



## **The foster care system is failing a million orphans: Child rights NGOs call for a kinship grant**

**May 2015**

### **The foster care system is reaching less than a third of orphans**

There are 1.5 million orphans in the care of relatives who qualify in terms of the law for the Foster Child Grant (FCG). However less than 500 000 are getting it.

It has taken the Department of Social Development over 10 years to reach these 500 000 children with a Foster Child Grant and recent data analysis shows a decrease in Foster Child Grants in payment over past two years.

31 March 2010 = 510 760 FCGs in payment (increase of 36 001 FCGs)  
 31 March 2011 = 512 874 FCGs in payment (increase of 2114 FCGs)  
 31 March 2012 = 536 747 FCGs in payment (increase of 23 873 FCGs)  
 31 March 2013 = 532 159 FCGs in payment (decrease of 4588 FCGs)  
 31 March 2014 = 512 055 FCGs in payment (decrease of 20 104 FCGs)  
 (source: SASSA's SOCPEN database)

*"It will therefore take another 20 years or more to reach the other 1 million orphans not yet reached. By then most of these children would have grown up without an adequate social grant and the opportunity to ensure their survival, development and protection will have been lost,"* according to Paula Proudlock of the Children's Institute, University of Cape Town.

*"In the past few years we have seen serious delays in the processing of new foster care applications. Those families who are taking care of the orphan children, who would under normal circumstances qualify, are being denied access by being sent from pillar to post. We have reports of caregivers being told by social workers to place adverts in newspapers, social workers complain of having limited budgets in relation to advertisement as required by the law, files of those who have applied have just been lost and other cases just sit for long periods of time with no progress being made. This puts a serious strain on families who themselves are living in poverty. The right to access to adequate social assistance is grossly violated,"* said Thandiwe Zulu of the Black Sash.

It has become increasingly clear that the foster care system will never be able to achieve the objective of reaching the majority of orphans in need. In the face of this evidence, continuing to use the foster care system as the support solution for orphans is unreasonable and unconstitutional.

*"The foster care system has been overburdened and is being used for what it was not intended for, in other words, it is being 'abused'. Surely, it cannot cope with 1.5 million children? If we attempt to force it to cope, it will be a disaster, more and more children will continue to fall through the cracks in the system. More and more children who are hungry and thirsty for social work services will continue being deprived of them as social workers will be busy conducting administration of foster care. Social*

*workers under strain are forced into crisis intervention mode and end up running ambulance services instead of rendering proper developmental child protection and reunification services to children and their families,”* said Siphso Sibanda, currently a lecturer in social work at University of Pretoria and previously a social worker specialising in foster care at Johannesburg Child Welfare.

### **The use of the foster care system is an ineffective use of scarce resources**

The use of the scarce resource of child protection social workers and children's courts to process paperwork to enable FCGs to be paid is an ineffective and inappropriate use of these resources.

Dr Jackie Loffell, a senior social worker with over 30 years of experience, points out that *“there are preventable injuries and deaths among neglected and abused children, because social workers are doing paperwork to renew grants, and are therefore insufficiently available to respond speedily to calls for protective services”*.

She has called for *“a re- examination of the system to allow for use of the limited number of social workers in the country in the most appropriate way. This could be achieved by providing financial support in the form of a Kinship Care Grant, which should be available to relatives who are providing stable, permanent care to orphaned children, and by linking them with appropriate community support services, while reserving the children's courts and child protection social work services for children who are experiencing or at risk of abuse, neglect and abandonment”*.

The Children’s Institute at the University of Cape Town agrees with this sentiment: *“Child protection social workers and courts should be providing services to raped, assaulted, neglected, abandoned and orphaned children. There is no need for them to have to spend their skills and time processing paper work for grant applications for children, the majority of whom are quite safely living with their grannies or aunts. South Africa has a very effective Social Security Agency (SASSA) with an army of social grant officers who could be tasked with processing these grant applications and reaching orphans quickly. A screening system implemented by the full range of social service professionals, including the growing number of child and youth care workers, could ensure that any child living with a relative who is not safe, can be referred to the protection system. These reforms would free up the social workers to provide child protection services to children and families at risk,”* said Paula Proudlock of the Children’s Institute, University of Cape Town.

### **In 1996 child rights organisations started calling for a kinship grant**

The NPO sector has for many years raised concerns about the sustainability of the foster care system in the face of South Africa’s internationally unique orphan challenge. When the first warning signs of increasing deaths of parents due to HIV and increasing numbers of orphans became apparent, civil society began calling for an accessible kinship care and grant system to be designed and implemented.

Such a system would provide family members caring for orphans with an easily accessed, adequate social grant, support to obtain guardianship where required, and good quality support services. The system would enable this without the family having to go through a time consuming and intensive social work or court process.

*“1996 was when we first motivated the kinship grant to the then Minister of Social Development, Geraldine Fraser-Moleketi. Eighteen years later and sadly we still sit waiting.”* said Julie Todd, the director of Pietermaritzburg Child Welfare.

### **In 2001 the South African Law Commission recommended a kinship grant**

The kinship grant concept was developed by the South African Law Commission (SALC) and proposed to the Department of Social Development in the SALC's Report and Draft Children's Bill in 2001. However the Department of Social Development removed the proposal from the Children's Bill before it was tabled in Parliament.

### **In 2007 Parliament instructed the department to review the foster care system and propose a solution**

In 2007, after hearing public submissions on the Children's Bill, which highlighted the crisis in the foster care system, Parliament instructed the Department of Social Development to conduct a review of the foster care system and propose a solution. To date the department has not complied with Parliament's instruction.

### **In 2011 the High Court ordered the department to design a solution by December 2014**

*"In 2011 the department was taken to court by civil society because approximately 120 000 FCGs had stopped being paid to children. Social workers and courts had not kept up with extending the children's foster care court orders. The department agreed in a court-ordered settlement to re-instate the lapsed grants. The court order placed a temporary moratorium on any further lapsing of grants. The court ordered the department to design a comprehensive legal solution by December 2014,"* explained Prof Ann Skelton of the Centre for Child Law at the University of Pretoria.

In late 2012 the department announced an intention to introduce a kinship grant and civil society welcomed this announcement. However, more than two years later, the details of the reform have not yet been published for public engagement.

Since 2011 the department has been reviewing the Children's Act in order to address implementation challenges, including the foster care challenges. Civil society has been engaging actively in this process by sending submissions and attending consultative workshops. In November 2013 a draft Third Children's Amendment Bill was presented at the department's Child Care and Protection Forum. This amendment bill contained a proposal that would facilitate the introduction of a kinship care system and grant and it was welcomed by civil society. However, almost two years later and the department has not yet published the draft for comment in the *Government Gazette* or indicated when the amendment bill will come to Parliament. Instead they have recently tabled an amendment to s150(1) (a) that will entrench the use of the unworkable FCG for orphans.

**Over a million orphans continue to suffer in poverty and hundreds of thousands of abused and neglected children are getting inadequate child protection services.**

### **What are we calling for?**

- The draft Social Assistance Bill and draft regulations, which contain the kinship grant proposal (a larger CSG for relatives caring for orphans), should be published for public consultation and tabled in Parliament in 2015.
- The draft Third Children's Amendment Bill, which contains the necessary improved support services for orphans and their families, should be published for comment in the *Government Gazette* and tabled in Parliament in 2015.

- There should be a meaningful consultative process with all affected stakeholders before the details of the proposal are finalised to ensure it can be implemented in a co-ordinated and effective manner.
- The new system should be designed in a way that ensures orphans in the care of relatives receive an adequate social grant timeously.
- The new system should also ensure that orphans and their families are referred for support services, are actively assisted to obtain parenting rights if necessary (eg guardianship), and are screened to ensure the child is not at risk of abuse or neglect.
- The new system should ensure that social workers, social auxiliary workers, and child and youth care workers are adequately trained and resourced to provide quality and adequate child protection services to children who have been abused, neglected, exploited, or abandoned; and quality prevention and early intervention services to all children at risk of abuse, neglect or exploitation.

**FOR MORE INFORMATION:** Contact [Lucy.Jamieson@uct.ac.za](mailto:Lucy.Jamieson@uct.ac.za)