monitors and facilitates legal issues around all human rights issues, including children's rights. Two broad programme areas: Poverty alleviation,and promotion of equality for children,persons with disability and non-nationals.
South African Law Reform Commission [SALRC] (Statutory body)	Conducts law reform related to all areas of child rights:right to participation, right to life, right to education,etc.
National Youth Commission (Government structure)	Child rights issues.
National Child Abuse and Neglect Committee (Government structure)	Protects rights of children.

Government departments have increased their child-specific and broader social programmes over the last few years. The activities of the Department of Health could not be included here, due to their unavailability for telephonic interviews; however, their key policies and programmes are identified in the section on children's right to enjoy a high standard of life.

The Department of Social Development directs the majority of its budget (80%) towards the provision of social assistance grants, of which approximately 15% goes towards the three child grants. The government's recent decision to extend the coverage of the child support grant to children under 14 years is welcomed. However, since the Constitution defines a child as any person below the age of 18 years, the rights of children of 14-years and older to social assistance provisioning continue to be denied.

The social services provided by the Department of Social Development are focused primarily on children in need of care and protection. There has been an important shift at policy level towards a more developmental approach, which is focused on poverty alleviation interventions and development activities. However, the effectiveness of these in improving children's basic rights has not been measured systematically.

Evaluations of government services generally report poor quality, inaccessibility in rural areas, and chronic shortages of personnel. Inequities continue to exist between provinces in terms of accessibility and quality of services.

In addition, there are still gaps in Government's response to children's rights and needs. Importantly, although the NPA attempts to provide a national programme of action for the country, there is limited co-ordination between departments, resulting in fragmentation between programmes and the absence of an overriding national policy to deal with children in a holistic manner. One key respondent stated:

> *"The Office on the Rights of the Child situated in the Presidency needs to be strengthened with additional human and financial resources to fulfil its function as the leading champion of children's rights."*

Donor agencies

Table 6 identifies key funding agencies that were mentioned by the respondents. These include the participating organisations' core funders and additional funders identified by the respondents.

Table 6:
Funding agencies supporting the children's rights sector

FUNDS, TRUSTS AND FOUNDATIONS	Bernard van Leer Trust
	Carl and Emily Voegs Foundation
	Children's Global Fund
	Christian Aid
	D.G. Murray Trust
	First Rand Foundation
	Ford Foundation
	Human Rights Foundation
	Joseph Rowntree Foundation
	Kaizer Family Foundation
	Melinda and Bill Gates Trust
	Momentum Fund
	Ms Foundation
	Nelson Mandela Children's Fund
	Oak Foundation
	Open Society Foundation
	Rockerfeller Foundation
	Stewart Mott Foundation
	World Association for Christian Communication

INTERNATIONAL DONORS	ASW
	Atlantic Philanthropy
	British Development Society
	CATHOD
	Child Hope
	Cord Aid
	Department for International Development,United Kingdom (DIFD)
	Heks
	IBIS
	Interfund
	Ireland Aid
	MEDICO International
	Oxfam,Great Britain
	Save the Children Sweden
	Save the Children United Kingdom
	SKN Holland
	Sodi
	Swedish International Development Cooperation Agency (SIDA)
	SIDA, Canada
	Terre-des-Hommes
	Umferteilen
	World Vision
	United Nations Children's Fund
	United States Aid
	World Vision
	European Union
	Flemish Government
	Government of Denmark
	Government of Holland
	Government of Norway
	Government of Denmark
SOUTH AFRICAN GOVERNMENT	National,provincial and local governments
SOUTH AFRICAN CORPORATES	Anglo American
	Anglo Gold
	Liberty Life
	Pick 'n Pay
	Telkom
OTHER	Community Chest
	Ithingo
	Lions
	National Development Agency
	Rotary Club
	South African Textile Workers Union [SATWU]

NB: Some organisations in the role players tables (Tables 2, 3, 4 and 5) were indicated as funding agencies because they have commis -
sioned work to other organisations. These organisations are not repeated in the funding agencies table (Table 6).

There are many international funding agencies that provide valuable support to a wide range of child-related activities in South Africa. Many of the NGOs, alliances and academic units mentioned above rely heavily on funding from these agencies, creating some competition for scarce resources.

Nevertheless, there have been criticisms of duplication, fragmentation and poor identification of funding priorities. Donors often impose their perspectives onto recipients and fail to investigate the reality and needs of the people they seek to assist. At the same time, the government attempts to co-ordinate and direct funding activities. This has had some negative consequences, such as loss of potential funds for specific projects.

There is a need for improved tracking of all donor and state funding of children's rights activities in South Africa.

Respondents' recommendations on roles and priorities of international aid agencies

Respondents were asked for their opinions on the role and priorities of international aid agencies. Their responses are summarised here.

There was acknowledgement that, without international funding agencies, the child rights sector would not be as well developed as it is. Respondents also noted that international funding agencies brought a fresh perspective of child rights to an essentially traditional 'welfare-ist' approach.

However, there was some concern that the war on Iraq may be detrimental to continued funding of South African organisations. Even before the war, aid to African countries had been decreasing, particularly for child-focused activities.

Funding Processes

'Shared Dialogue'
Virtually all participants noted that donors should not be prescriptive and should implement consultative mechanisms. There was a call for 'shared dialogue' between donors and NGOs, and for donor acknowledgement that South Africa has a unique context with particular needs. "*We work on the ground, we know what's happening in the field, they (donors) need to consult us*" was the general sentiment. Another respondent, representing a major international donor, suggested that donors should work closely with Government and facilitate the development of effective operational strategies, as well as policy and legislative frameworks.

There was concern about duplication between donor agencies, even in terms of their priority identification processes and research. Most agencies conduct their own 'situational analyses' to inform their decision-making. This suggests the waste of resources on the duplication of processes that may lead to similar results. Donor agencies could share one another's information, and should support data collection that will benefit the country as a whole – for NGO and state planning purposes, rather than just for funding debates.

Funding patterns may be fragmented and sporadic. Organisations felt that they are chasing all possible funding sources, and that only the most fashionable issues are funded. Overlap and lack of shared vision amongst donor agencies must be addressed; long-term, consistent funding is essential. It was suggested that donors should try to distribute their resources more evenly across the country, and that there should be accountability and transparency in the reporting of funding activities. One participant put is succinctly: "*We need a one stop donor shop.*" Respondents felt that there is a need to fund activities in a holistic way, and that there is no process whereby donors make sure that the entire range of children's rights is covered. Many donors prioritise in isolation from other donors and often will only support a 'priority issue' for a short period.

Matching Realistic Timeframes
The timeframes within which to achieve goals are sometimes too tight for effective change to take place. Child abuse, for example, cannot be eradicated in one year; thus one-year plans are redundant and unrealistic, particularly in South Africa. In addition, the ease within which donor priorities change was felt to be problematic. Moreover, funding reduction is sometimes not gradual and does not always coincide with sustainability or prevailing developments.

Capacity-Building And Human Resource Development
A strong need was expressed for support for capacity-building and human resource development across organisations. Certain governmental departments requested funding for training and the building of capacity of staff:

> "*Pay people's salaries and help to facilitate human resource functions. Donors have to realise that many organisations are NPOs and that, when donors leave the country or funding ends, a vacuum is created. Instead, build capacity to assist continuation of work otherwise the vision will fall flat.*"

It was reported that it is sometimes the organisations with articulate directors who secure funding, yet smaller organisations that do outstanding work might receive none due to a lack of capacity in proposal writing. There was a call for increased flexibility and easier application processes to enable the participation of less well resourced NGOs and CBOs.

NGOs Vs Government

There was a common opinion that donors should not be giving money to the government, as this often does not reach the services on the ground. One participant commented:

> "The resources used for government workshops could be paying the salary of workers delivering services in communities for a year."

There is also apprehension that donors are more stringent with NGOs than with Government. On the other hand, one government official felt that the work being done by international aid agencies does not always permeate through to Government, and that donors should provide Government with constant updates of their progress and activities.

Funding Priorities

HIV/AIDS

Not surprisingly, HIV/AIDS prevention, support, treatment and care topped the list of funding priorities. There is also a need to address the orphans that result from HIV/AIDS deaths, youths who are living with HIV/AIDS, and to provide material and psychological support to children in child-headed households. It was recommended that media campaigns be halted, as they have not succeeded in changing behavioural patterns, or in supporting affected persons.

Main Challenges Facing Children

Other critical areas for funding coincide with the main challenges facing children in South Africa today. There is an urgent need for funding aimed at food security, social security, health care, poverty reduction and the elimination of child abuse, which includes child trafficking.

In the area of social security, funding is required mainly for registration campaigns and fully equipped mobile registration units. The Department of Home Affairs, in partnership with the relevant directorate, could help with the roll out of social security to poor and rural communities.

Concerning the trafficking of children for sexual purposes, programmes for the physical healing of children, rehabilitation of children and healing of the psychological trauma require immediate and pressing funding.

Schools

It was felt that schools, especially rural schools, were deserving of more donor attention. All schools should be able to employ a social worker to counsel and refer children to the correct services, including social security benefits. Feeding schemes at schools within poverty-stricken communities are critical.

Training And Preventative Programmes

The following training and preventative programmes were identified as needing increased donor support: community support and prevention programmes against neglect, abuse, violence and exploitation of children; basic education and training programmes for children and young people; child rights education and training for child rights workers; parent and family support and intervention programmes, including parenting skills training and family preservation work.

Policy Development

More generally, policy development was indicated as a key area requiring the intervention and perspectives of international funding agencies. Research and information sharing processes are critical domains that require funding.

Delivery of Services

At the same time, many NGOs are tasked with the delivery of essential services to children and international funding continues to be required in this arena. A number of respondents indicated that local agencies and particularly Government should be funding actual service delivery.

Best Practice

The need for the identification of effective programmes was highlighted; the replication of these programmes and best practice models is necessary for sustainable development. As one participant noted:

> "It is useless if, once these best programmes are found, that they are just kept for Cape Town - international donors should put these programs at the disposal of entire countries, not just our own."

Monitoring and Evaluation

A convincing argument was put forward concerning monitoring and evaluation. Participants expressed the desire to see ongoing, increased and effective monitoring and evaluation of various projects within the sector. Recipients of funds would like to see 10 or even 15-year impact assessments. In this way, the long-term benefits of projects can be appraised. Moreover, there is need to develop relevant impact indicators and to measure the effects of NGO activities, state interventions, and research projects in terms of the country's obligations to children's rights. It was suggested that the monitoring of the State's implementation of policy should be undertaken by civil society organisations, rather than by statutory bodies.

Alliances and Networks

Financial support for alliances and networking mechanisms was highlighted as being enormously beneficial in bringing together like-minded people. It was argued that alliance-building and shared project and policy debates strengthen civil society. Alliances provide a structure through which civil society can interact with, and put pressure on, state organs. Indeed, since it is civil society initiatives that are most active in the child rights arena, funding that supports co-ordinated and focused responses through alliances was felt to be crucial.
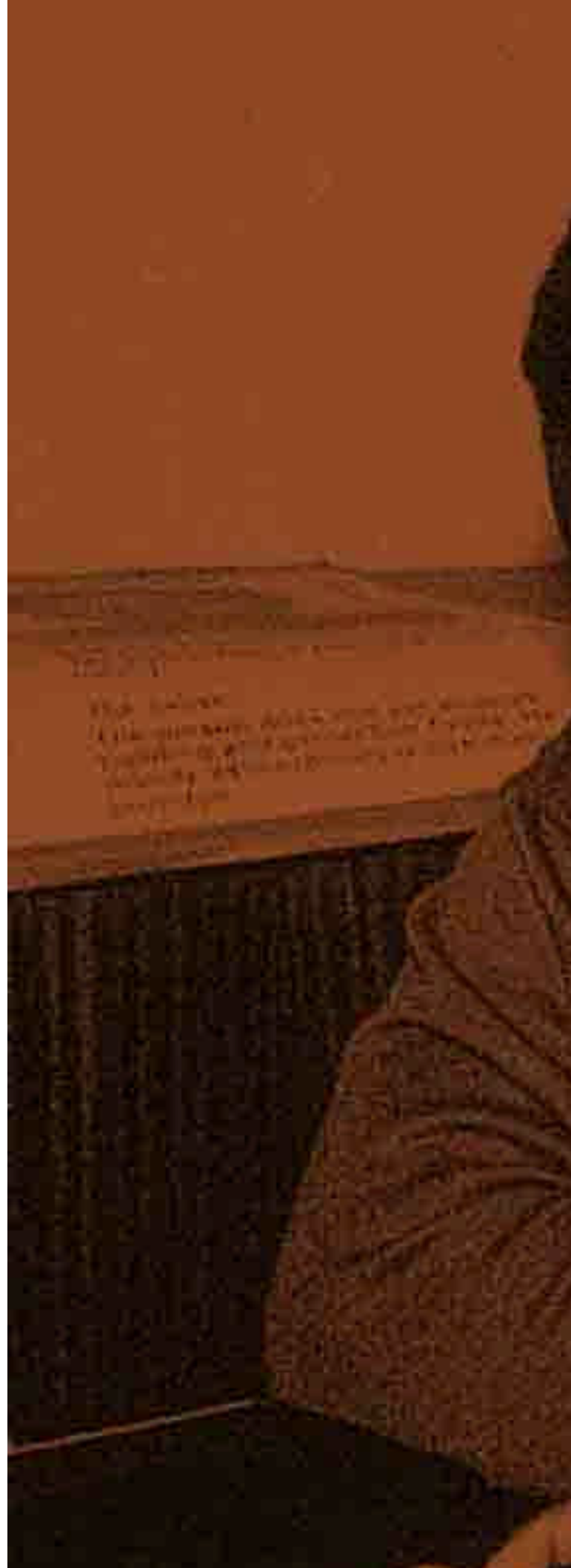
The unfinished agenda

Information and data gaps

There exists an array of gaps to be filled to ensure that children's rights in South Africa are realised, such as gaps in implementation and resource distribution. Some of these gaps have been identified in various chapters of this report. As knowledge is often the key agent in creating change at both a policy and action level, the Children's Institute has devoted this concluding chapter to the identification of information and data gaps.

This assessment relied on existing data to portray the situation of children in South Africa. In the process, gaps in the available information were uncovered. Key respondents also highlighted areas requiring further research. In addition, a workshop held in February 2003 examined existing indicators of child well-being and developed a rights-based research agenda for children. The workshop successfully drew together researchers, child rights actors, government departments and funders, thereby incorporating the perspectives of both data providers and data users. These inputs made it possible to draw up a framework for research-based organisations and institutes on the priorities identified.

Children's Right to a Minimum Standard of Living

Socio-economic analysis in South Africa has relied heavily on surveys at household level. As a consequence, there is very little understanding of the way in which expenditure is made within households, or how children fit into various household economies. One suggestion from respondents is to have a routine national child survey that can explore household dynamics regarding income distribution and intra-household expenditure. This will require data on household spending on food and health care for children. It would then be possible to link data on household income and expenditure and its impact on indicators of child well-being.

There is also a call for a cost benefit analysis on grants targeted at children, and data on how such grants are used within households. This call is made more urgent by demands from Treasury for data on the impact and necessity of grants. Respondents were concerned that the necessary allocations might not be made without such evidence, despite the difficulties in conducting this kind of impact assessment and analysis without the survey mentioned above. Allied with this is a need for information about barriers to grants access for households, and administrative efficiency in the Departments of Social Development and Home Affairs.

From a methodological perspective, there is need for surveys to take the child as the unit of analysis; analysing children's contribution to the household economy and its impacts on them. This should also include child participatory research to understand the experiences of children living in poverty, and their responses to poverty-related challenges. This combination of survey and qualitative data will allow us to understand the impact of a range of factors on children. There is a need to understand the impact of unemployment and HIV/AIDS within the household. One area that has been highlighted is the impact of domestic responsibilities, as well as paid and unpaid labour outside the household, on child well-being.

Children's Right to Survival, Development, Care, Protection and Health

To our knowledge there are a number of significant gaps in this area. Psychosocial well-being and mental health for children have not been adequately researched. It is not clear what impact the physical and social environment and infrastructure has on well-being and mental health. We also need updated rates of child abuse and neglect that relate such incidents of rights violations to social dynamics.

Respondents felt that research in a range of topics was also needed to understand the health status of children. There is no national survey data on the health of children aged 6 – 14 years. Access to and use of health care services is not well understood, and little is known about the incidence of chronic disease and the impact of disability on the family.

This lack of data is all the more important with the progress of the HIV/AIDS pandemic and its impact at household level. Anecdotal evidence points to changes in household composition and care-giving arrangements that are essential to understand. Systematic research is therefore needed on changing family roles, fosterage and orphanhood, and whether it is a good proxy for vulnerability. Such research will enable more appropriate interventions to support families with heavy disease burdens and other crises.

Children's Right to Education

Two broad areas of research are needed around education. The first concerns the quality of education and the conditions for learners in schools. We do not currently have an adequate understanding of rates of physical and sexual violence in schools, absenteeism and its causes. Qualitative data on the quality of education and teaching and learning processes is also missing. In terms of children's right to participation, it is

unclear how effectively schools' democratic mechanisms operate.

The second area in which more research is needed relates to the extent and impact of education. More research is needed on educational attainment and the duration of formal schooling years, as well as the contribution of formal education to both life skills and employment. The relationship of households to learners is also not well understood. Research that can illuminate the extent to which children are denied access to education because of the costs of schooling and the impact of school fees, uniforms and stationery on household budgets, is urgent and essential.

Children's Right to Participation

It is clear that the child's right to participate is the least understood or researched among the rights enshrined in the CRC. Therefore there is a wide range of topics for further research.

There is a need to capture various understandings of the role of children in society, both from the perspective of children and amongst adults. Research with children should explore emerging evidence that rights violated by known adults are perceived by children to be more significant than other violations. We need to understand to what extent children are consulted and enabled to contribute to decision-making that affects them. There is also a need to investigate children's access to information of relevance. Respondents also raised the issue of ethics in researching children and working with them in participation initiatives.

Research with adults on the role of children remains essential. How are children portrayed in the media? What is the role of duty bearers in realising children's rights? And, what can appropriately be expected from children to do in the household and community? The impact of changing domestic roles and responsibilities could be captured, in part, by time use surveys.

General Rights

There is clearly a gap in our understanding of a rights-based framework and its relationship to child well-being. It is therefore suggested that further attention be given to exploring the shift from child well-being indicators to child rights indicators, and research that assesses and makes 'manifest' the scope of children's entitlements, as described in Section 28 of the South African Constitution. Part of this work will involve the ongoing monitoring of the attainment and violation of children's rights.

Respondents also raised the issue of cultural perceptions of children and childhood and its relationship with the imple-

mentation of children's rights. There is a need to clarify the extent to which traditional and cultural practices and a variety of community perspectives conform to a rights culture. This is linked to the need to identify burdens of labour and domestic responsibility as outlined above. One specific area for investigation is children's access to leisure activities and library usage.

Furthermore, it is critical to explore the relationship between Government and civil society in the delivery of children's rights to ensure effective and co-ordinated implementation processes.

System and Impact Evaluations

There is certainly a need for a better understanding of the situation of children and the social dynamics surrounding children and childhood in South Africa. In addition, there is a clear need for systems research to understand the quality of services delivered to children and the policies and budgets which shape these interventions.

Evaluation of interventions and systems, including policies, is essential. The focus should be on why they are not working, and in understanding the particular constraints on efficacy to implement better ones. What factors inhibit effective policy implementation? Data is needed on the costing of policy implementation, especially in terms of human resource needs and the capacity of staff to implement policy. The impact of changing policies on the well-being of children must be measured and monitored. This is particularly true of economic policy and its effects on children. There is also a need to measure the comparable efficiency of the State and civil society in delivering social services for children.

Proposal for a child rights review

The section above identifies a wide-ranging list of topics requiring further investigation, all within a rights framework. In addition, there is a need to establish a common forum for existing and future research on issues affecting children. This will avoid duplicating research, missing valuable opportunities for collaboration, and failure to keep the key role players informed of important studies and research that has been and are being done.

The Children's Institute will establish a child rights review for this purpose. The *South African Child Rights Review* will be a separately managed project located within the Children's Institute at the University of Cape Town. Its aim is to showcase key work being done in the child rights field and

to publish it annually. The review will draw on the work of the Children's Institute and other relevant institutions and it is anticipated that the review will offer an invaluable resource for those interested in matters affecting children – in Government, civil society and academia. It will also provide a platform for monitoring the progressive realisation of children's rights in South Africa.

To ensure that the *SA Child Rights Review* contains what is best in the field, compilation will take place over a six to eight month period, culminating in publication once a year.

The publication will be launched at an event to which key players in the child rights arena, government members and other dignitaries will be invited. Publicity will be of such a nature as to attract maximum interest in the publication. Each issue will be evaluated to ensure a high standard from year to year.

Conclusion

Despite many challenges, South Africa has made tremendous strides in realising the rights of children. Many policies and programmes have been developed since 1994, all with the aim to enhance the well-being of children and to provide a guiding framework for their holistic development.

However, this report has identified a number of key challenges facing children, the circumstances in which their rights are violated, and aspects of service delivery requiring attention.

Taking a rights-based approach to children implies that one acknowledges and honours the full scope of rights – political, social and economic – that must be promoted and protected to achieve well-being for all children. Moreover, it is only by locating children firmly within the national social and economic development framework that we can address children's concerns in a comprehensive and holistic way, rather than in a piecemeal manner, which results in fragmentation of services and care.

The key challenges facing today's children were generally identified as HIV/AIDS, poverty, access to education, and protection from abuse – mainly sexual abuse and exploitation. In addition, there are vulnerable groups of children who are facing particular violations, such as children who had lost their parents or who were without adult caregivers, including street children, refugee children, and children in child-headed households. Children living in rural areas were considered to be further disadvantaged, as were girl children, and children with disabilities. It was felt that there is a need for improvement of service delivery in health, education, abuse protection services and social security accessibility.

The assessment also sought to identify the key agencies involved in the child rights sector, their activities and emerging needs. Respondents also gave their views of funding priorities in South Africa and the role of international aid agencies. It was generally felt that key challenges should direct funding priorities. For example, it was felt that funding should be directed at addressing severe poverty, improving development generally, lessening the impact of HIV/AIDS and developing abuse prevention strategies.

Finally, the assessment identified the need for a wide range of research, and a resource publication on policy and research affecting the child, expressed in a proposal for a child rights review.

Table 1
Participating organisations and respondents

ORGANISATION	NAME OF RESPONDENT AND POSITION
Alliance For Children's Entitlement To Social Security	Patricia Martin – National Co-ordinator
Child And Youth Research Training Programme, University of the Western Cape	Alinda Benade – Child Protection Programme Co-ordinator
Child Welfare Society, Cape Town	Niresh Ramklass – Chief Executive Officer
Child Welfare Society, Johannesburg	Jackie Loffell – Advocacy Co-ordinator
Childline	Joan van Niekerk – Director, KwaZulu-Natal and national chairperson
Children's Institute, University of Cape Town	Marian Jacobs (Director), Maylene Shung King (Child Health Programme Manager), Sonja Giese (HIV/AIDS Programme Manager), Teresa Guthrie (Social Security Programme), Helen Meintjes (Snr. researcher, HIV/AIDS Programme)
Children's Resource Centre	Maureen Meder – Head Office Centre Assistant Co-ordinator
Children's Rights Centre	Shirin Motala – Founding Member and Trustee
Children in Distress	Yvonne Spain – Co-ordinator
Children's Rights Project Community Law Rights Centre, University of the Western Cape	Jackie Gallenetti – Project Co-ordinator and Senior Researcher
Department Of Education	Martin Prew – Director, Education Management and Governance Development
Department Of Social Development: Children's Services Transformation Directorate	Ashley Theron – Chief Director
Department Of Social Development: HIV/AIDS Directorate	Dr. Mabentoa – Director
Department Of Social Development: Social Security Directorate Disabled Children's Action Group (DICAG)	Rodgers Hlatswayo – Acting Director, Family Benefits and Social Security Bernadette Lieberman – National Co-ordinator
Education Rights Project, University Of Witwatersrand	Faranaaz Veriava – Researcher/Lawyer
Institute for Democracy in South Africa: Children's Budget Unit	Shameela Cassiem – Manager
Legal Resources Centre	Mahendra Chetty – Regional Director, Durban Office
Molo Songololo	Patric Solomons – Director Surayah Z.Abaff – Co-director
National Association Of Childcare Workers	Merle Allsopp – National Director
National Community-Based Paralegal Association	Lesego Manyala – Co-ordinator, Child Rights Programme
Nelson Mandela Children's Fund	Charles Mandivenyi – Monitoring and Evaluation Specialist
National Programme Of Action, Office On The Rights Of The Child	Crystal Theron – Deputy Director
Planned Parenthood Association Of South Africa	Clarissa Arendse – Provincial Director, Western Cape
Portfolio Committee On Social Development	Cas Saloojee – Chairperson
South African Society for the Prevention of Child Abuse and Neglect	Carol Bower – National Vice-Chairperson

ORGANISATION	NAME OF RESPONDENT AND POSITION
Save the Children	Ulrika Soneson, Kevin Burns – Programme Directors, Lesotho and South Africa
Soul City	Shireen Usdin – Senior Series Programme Manager, Head of Advocacy
South African Human Rights Commission	Pat Lawrence – Head of Department, Advocacy
South African Law Reform Commission	Gordon Hollamby – Principle State Law Advisor/Researcher
United Nations Children's Fund	Goran Mateljak – Monitoring and Evaluation Officer
Clacherty and Associates Pty Ltd	Glynis Clacherty – Director

Table 2

Non-participating organisations

ORGANISATION	REASONS FOR NOT PARTICIPATING
Atlantic Philanthropies	Funds research organisations that conduct child rights work within the academic sphere
Department Of Health: Child and Youth Directorate	Unavailable to conduct interview
Department Of Health: Chronic Illnesses and Disability Directorate	Cancelled interview
Department Of Health:HIV/AIDS Directorate	Unavailable to conduct interview
Department Of Health:	Unavailable to conduct interview
Maternal, Child and Women's Health Department for International Development, United Kingdom	Do not fund the children's rights sector direct
Joint Monitoring Committee On Youth, Children and Persons With Disability	Unavailable to conduct interview
National Children Rights Commission	Unavailable to conduct interview
Provincial Plan of Action:Gauteng	Contacted, no response to date
Provincial Plan of Action:Kwazulu-Natal	Contacted, no response to date
Provincial Plan of Action: Western Cape	Contacted, no response to date
South African Federal Council On Disability	Referred to Disabled Children's Action Group (DICAG)

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