



**Department of Social Development**

**CONFERENCE THEME: “STRENGTHENING COORDINATED ACTION FOR ORPHANS AND OTHER CHILDREN MADE VULNERABLE BY HIV AND AIDS (OVC) “**

*Draft 4*

*“The plight of children affected by HIV and AIDS is a crisis that has reached catastrophic proportions that, tragically, is likely to worsen before the situation improves”*

*Dr Z S T Skweyiya, Minister of Social Development*

*Conference: A Call for Coordinated Action, June 2002*

## 1. BACKGROUND

HIV and AIDS remain undoubtedly one of the greatest challenges of the world today, as there is no part of the world that has not felt the devastating impact of the pandemic. In Southern Africa, AIDS is the most critical factor that undermines development initiatives. The pandemic is exacerbating the existing problems of poverty, underdevelopment, unemployment and political instability. According to the latest UNAIDS Epidemic Update (December, 2005), Sub-Saharan Africa has just over 10 % of the world's population, but is home to more than 60 % of all people living with HIV-25.8 million. In 2005, an estimated 3.2 million people in the region became newly infected, while 2.4 million adults and children died of AIDS related diseases.

In South Africa, the epidemic has evolved at an astonishing pace and taking a devastating toll on human lives. A report of the study conducted by Statistics South Africa (Stats SA, 2005) on death registration data has shown that deaths among people 15 years of age and older has increased by 62% from 1997-2003 with AIDS related conditions. In South Africa alone, it is estimated that 5.3 million people are living with HIV and the majority is women. Tragically than elsewhere, the epidemic has caused untold miseries in Sub-Saharan Africa region as it has left millions of children with no parents or primary caregivers to care and support them. The high prevalence rate of HIV and the increasing infection rates among the adult population in the region underscore the severity and magnitude of the impending crisis. The devastating impact of the pandemic has undermined and continue to undermine the developmental gains of the past decade and initiatives of bodies such as Southern African Development Community (SADC), New Partnership for Africa's Development (NEPAD) and African Union (AU).

Among the most devastating effects of the HIV and AIDS epidemic in Sub-Saharan Africa is that it is orphaning generations of children-jeopardising their rights and well being, as well as compromising the overall development of prospects of their countries (UNICEF, 2003). To address the needs of OVC, the Department of Social Development in collaboration with UNICEF, Save the Children Alliance (Save the Children Fund-UK and Save the Children-Sweden), the Department of Health, Department of Education and other members of the National Action Committee for Children Affected by HIV and AIDS (NACCA), held a three-day national conference entitled: A Call for Coordinated Action for Children Affected by HIV and AIDS, from 02-05 June 2002.

The following were the conference recommendations

### 1.1. A coordinating structure with three levels was proposed:

- At a national level, the National Action Committee for Children Affected by HIV and AIDS (NACCA) was mandated to coordinate. To be effective, NACCA needs strengthening and suggestions were made for this
- At a provincial level, the creation of Provincial Action Committee for Children Affected by HIV and AIDS (PACCA) was proposed. NACCA and the Department of Social Development were charged with the responsibility to examine existing coordinating structures to facilitate this process

- At a district, the creation of the District Action Committee for Children Affected by HIV and AIDS (DACCA) that will work closely with Area Forums/Committees/ Community Fora were proposed as coordination structures depending on the local dynamics. The importance of local government at this level was emphasized. The coordination structure was charged to ensure implementation of the OTHER conference recommendations.
- 1.2. Engage in a national process for identifying orphans, vulnerable children and duty bearers, and creating a database.
  - 1.3. Fast-track the process for accessing social security Grants
  - 1.4. A process of civil society involvement was suggested with emphasis on identifying children and linking them to available services.
  - 1.5. Engage in a national process for creating awareness about services available to orphans and vulnerable children
  - 1.6. Fast-track the establishment of Home/ Community Based Care and Support Programmes
  - 1.7. Identify and build the capacity of NGOs, FBOs and CBOs that offer services to children and streamline the processes of funding to these.

Various representatives from the SADC region attended the conference and shared experiences on how their respective governments were addressing the social impact of HIV & AIDS on children. Since 2002, there has been a number of responses from government, faith-based organisations, community-based organisations, business sector and civil society organisations have been working together to address the needs of vulnerable children in the context of HIV and AIDS.

There were also new developments and initiatives at both country, regional and international levels geared toward addressing the socio-economic impact of HIV and AIDS on families and communities such as the SADC Declaration on HIV and AIDS, UNGASS Declaration of Commitment and Millennium Development Goals.

## **2. PURPOSE OF THE CONFERENCE**

The purpose of the conference is to provide a forum for all stakeholders at country and SADC level and facilitate action to substantially improve the situation of orphans and other children made vulnerable by HIV and AIDS. With specific reference to South Africa, the conference will be used to consolidate the consultative processes that preceded the development of the Policy Framework and the National Action Plan for orphans and other children made vulnerable by HIV and AIDS.

The conference provides an opportunity to review progress, identify successes or lack thereof, in implementation of the 2002 conference recommendations share experiences or lessons learnt of good practice pertaining to orphans and vulnerable children in the context of HIV and AIDS. The conference will also be used as a forum to disseminate and promote the Policy Framework and the National Action Plan for orphans and other children made vulnerable by HIV and AIDS. The Policy Framework has coordination as one of its guiding principles, and it is therefore appropriate that it should be

launched at such gathering of policy makers, policy analysts, community-based organisations, faith-based organisations and policy implementing agencies

### **3. OBJECTIVES OF THE CONFERENCE**

The following are the objectives of the conference:

- To provide a forum for the exchange of ideas, knowledge, research and initiatives that will inform HIV and AIDS programmes, interventions and strengthen care and support for orphans and other children made vulnerable by HIV and AIDS
- To provide a platform for policy makers, donors, development agencies, civil society organizations and government officials (national, provincial and local) to share lessons and experiences on mechanisms to address the plight of OVC
- To enhance public private partnerships through collaborative efforts to support initiatives working towards the realization of the rights of OVC
- To strengthen coordinating mechanisms to implement strategic initiatives that are properly costed, monitored and evaluated to derive useful lessons
- To share and promote current good practice on psychosocial support to orphans and other children made vulnerable by HIV and AIDS
- To launch the Policy Framework and the National Action Plan for OVC in South Africa
- To foster regional cooperation in SADC countries to advance collective response to challenges of addressing the impact of HIV and AIDS on children

### **4. TRACK SESSIONS**

The following are main tracks and sub-tracks for the conference:

#### **4.1. PSYCHOSOCIAL SUPPORT**

- Children's Rights
- Succession planning (wills, memory boxes and books)
- Inheritance
- Stigma and Discrimination
- Counselling, including bereavement counseling and play therapy
- Access to social grants
- Involvement of churches
- Material assistance

#### **4.2. PARTNERSHIPS AND COLLABORATION**

- Models of coordination at all levels
- Public/Private partnerships
- Partnerships with international agencies
- Social cooperatives
- Sustainability of partnerships
- Intergovernmental coordination

#### **4.3. MODELS OF SUPPORT**

- Child care forums
- Community multipurpose centers
- Other types of community support
- Support to households including child-headed households and other types of households

#### **4.4. POLICY AND LEGISLATION**

- Challenges and gaps in policy implementation
- Policy frameworks
- Policy planning, monitoring and evaluation

#### **5. TARGET PARTICIPANTS**

This is an action-based conference and a variety of participants to be drawn from the following groups will be invited:

- Donors
- Development agencies
- Faith-based organizations
- Community-based organizations
- Civil society organizations
- Government departments
- SADC countries
- Research and academic institutions
- Business/private sector
- Media
- Political leaders

#### **6. PARTNERS**

The following organizations and government departments are involved in the preparation for the conference and requests have been made for them to make financial contribution to the conference:

- USAID
- Department of Health
- Department of Housing
- Department of Education
- Save the Children-UK
- Business Interest Group
- Nelson Mandela Children's Fund
- Heartbeat
- Hope World Wide-South Africa
- Anglican Diocese of the Highveld
- Internal Directorates within the National Department and provincial Departments of Social Development

## 7. HIV AND AIDS AND CHILDREN'S RIGHTS

The HIV & AIDS pandemic has drastically changed the world in which children live and threatens the attainment of their rights, as it undermines the capacity of families and communities to care and protect them. Although children's rights cannot be categorized in terms of priority because there is no single 'right' that is more important than the other, HIV & AIDS violate the attainment of the following basic rights of children:

- The right to **food**. Food insecurity is one of the primary impacts on children due to impoverishment of affected households
- The right to **health**. Children in affected households have lower immunization rates and poorer nutrition. Uninfected children of infected mothers have a higher mortality rate than children of uninfected mothers. Children who care for parents and siblings who are ill with AIDS are at risk of contracting HIV because they often do not know how to protect themselves. Children are also at risk of contracting HIV from sexual abuse and exploitation.
- The right to **shelter and protection of property and inheritance**. Children face the threat of eviction by relatives and authorities when their caregivers die. Children also struggle to access other inheritance such as pension benefits, savings and insurance.
- The right to parental **love care and nurture**. Affected children experience extreme psychosocial distress as they care for parents who are ill and confront the uncertainty of what will happen to them should the parent die. This continues with the death of a caregiver and is compounded by the multiple losses, which affected children often experience.
- The right to **appropriate alternative care**. When the extended family does not exist or simply cannot cope with the care of large numbers of orphaned children many children are forced to live by themselves without adult support or supervision as child headed households. These households are often not detected and do not access any form of community or government assistance.
- The right to **education**. There are cases in which children who cannot pay fees, or buy uniforms and books are still denied education even though this is illegal. Some children drop out of school to care for ill parents or to fend for themselves and their siblings. Many children are in school but not necessarily becoming educated as their circumstances prevent them from concentrating on their studies.
- The right to **play and recreation**. Many affected children have had to assume adult responsibilities and do not have the time to play with their peers. High rates of stigma and discrimination create barriers between children.
- The right to **identity**. The numbers of children who do not have birth certificates and identity documents which allow them to access other government services and support is still unacceptably high. Orphaned children also experience the loss of family identity and sense of belonging, which is conferred orally from parents to their children.
- The right to **protection from abuse**. Affected children are at risk of abuse and exploitation of all forms – physical, emotional and sexual - and suffer from the loss of parental protection. Children are less likely to report abuse against themselves due to a number of reasons such as fear, shame, embarrassment and guilt.
- The right to **protection from child labour**. Affected children must often fend for themselves and their siblings. They are often forced into menial work or transactional sex, as they do not have any skills.

- The right to **participate in decisions affecting their lives**. Decisions such as those about where children should live and with whom, are often made without consulting and the consent of children

## **8. LEGISLATIVE AND POLICY MANDATES FOR THE PROTECTION OF OVC:**

### **8.1. Constitution of the Republic of South Africa**

The South African Constitution, Act 108 of 1996 is the basis of human rights in South Africa. All rights contained in the *South African Bill of Rights* apply equally to adults and children. Section 28 of the Constitution deals specifically with rights that children have in addition to all other rights contained in the Bill of Rights. These include:

- A name and nationality from birth.
- Family care, parental care, or to appropriate alternative care when removed from the family environment.
- A range of socio-economic rights including the right to basic nutrition, shelter, and basic health care services and social services.
- Protection from maltreatment, neglect, abuse or degradation.
- To be detained only as a measure of last resort and then only for the shortest and appropriate period of time. Detained children have the right to be kept separately from detained persons over the age of 18 years, treated in a manner, and kept in conditions, that take into account their age; to have a legal practitioner assigned to them in civil proceedings that affect the child, if substantial injustice would otherwise result; not to be used directly in armed conflict; and to be protected in times of armed conflict
- The principle of the best interest of the child as the most important consideration in all matters that concern them
- Children have the right to equal treatment and non-discrimination, education and to social security amongst others.
- Not to be required or permitted to perform work or provide services that –
  - are inappropriate to the child’s age, or
  - place at risk the child’s well being, education, physical or mental health or spiritual, moral or social development

#### **8.1.1. The Policy Framework and the National Action Plan for orphans and other children made vulnerable HIV and AIDS in South Africa, 2005**

The Policy Framework provides the broad strategies for interventions and programmes for OVC that support current and future innovations within a multi-sectoral and brings together partners from the public and private sectors, international development agencies and civil society organisations. The Policy Framework is a product of consultative processes and stakeholder-driven undertaking that promotes an enabling environment for more effective delivery on the existing obligations and commitments on orphans and other children made vulnerable by HIV and AIDS at legislative, policy and programme levels.

As a policy framework it serves to:

- confirm existing policy and refer to intended policy;
- reinforce existing, relevant legislation and the links between various pieces of legislation and policies

- provide a rationale for common action by different government departments and civil society for the implementation of various strategies in order to promote the rights of OVC
- clarify the approach, principles and intentions for coordination and effective partnerships

The National Plan of Action for OVC expands on the strategies and provides further guidelines for implementation at national, provincial and local government level. The strategies that have guided the Action Plan include the following:

- To strengthen and support the capacity of families to protect and care for Orphans and other children made vulnerable by HIV and AIDS
- To mobilise and strengthen community-based responses to the care, support and protection of orphans and other children made vulnerable by HIV and AIDS
- To ensure that legislation, policy, strategies and programmes are in place to protect the most vulnerable children
- To ensure access for orphans and other children made vulnerable by HIV and AIDS to essential services
- To raise awareness and advocacy to create supportive environment for orphans and other children made vulnerable by HIV and AIDS

The National Action Plan was to clearly define the unique value-adding role of various stakeholders in addressing the social impact of HIV and AIDS. This is based on the premise that no single sector can successfully address the impact of HIV and AIDS epidemic on individuals, families and communities.

### **8.3. The African Charter on the Rights and Welfare of the Child**

The African Charter on the Rights and Welfare of the Child is an important regional charter for protecting and promoting children's rights. The Charter complements the United Nations Convention on the Rights of the Child (UNCRC) by emphasizing not only the rights but the responsibility of the child as well.

The Charter reinforces the state's obligation to ensure to the maximum extent possible, children's survival, protection and development (Article 5). Article 25 (2) of the Charter states that the state shall ensure that any child who is parentless, or who is temporarily deprived of his or her family environment...shall be provided with alternative family care, which could include, among other, foster placement or placement in suitable institutions for the care of children.

#### **8.4.1. Southern African Development Community (SADC) Declaration on HIV and AIDS**

The SADC Declaration on HIV and AIDS confirm the commitment of SADC member countries to combat HIV & AIDS pandemic through effective regional, collaboration and mutual support. The SADC Declaration further reaffirms the UNGASS Declaration of Commitments. In addition, the Declaration acknowledges and recognizes that the HIV & AIDS pandemic can best be tackled through multi-sectoral interventions and partnerships with all stakeholders including civil society, faith-based organizations, business sector, development agencies and donor community.



## **8.5. SADC Strategic Framework on HIV and AIDS**

The SADC Strategic Framework aims to strengthen the response to the HIV & AIDS pandemic in the SADC region and also seeks to build on the efforts of the many sectors that are involved in the HIV & AIDS response.

## **8.6. United Nations Convention on the Rights of the Child**

The United Nations Convention on the Rights of the Child (UNCRC) is the most important international instrument dealing with all aspects of children's rights as it provides a useful framework for addressing the rights of children. The CRC has the following key principles:

- best interests of the child (article 3)
- survival and development (article 6)
- non-discrimination (article 2)
- and participation (article 12)

## **8.7. UNGASS Declaration of Commitment on HIV and AIDS**

The United Nations General Assembly Special Session (UNGASS) Declaration of Commitment reflects both international and political commitment to address the plight of OVC. Three articles in the Declaration specifically relate to vulnerable children orphaned in the context of HIV and AIDS:

*Article 65. By 2003, develop and by 2005 implement national policies and strategies to: build and strengthen governmental, family and community capacities to provide a supportive environment for orphans and girls and boys infected and affected by HIV and AIDS including by providing appropriate counselling and psycho-social support; ensuring their enrolment in school and access to shelter, good nutrition, health and social services on an equal basis with other children; to protect orphans and vulnerable children from all forms of abuse, violence, exploitation, discrimination, trafficking and loss of inheritance*

*66. Ensure non-discrimination and full and equal enjoyment of all human rights through the promotion of an active and visible policy of de-stigmatization of children orphaned and made vulnerable by HIV and AIDS*

*67. Urge the international community, particularly donor countries, civil society, as well as the private sector to complement effectively national programmes to support programmes for children orphaned and made vulnerable by HIV and AIDS in affected regions, in countries at high risk and to direct special assistance to sub-Saharan Africa.*

## **8.8. Millennium Development Goals**

The Millennium Development Goals sets the following targets:

- Halve the proportion of people in extreme poverty and hunger between 1990 and 2015
- Achieve universal primary education by 2015
- Reduce by two-thirds the under-five mortality rate by 2015
- Reduce by three-quarters the maternal mortality rate by 2015

- Halt and begin to reverse the spread of HIV and AIDS by 2015