NATIONAL CHILD CARE AND PROTECTION POLICY

WORKING TOGETHER TO ADVANCE THE RIGHTS OF ALL CHILDREN TO CARE AND PROTECTION

2019

Building a Caring Society. Together.

social development

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FOREWORD BY THE MINISTER

Through our Constitution and ratification of child-rights treaties, South Africa has committed to realising children's rights to survive, be protected from harm, and develop to their full potential. We have also committed to achieving the Sustainable Development Goals (SDGs). These two commitments are inextricably linked to each other, given that sustainable development depends on the ability of all children, especially the most vulnerable, to access services that equalise their opportunities and interrupt the intergenerational cycle of poor development in which most of the population remains trapped. Our National Development Plan (NDP) calls on all of us to work together to break this cycle.

This Policy provides a national road map for the provision of a continuum of child care and protection programmes and services that are necessary to advance the NDP and SDGs and discharge our international, regional and national child-rights responsibilities. It recognises that children's care and protection are critical for sustainable development, and makes it a nationwide priority to provide these programmes and services in a coordinated, integrated and uniform manner.

The Policy is thus a crucial tool for achieving our development goals to overcome poverty and inequality. It calls on all organs of state and levels of government to recognise and fulfil their care and protection responsibilities, and to work closely with civil society to deliver a comprehensive suite of care and protection services to children. It is only through this synergy that we as a country will be able to honour our commitments to children – those of today and those of the future.

I firmly believe that the implementation of this Policy will contribute significantly not only to the survival, protection and development of our children, but that the sustainable development of our country is dependent on the realisation of the objectives of this Policy.

MS LINDIWE D ZULU, MP
MINISTER OF SOCIAL DEVELOPMENT

EXECUTIVE SUMMARY

The Government of the Republic of South Africa (GRSA) is committed to the full and equal realisation of the rights of all children to survive, be protected from harm, to develop to their full potential and to participate in decisions affecting them. It is committed, furthermore, to the achievement of the Sustainable Development Goals (SDGs) and recognises that development can be achieved and sustained only if it is child-centred and rights-based.

Realising the NDP's goals, as well as the country's international and constitutional child-rights imperatives, requires the adoption of a rights-based developmental child care and protection policy that provides a nationwide vision for driving investment in programmes that:

- guarantee the universal rights of all children to survival, protection, development and participation; and

- address the root causes of poor development among vulnerable children at risk of poor development, including violence poverty, fractured families, malnutrition, poor education, and substance abuse.

The GRSA has therefore adopted this Policy, which articulates the national vision: that all children in South Africa live in safe and nurturing families, communities and societies which enable and support their survival, their development to their full potential, their protection from violence, abuse, neglect and exploitation, and their participation in decisions that affect them.

The Policy recognises that responsibility for the realisation of the vision is shared by many role-players. As such, it provides a unifying framework for effective and systemic translation of the country's child care and protection responsibilities to realise the vision. The Policy recognises that parents, families, and caregivers are the primary duty-bearers for the care, development and protection of their children, and that most parents, caregivers and families have the desire and capacity to provide care and protection.

It recognises, furthermore, that all caregivers and children, depending on their circumstances, require varying degrees of support and services to fulfil their care and protection responsibilities, and that the GRSA is duty-bound to provide an appropriate package of services to address risks and maximise the care and protection of all children in South Africa.

The Policy commits to securing a continuum of care and protection services that respond to the needs and circumstances of children and their families. It recognises the following:

- Regardless of their circumstances, all children, parents and families need certain services and forms of support. These include health care, clean water, sanitation facilities, electricity, safe communities, play facilities, early education facilities and schools.

- Vulnerable families and caregivers, whose circumstances limit their capacity to provide care and protection, need and are entitled to, additional targeted services that overcome challenges to providing care and protection and that prevent children from falling prey to risks.

- Finally, there are children who do fall through the public safety nets – those who have no parents/caregivers and/or are are exposed to violence, abuse, neglect and exploitation. They are entitled to responsive services to protect them from harm and to return them to a family environment where they may receive the nurturing care and protection they need to develop to their full potential.

The Policy requires all responsible role-players, including departments, non governmental organizations and levels of government, to take all necessary measures to achieve the following policy goal:

All children in South Africa receive a continuum of the developmental care and protection services they need in an enabling and supportive environment to survive, develop to their full potential, be protected from violence, abuse, neglect, exploitation and discrimination, and participate in decisions that affect them.

The Policy defines the package of services across the continuum. The Policy's developmental orientation calls for significantly increased investments in the provision of the first two packages, namely promotive and preventative services. The underlying rationale of the Policy is that investments in promotive and preventative services will systematically reduce the number of children needing responsive protective services. At the same time, the Policy recognises that the quality, reach and impact of the package of responsive services must be strengthened to meet the needs of children exposed to violence, abuse, neglect and exploitation who have increased in number due to historical neglect of the foundational pillars of the child care and protection system.

The Policy recognises that the GRSA has taken steps towards developing a child care and protection system and provides several services across the continuum. However, the situational assessment concludes that the current system is not adequate to meet the governing developmental imperatives. South Africa continues to be faced with large numbers of children who are at risk and trapped in an intergenerational cycle of poor development and exclusion. This is so primarily because current programmes and services do not comprehensively address the combination and complexities of often intersecting common risks and have failed to interrupt the negative cycle. For example, while South Africa has a solid social assistance programme, the impact of cash grants on their own is limited if they are not complemented by additional programmes and targeted interventions such as supportive parenting and other interventions necessary to counter the adverse impact of poverty. Many children are simultaneously exposed to poverty, exclusion, violence, abuse, neglect, exploitation and inequality, thus requiring material support, along with formal protection services. Very few in need of the latter access these services, thus perpetuating the cycle.

The Policy identifies critical gaps and challenges in the child care and protection system. Furthermore, it identifies several strategies to address them efficiently and effectively.

LIST OF ABRREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
CDG	Care Dependency Grant
CPO	Child Protection Organisation
CDR	Child Death Review
COP	Child Online Protection
CSG	Child Support Grant
CSTL	Care and Support for Teaching and Learning
CYCC	Child and Youth Care Centre
DBE	Department of Basic Education
DHA	Department of Home Affairs
DIRCO	Department of International Affairs and Cooperation
DOH	Department of Health
DOJ&CD	Department of Justice and Constitutional Development
DSD	Department of Social Development
ECD	Early Childhood Development
FCG	Foster Child Grant
GRSA	Government of the Republic of South Africa
HOD	Head of Department
IOM	International Organisation for Migration
ISS	International Social Services
M&E	Monitoring and Evaluation
MEC	Member of the Executive Committee
NCCPF	National Child Care and Protection Forum
NCPR	National Child Protection Register
NCRICC	National Children's Rights Intersectoral Coordination Committee
NDP	National Development Plan
NGO	Non-Governmental Organisation
NPA	National Prosecuting Authority
NPAC	National Plan of Action for Children

LIST OF ABRREVIATIONS

NPO	Non-profit Organisation
PRR	Parental Responsibilities and Rights
PEI	Prevention and Early Intervention
RACAP	Register on Adoptable Children and Prospective Adoptive Parents
SACA	South African Central Authority
SACSSP	South African Council of Social Service Professionals
SAPS	South African Police Service
SDG	Sustainable Development Goals
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

GLOSSARY OF TERMS

Key terms important for understanding this Policy are defined here; further definitions can be found in relevant legislation. Some terms are elaborated upon where they appear in the Policy.

A Child in Need of Care and Protection

is a child who is deprived of care as defined in this Policy, who is at risk of such deprivation, or who requires protection from violence, abuse, harm, neglect or exploitation.

The following children are recognised as being in need of care and protection, noting that such children are not limited to those listed here but include any child who meets the preceding criteria:

- A child that has been abandoned or orphaned and is not in the care of a family member (as defined in this Policy);
- Lives or works on the streets or begs for a living;
- Displays behaviour that cannot be controlled by a parent or caregiver;
- Is addicted to dependence-producing substances and is without support to obtain treatment;
- Has been exploited or lives in circumstances that expose him or her to exploitation;
- Lives in or is exposed to circumstances that could seriously harm his or her physical, mental or social well-being;
- May be at risk if returned to a parent or caregiver as there is reason to believe he or she will live in or be exposed to circumstances that could seriously harm his or her physical, mental or social well-being;
- Is in a state of physical or mental neglect;
- Is being maltreated, abused, deliberately neglected and exploited by a parent, a caregiver, a person who has parental responsibilities and rights, a family member of the child, or a person in whose care the child is;
- Is an unaccompanied migrant child from another country; or
- Is a victim of trafficking;
- Has been sold by any person, a parent, caregiver or guardian.

Abandoned Child

means a child who:

- Has been deserted by a parent, guardian or care-giver; or
- Has for no apparent reason, had no contact with the parent, guardian or care-giver for a period of at least three months; or
- Whom the whereabouts of the parent, guardian or caregiver cannot be established.

Adoption Service

includes -

- Counselling of a parent or guardian of the child and, where applicable, the child;
- An assessment of a child by an adoption social worker;
- An assessment of a prospective adoptive parent by an adoption social worker;
- The gathering of information for proposed adoptions;
- Compilation and submissions of adoption reports; and
- After-care provided to the adoptive family.

Assessment of a Child

means a process of investigating the developmental needs of a child, including his or her family environment or any other circumstances that may have a bearing on the child's need for protection and therapeutic services.

Alternative Care

is the care of a child in temporary safe care, foster care, a child and youth care centre as ordered by a children's court.

Care
in relation to a child, includes, where appropriate:

(a) Within available means, providing the child with:
- A suitable place to live;
- Living conditions that are conducive to the child's health, well-being and development; and
- The necessary financial support;

(b) Safeguarding and promoting the well-being of the child;

(c) Protecting the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical, emotional or moral harm or hazards;

(d) Respecting, protecting, promoting and securing the fulfilment of, and guarding against any infringement of, the child's rights set out in the Bill of Rights and governing laws of the country;

(e) Guiding, directing and securing the child's education and upbringing, including religious and cultural education and upbringing, in a manner appropriate to the child's age, maturity and stage of development;

(f) Guiding, advising and assisting the child in decisions to be taken by the child in a manner appropriate to the child's age, maturity and stage of development;

(g) Guiding the behaviour of the child in a humane manner using positive parenting and discipline methods;

(h) Maintaining a sound relationship with the child;

(i) Accommodating any disability or any special needs that the child may have; and

(j) Generally, ensuring that the best interests of the child are the paramount concern in all matters affecting the child.

Child
means a person below the age of 18 years.

Child-Headed Household
is a household where:

- the parent, guardian or caregiver of the household is terminally ill, has died or has abandoned the children in the household;
- no adult family member is available to provide care for the children in the household;
- a child over the age of 16 years has assumed the role of caregiver in respect of the children in the household; and
- it is in the best interests of the children in the household.

Child and Family Services
are a group of services designed to promote the well-being of all children by ensuring safety, achieving permanency, and strengthening families to care effectively for their children.

Child Labour
means work by a child which is exploitative, hazardous or otherwise inappropriate for a person of that age, and that places the child's well-being, education, physical or mental health, or spiritual, moral, emotional or social development at risk.

Child Participation
entails that every child who is of an age, maturity and stage of development to participate in any matter that affects him or her, including decisions within the family, school, community and government, has the right to participate in an appropriate way by expressing his or her views, which must be given due consideration.

Childcare and Protection
is the process of preventing and responding to children who are deprived of care as defined in this Policy, who are at risk of such deprivation, or who require protection from violence, abuse, harm, neglect or exploitation. It involves measures and structures to prevent and respond to parental deprivation, violence, abuse, harm, neglect and exploitation. It is a broad term used to describe philosophies, policies, standards, programmes, guidelines and procedures to protect children from both intentional and unintentional harm.

Child and Youth Care Centre
is a facility for the provision of court-ordered residential care to more than six children outside the child's family environment in accordance with a residential care programme suited for the children in the facility.

Cluster Foster Care
means the reception of children in foster care in accordance with a cluster foster care scheme registered by the provincial head of social development and managed by a designated child protection organisation that complies with governing laws and regulation.

Cluster Foster Care Scheme
means a scheme providing for the reception of children in foster care, managed by a designated child protection organisation, and registered by the provincial head of social development for this purpose.

Commercial Sexual Exploitation
means, in relation to a child, the procurement of a child to perform sexual activities for financial or other reward, including acts of prostitution or pornography, irrespective of whether that reward is claimed by, payable to or shared with the procurer, the child, the parent or caregiver of the child, or any other person; or trafficking in a child for use in sexual activities, including prostitution or pornography.

Contact
means, in relation to a child, maintaining a personal relationship with the child. If the child lives with someone else, it means communication on a regular basis with the child, including visiting the child, or being visited by the child; or communication through the post, by telephone or any other form of electronic communication.

Corporal Punishment or Physical Punishment
means any punishment in which physical force or action is used and intended to cause some degree of pain or harm. It involves, but is not limited to, hitting ('smacking', 'slapping', 'spanking') children in any environment or context, including the home setting, with the hand or instruments such as a whip, stick, belt, shoe or wooden spoon. It can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, caning, forcing children to stay in uncomfortable positions, burning, scalding, or forced ingestion.

Country of Origin
is the country of nationality of the child.

Early Childhood Development
means the process of emotional, cognitive, sensory, spiritual, moral, physical, social and communicative development of children from birth until the year before a child enters formal schooling.

Early Childhood Development Service
means a service or support provided to children from birth until school going age or to the child's parent or caregiver with the intention to promote the child's emotional, cognitive, sensory, spiritual, moral, physical, social and communication development as contemplated in section 91(2).

Early Childhood Development Programmes
are those that provide one or a collection of daily care, developmental, and early learning opportunities and support to a child from birth until the year before they enter formal schooling.

Emotional Abuse
means any act of omission and commission by the parent and/or caregiver which is immediately or ultimately psychologically damaging. It affects the psychological, behavioural, social, cognitive and emotional functioning and/or development of a child. Frequent yelling at a child, or threatening, bullying or exposing him or her to violence or the abuse of others, whether it be the verbal or physical assault or abuse of a parent, a sibling, or even a pet, is considered emotional abuse.

Exploitation
refers to the use of people as a resource, with little or no consideration of their well-being. In relation to a child, exploitation includes all forms of slavery or practices similar to slavery, including debt bondage or forced marriage; sexual exploitation; servitude; forced labour or services; sale of a child; the use of a child to commit a crime; prostitution; pornography; trafficking and child-labour prohibited in terms of the laws of the land; and the removal of body parts.

Family Member
means, in relation to a child:

- A parent of the child;
- Any other person who has parental responsibilities and rights in respect of the child;
- A grandparent, brother, sister, uncle, aunt or cousin of the child; or
- Any other person with whom the child has developed a significant relationship, based on psychological or emotional attachment, which resembles a family relationship.

Foster Care
is a form of alternative care for a child who, as a result of court order, is in the care of a person who is not his or her parent or guardian.

Foster Child
is a child placed in the foster care of a person who is not the parent or guardian of the child or a cluster foster care scheme as a result of a court order or a transfer order.

Foster Parent
is a person who has been assigned responsibility for the care of a foster child by order of the children's court.

Investigation
is a process conducted by a social worker in respect of a child who has been identified, through screening and assessment, by a social services practitioner as being in need of both care and protection. An investigation includes an in-depth consideration of the child and family's environment, circumstances and associated care and protection risks, opportunities and needs, and an evaluation and recommendation as to a care and protection plan for the child.

Kinship Care
is a form of care provided to a child by a family member.

Maltreatment
means all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child's health, survival, development or dignity.

Neglect and Negligent Treatment
means inattention or omission by a caregiver to provide for the development of the child in education, health, nutrition, shelter and safe living conditions in the context of resources available to the family or caregivers and liable to cause harm to the child's health, physical, mental, spiritual, moral or social development.

Neglect
means the persistent absence of responsive care.

Non-Refoulement
means that the state shall not return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child.

Orphan
means a child whose biological or adoptive parents are dead.

Maternal Orphan
means a child whose mother has died but whose father is alive.

Paternal Orphan
means a child whose father has died but whose mother is alive.

Double Orphan
means a child whose mother and father have both died.

Physical Abuse
means actual or potential physical harm caused by an action, or lack of action. This may involve hitting, spanking, shaking, shoving, throwing, poisoning, drowning and suffocating that causes, or is committed with the intention of causing, physical harm or ill health.

Population-Based or Population-Level Planning and Implementation
means planning and implementation to ensure coverage of the entire targeted population with services and support to address risks and opportunities specific to the targeted population.

Responsive Protective Services
refers to initiatives that respond to parental deprivation, violence, abuse, harm, neglect and exploitation of children.

Risk Factors
include a range of factors located in the child's physiology, family, community or broader social, religious and cultural context that limit the capacity of caregivers to provide care, and/or limit the child's survival or development to his or her full potential, or expose the child to violence, abuse, neglect or exploitation.

Screening
is an initial or preliminary consideration of the risk and protective factors of children to determine if the children are at risk of poor development and significant harm. The objective thereof is to identify vulnerable children and families through a determination of their risks, opportunities and need for services, with a view to referring them to appropriate service providers to enable their access to a suitable package of care and protection services.

Sale of Children
means any act or transaction whereby a child is transferred by any person or group of persons to another for improper financial gain or any other consideration.

Separated Migrant Child
means a child who is not a citizen of the Republic and who has been separated from both parents or from previous legal or customary care-giver/s, but not necessarily from other adult family members, including a child accompanied by an adult family member.

Sexual Abuse
means and includes any act constituting an offence against a child, any offense against a child under common law or in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

Social Research
is a broad term referring to different kinds of scientific enquiry conducted in the field of social sciences.

Social Services Practitioner
means any person registered to practise a social service profession or a social service occupation in terms of the Social Services Professions Act (Act No. 110 of 1978).

Temporary Safe Care
means, care of a child in an approved and registered child and youth care centre, with an approved person or place where a child can be safely accommodated pending a decision or court order concerning the placement of the child, but excludes care of a child in a prison or police cells.

Trafficking
means, in relation to a child:

- The recruitment, sale, supply, transportation, transfer, harbouring or receipt of children, within or across the borders of the Republic by any means, including the use of threat, force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person in whose care the child is, due to a position of vulnerability, for the purpose of exploitation; and

- Includes the adoption of a child facilitated or secured through illegal means.

Unaccompanied Migrant Child
means a child who is not a citizen of the Republic of South Africa and who has been separated from both parents or other adult family members and is not being cared for by an adult who, by law or custom, is responsible for doing so.

Violence
means all forms of physical or mental injury or abuse, neglect or negligent treatment, violence, abuse, neglect, exploitation or exploitation, including sexual abuse.

Vulnerable Children
includes children exposed to risk factors that may impact negatively on their development, care and protection, and/or whose access to child-care and protection services is limited. Such children may include, but are not limited to:

- Children living in poverty;
- Undocumented children;
- Children experiencing developmental difficulties or disabilities;
- Children with conduct or behavioural challenges;
- Children with chronic health conditions;
- Orphaned children;
- Abandoned children;
- Children separated from, or living without their biological parents;
- Children in child and youth-headed households;
- Children living, begging or working on the streets;
- Children living in marginalised, under-serviced, informal settlements in urban and rural areas;
- Children whose caregivers abuse substances such as alcohol and drugs;
- Children who have been maltreated, abused, neglected or exposed to violence within the family, school or community;
- Unaccompanied and separated migrant children;
- Children used by others to commit crime;
- Children in conflict with the law;
- Babies living with their incarcerated mothers;
- Children living in institutionalised care or living outside of family-based care;
- Lesbian, gay, bisexual, trans and inter-sexual children; and
- Children recruited or conscripted into armed conflict.

CHAPTER 1
INTRODUCTION AND BACKGROUND TO THE POLICY

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1.1 Introduction

South Africa's Constitution guarantees the equal enjoyment of children's rights provided by the United Nations Convention on the Rights of the Child (UNCRC) and African Charter on the Rights and Welfare of the Child (ACRWC). It protects children's rights to survive; to nurturing parental and family care; to protection from violence, abuse, neglect and exploitation; and to have their best interests be paramount in all decisions affecting them.

The NDP is aligned to the 2030 Agenda for Sustainable Development.

It aims to eliminate poverty and reduce inequality by 2030. It seeks to do so by addressing their root causes and enhancing the country's human capital, starting with its children. Failure to give effect to children's rights is a critical barrier to South Africa's development: marginalised children have limited access to services for equalising opportunities and supporting optimal development, and so remain trapped in an intergenerational cycle of poverty, exclusion and underdevelopment. As such, the NDP prioritises the provision of quality care and protection services to disrupt this vicious cycle, placing the realisation of children's constitutional rights at the heart of national development.

The fundamental link between children's rights and the country's development creates a duty to institute a rights-based developmental approach to child care and protection that tackles the underlying causes of children's poor development, inequality and exposure to violence, abuse, neglect and exploitation. In other words, the NDP mandates a policy that focuses in the first instance on the prevention of risks and the promotion of children's development – and not one that focuses solely on the protection of those children already exposed to harm.

Fulfilling the obligation to apply a rights-based developmental approach requires the adoption of a unifying national vision and a unified national child care and protection system, with the former guiding the latter and the latter bringing the former to realisation. Crucially, this entails facilitating unity of purpose among a diversity of role-players inside and outside government.

Ever since the transition to democracy, South Africa has been committed to a developmental approach to child care and protection, but there is a compelling need for it to be reinvigorated.

One of the first transformative shifts in social welfare policy came with the adoption of the White Paper on Social Welfare (1997) which rejected the fragmented, rehabilitative approach of the past and moved from a deficit and welfare based model to a rights and asset-based model. Applying a holistically developmental approach, the White Paper sought to create a promotive and protective system grounded in services addressing the social, economic and psychosocial determinants of vulnerability and in so doing promoting resilience in families and communities and their ability to foster the development of marginalised children.[1]

However, despite South Africa's long-standing commitment to the developmental approach, some 20 years after its adoption the majority of historically marginalised children remain vulnerable to poor developmental outcomes and at a high risk of exposure to violence, abuse, neglect and exploitation. Their exclusion has served to perpetuate poverty and inequality along historical fault-lines, so unless child care and protection policy and practices change, these patterns will repeat themselves in future generations.

Currently, there appears to be incongruity between South Africa's child care and protection commitments and its outcomes for children. The reasons for this are diverse, but a key problem is a lack of shared understanding of what a developmental approach is, what it requires in terms of priorities, programmes and services, who the necessary role-players are, and what their responsibilities are. Differences of understanding in this regard are a major factor undermining the developmental potential of the child care and protection system.[2]

Shifts in the global and national landscape have aggravated the lack of shared understanding. The White Paper on Social Welfare was crafted in the context of the Millennium Development Goals (MDGs) and Reconstruction and Development Programme (RDP) ,which have been superseded by the Sustainable Development Goals (SDG) and their domestication through the NDP. The NDP and SDG differ markedly from their predecessors in how they understand development – a shift that brought with it an additional dimension of uncertainty and which further highlights the need for consensus on what a developmental welfare policy means in the current governing global and national context.[3]

These challenges impact on how South Africa engages systemically with the rights and needs of children and hence frustrate the translation of commitments into effective, developmentally supportive child care and protection services. The number of vulnerable children has not decreased substantially; and the number of those who are exposed to maltreatment is large and increasing. This has led, perforce, to a continuation of the pre-White Paper focus on reactive formal protection: the

extent and urgency of the protection needs of the growing population of children at risk of violence, abuse, neglect and exploitation leave little room for reorienting the child care and protection system and its limited available resources towards supporting population-scale developmentally promotive and preventative services. The result is a situation where the formal protection system is overcrowded, hugely under-resourced with the result that the child care and protection system as a whole does not provide the progressive rights-based foundation required by the NDP.

Fulfilling South Africa's legal and developmental responsibilities hence calls for a shared national child care and protection vision; this in turn requires nationwide clarity on what constitutes commitment to and accountability for a developmental child care and protection system. Achieving the NDP's goals, necessitates agreement on the services and support that must be provided, and by which role-players, in order to translate the shared vision into effective programmes and practices supported by official departmental plans, resources, and referral and delivery systems.

This Policy articulates South Africa's national developmental child care and protection vision. Furthermore, it sets out the policy framework for ensuring that all responsible role-players have the mandate, authority and clarity of understanding to engage in collective, integrated and harmonised action in adopting appropriate quality practices and programmes at the scale required for the realisation of this vision.

1.2 Structure of the Policy

To achieve its aim, the Policy is structured as follows:

- Chapter 1 explains the rationale for the developmental approach to child care and protection and outlines the framework for the design of a system to operationalise this approach countrywide.
- Chapter 2, cognisant of the imperatives of South Africa's governing framework and of the strengths, weaknesses, opportunities and threats identified in the situational assessment, sets out the purpose, vision, mission, goals, objectives, principles, strategy and priorities of national child care and protection.
- Chapter 3 is a situational assessment of measures taken so far to implement such a system, their impact on children and national development, and the gaps that are apparent when these measures are read against the framework in Chapter 1.
- Chapter 4 specifies the role-players, duties and responsibilities that are necessary to give effect to the Policy's overarching vision and goals.
- Whereas Chapter 4 deals with the 'who', Chapter 5 deals with the 'what', presenting the substantive components of the national child care and protection system and its continuum of promotive, preventative and protection programmes and services.
- Chapter 6 gives direction on the enabling institutional mechanisms and arrangements that must be in place and strengthened for effective realisation of the vision, goals and objectives of national child care and protection.
- Chapter 7 gives the conclusion to the policy document.

1.3 The Importance of the Definition

Any system in general consists of parts organised around a common purpose; that purpose is the glue holding it together.[4] If the purpose is unclear, or differs among role-players, there is little prospect of an effective, unified system.

A key purpose of this Policy is to institute an effective, unified system capable of driving South Africa's vision of developmental child care and protection. This depends on a clear, shared nationwide understanding of, and commitment to, developmental child care and protection and the intended goals, objectives and responsibilities of the supporting system. As such, the definition of 'developmental child care and protection' is of foundational importance.

1.4 Defining Developmental Child Care and Protection

The developmental approach defines child care and protection as the full continuum of care, support and protection that all children need for their well-being, to develop and to thrive to their full potential. One of the dimensions of this spectrum concerns the care and protection of children who are deprived of parental care and who suffer violence, abuse, neglect and exploitation This, however, is only one of many elements of care and support – the Policy is not limited to it alone.

The developmental approach is asset-based, rights-based and promotive in its orientation, rather than deficit- and response-oriented. It is founded on the recognition that children are born into circumstances that have both opportunities for facilitating their development as well as risks that could impair it. A system grounded in this approach seeks to maximise the opportunities for children to thrive, to support their optimal development and well-being and, in so doing, avoid their exposure to risks to their well-being, development and protection.

Secondly, where risks are present, the system seeks to address them by building the resilience of parents, caregivers and children themselves to minimise and limit the impact of these risks on the well-being, development and safety of the child.

Finally, where all prior efforts fail and children experience violence, abuse, neglect and exploitation, a developmental child care and protection system ensures that they receive appropriate quality responsive protective services that mitigate the harm, avoid secondary abuse, and put them back on a positive developmental trajectory.

The duty of care and protection within the developmental model entails a continuum of promotive, preventative and responsive protective services and support that are to be provided by all responsible duty-bearers and role-players who are essential to the well-being, development and protection of all children.

The developmental child care and protection approach is family-focused and child-centred. It recognises that parents and family members, or alternative legal guardians, are the primary duty-bearers for the care, development and protection of their children,[5] and that, furthermore, all parents and families have the capacity and desire to provide the care and protection their children need to develop to their full potential. However, to do this effectively, they all need access to public services and support the Government is duty-bound to provide, such as health care, clean water, sanitation, electricity, play facilities, early education facilities, and schools.

In addition, there are families and households whose circumstances limit their capacity to meet their duty of care and protection and pose a risk to the development of their children. They are entitled to, and must, receive support through public programmes to build their resilience to risks and maintain the care, development and protection of their children.

Finally, the approach recognises that there are children who fall through the public safety nets. These include children who are denied their right to family care and protection because of the absence, inability, or unwillingness of their parents or families to provide care and protection; children in the criminal justice system; and/or children who experience violence, abuse, neglect and exploitation. They require more intensive care and protection services to protect them from harm, to minimise the impact of the harm on their development, and to strengthen and rehabilitate their environments so that they may return to a family environment where they receive the care, support and protection needed to develop to their full potential.

As such, the Policy requires the establishment of a nationwide public developmental child care and protection system that secures the provision of a continuum of effective, quality programmes and services which include:

- Promotive public child care and development programmes and services that are universally available to all children, families, parents, caregivers and guardians to support and maximise existing parental, family and caregiver capacities to provide the care and protection their children need to develop to their full potential;

- The provision of targeted preventative and early intervention programmes and services to build the resilience of vulnerable children and households where social, economic, health and other factors may undermine caregiving capacity and create a risk to children's development and protection; and

- The provision of responsive protective services to children deprived of parental or family care and protection and/or who are in the child justice system and/or who experience violence, abuse, neglect and exploitation to protect them from further harm and return them to a nurturing environment to secure their development to their full potential.

1.5 Legal Overview

The GRSA is compelled and guided by its constitutional, international, regional and domestic legal and sustainable policy development commitments. Its functions and responsibilities, as well as emerging evidence, are crucial to adopt a rights-based, developmental child care and protection system.

1.6 Legal and Sustainable Development Imperatives

The GRSA's commitment to uphold the rights of children not only to survival and protection but to development of their full potential is already detailed in various legislation and international treaties; it has undertaken, furthermore, to ensure the sustainable devel-opment of the country. These commitments are inextricably linked and require the adoption of a rights-based developmental child care and protection policy, strategy and public system.

GRSA has ratified and domesticated international and regional instruments that oblige the adoption of a developmental child care and protection policy and supporting system.

The key instruments (described in detail in Annexure A) include the following:

- UNCRC;

- ACRWC;

- Hague Convention on Civil Aspects of International Abduction;

- Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption;
- International Convention on Cybercrime;
- International Labour Organization;
- Convention on the Elimination of the Worst Forms of Child Labour;
- AU Agenda 63;
- UN Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally;
- UN Guidelines for the Alternative Care of Children;
- UN Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography;
- UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and
- UN Rules for the Protection of Juveniles Deprived of their Liberty.

GRSA's primary means of ratification is through the Constitution of South Africa. It recognises the rights of all children to develop to their full potential and imposes an associated duty on the Government to adopt measures that ensure children's survival; protection from abuse, neglect and exploitation; access to parental and family care; protection within the child-justice system; protection from discrimination; and access to their socio-economic rights of education, play, recreation, social services, health care, and basic services, as well as to their civil and political rights to an identity, to be heard and to participate in all decisions that affect them.

The aforementioned key instruments and Constitution recognise that parents and families are the primary duty-bearers and that children are equally entitled to parental and family care and protection. However, they all recognise that it is incumbent on the Government to provide parents and families with the support they require to fulfil their duty of care and protection.

The GRSA is duty-bound to establish a comprehensive national developmental child care and protection policy which is child-centred and family-focused and that ensures the provision of an integrated, effective and multisectoral system of services and support that, inter alia:

- Identifies vulnerable children and those at risk and ensures they receive the suite of support and services they need to develop to their full potential;
- Identifies and supports parents and families as the primary care and protection duty-bearers to fulfil their care and protection responsibilities;
- Identifies, defines, supports and regulates all sites of care and protection, including different family, community, and alternative and residential care arrangements;
- Defines the relevant role-players and regulates and supports the fulfilment of their respective roles and responsibilities, including those of children themselves, parents, guardians, family, community members, the media, businesses, NGOs and the Government; and
- Identifies and regulates high-risk situations and provides appropriate promotive preventative and responsive services that protect vulnerable children from harm and ensure their development in an environment promotive of it.

1.7 Sustainable Development Imperatives

The SDGs, the African Union's Agenda 2040 and Agenda 2063, and the NDP all recognise that sustainable development depends on the well-being and equalised enjoyment of the rights of children to survival, protection, development and participation to their full potential. Each of these development initiatives and instruments calls for pro-poor policies that equalise opportunities for vulnerable groups by interrupting the intergenerational transmission of disadvantage. In particular, they call for multi-sectoral policies and integrated nationwide systems that secure a nurturing environment for children in which their opportunities can be equalised and their rights and capabilities fully realised.

The sustainable development agenda is premised on the idea that parents, governments, civil society and the business sector should work in partnership in the inclusive development, implementation and monitoring of policies that provide a combination of measures such as:

- A social protection floor comprised of cash transfers, basic services and access to health care, food and nutrition, and psychosocial support;
- ECD;

- Access to education, including early education for all; and
- Protection of all children from violence, abuse, neglect and exploitation.

All the initiatives and instruments above emphasise that policy statements of principle are not enough. They underline the need for strong systems that implement developmental child care and protection policy commitments and laws effectively and make a difference in the lives of all children, especially the most vulnerable. Moreover, they require that all role-players in the country – not only the Government – take responsibility for advancing developmental priorities. They require, in other words, collective commitment to, and delivery of, a network of services and support for children.

The responsibility of the GRSA to adopt a nationwide developmental child care and protection policy and supporting system is derived from the following key development initiatives and instruments (described in detail in Annexure B):

- The Sustainable Development Goals, which were adopted by the UN General Assembly and chart a course for economic, social and environmental development;
- The African Union's Agenda 2063, which places the care and protection of children to secure their optimal development at the centre of its vision;
- The Africa Union's Agenda for Children 2040: Fostering an Africa fit for Children, which advances Agenda 2063 by requiring the institution of policies for children that facilitate their development by realising the rights protected in the ACRWC;
- The SADC Minimum Package of Services for Orphans and Other Vulnerable Children 2011, a developmentally promotive rather than deficit-based regional framework that requires a package of care and protection to maximise opportunities and minimise risks relating to children's development to their full potential; and
- South Africa's NDP, which domesticates the global and regional sustainable development agenda. The NDP's foundational strategy is to achieve and sustain social and economic growth by developing the country's human capital, beginning with children, through collective action by all role-players to advance national priorities.

1.8 The Evidentiary Imperatives

There is extensive evidence on what legally compliant and developmentally effective child care and protection systems and services should look like. Advances in the science on child development show that 'the healthy development of all children is essential for a thriving and prosperous community'[6] and that children require a combination of nurturing and responsive care, an enabling environment, and supportive measures in order to survive, to be protected, and to develop to their full potential.[7]

Nurturing care is defined as care which creates the conditions necessary for children's optimal development, and includes:

- Health care;
- Nutrition;
- Safety and security;
- Love, psycho-social support, and responsive caregiving; and
- Early learning opportunities from birth onwards.[8]

Whilst the responsibility for providing nurturing care vests in parents, families and caregivers, their ability to do so is affected by a variety of circumstantial factors,[9] given that a child's development takes place in an environment made up of complex and intersecting domains that affect the child in particular ways. Within this environment there are protective factors supportive of the child's development, and risk factors that can undermine it.

Four domains impact either positively or negatively on a child's development, depending on the presence of protective and risk factors:

a. The child's individual characteristics, such as his or her age, sex, developmental stage and genetic make-up;

b. The child's parental or familial circumstances, such as the absence or presence of parents or parental substance abuse;

c. The broader community, including the availability of basic services as well as children's care facilities and schools; levels of violence; the prevalence of corporal punishment; and the provision of developmental programmes and facilities; and

d. The wider social, political and cultural context, where the presence or absence of developmentally supportive policies, services and programmes, attitudes and practices can either ameliorate or aggravate the impact of structural inequalities such as poverty, poor health facilities, and lack of education, discrimination or national conflict.[10]

Factors at each of these levels influence the other levels. The co-occurrence of protective factors raises the capacity for, and likelihood of, responsive care and protection, thereby improving the likelihood of good developmental outcomes. Conversely, co-occurring risk factors inhibit the ability of parents and caregivers to provide developmentally promotive care and protection, thus increasing the risk of neglect and abuse and associated poor developmental outcomes.[11]

1.9 Risk Factors

Multiple risk factors impact on the caregiving capabilities of parents, families and caregivers, and on the safety and protection of children. These include:

Economic Pressures and Poverty: Poverty limits the availability of the material resources parents need to meet children's basic needs and support their development. In addition, children in poverty are at a greater risk than others of exposure to community violence, commercial and sexual exploitation, and abuse.[12, 13] Poverty increases the risk of children's participation in potentially exploitative and dangerous activities such as child labour or early marriage to supplement the family income,[14]and exerts pressure on them not to disclose these violations of their protection rights.[15]Men from poorer households are at a significantly higher risk of perpetrating violence; they are also likely to have been exposed to trauma or abuse in childhood. Poverty is also associated with low employment and educational status, both of which are determinants of violence against children.[16]

Exposure to Violence and Abuse: Children's exposure to, or experience of, violence or abuse (including harsh discipline) is a grave risk to their immediate and longer-term well-being and development, in addition, it comes at an enormously high cost to the country. Violence and abuse are transmitted inter-generationally, restrict national development, and perpetuate patterns of inequity. The effects of violence last a lifetime and spark a vicious cycle that spans generations.[17]

The link between violence and poor development is complex and accumulative. Exposure to violence and abuse causes physical harm and affects children's social, cognitive and psychological growth;[18] this in turn paves the way for re-victimisation and long-term inter-generational patterns of societal violence and abuse.[19] Children who experience or witness violence are at increased risk of re-victimisation or perpetration later in life, and when they themselves become parents, they often lack the ability to bond with their children.[20]

Violence can cause changes in the child's brain structure and function, leading to cognitive deficits; behavioural problems such as sleep and eating disorders; poor emotional regulation; psychosomatic illnesses; academic and social difficulties; high-risk behaviour, including substance abuse and risky sexual practices; relationship difficulties; and the transmission of HIV and other sexually transmitted illnesses. Children who experience violence and abuse, especially in the home, are significantly more likely to perpetrate violence and abuse against others. Girls exposed to sexual abuse in childhood are at a greater risk of abuse later in life. In addition, children living in violent families are more likely to be socialised into accepting violence as a legitimate way of resolving conflict.

Substance Abuse: Substance abuse amongst parents and caregivers, as well as children themselves, presents a significant risk to their survival, safety and development.[21] Alcohol and substance abuse by children is strongly associated with a higher risk of violence and abuse, including sexual assault, rape, physical violence, and rebellious and discriminatory behaviour, both as victims and perpetrators.[22]

Lack of Adequate Substitute Care in the Temporary Absence of Parents: A common risk in low-income and under-serviced areas is inadequate care of children in the absence of adults, for instance while they (adults) are away from home whilst at work. As a result of poverty and the lack of appropriate day-care, children are left either unsupervised or in the care of unsuitable adults or other young children. This means they run the risk of receiving low-quality developmentally supportive care or succumbing to neglect, abuse and violence.[23]

Disrupted Families and Caregiving: Absent parents, the death of a parent, abandonment by parents, and parental separation or divorce pose developmental risks and increase the likelihood of children being exposed to violence, abuse, neglect and exploitation.[24] Children living in households where neither parent is present are at a higher risk than others of violence; those living with one parent are a moderate risk; and those living with both parents at a much lower risk. 'Having both parents at home to look out for children is a strong defence against their becoming victims of violence, as well as against their perpetrating violence.'[25]

Parental Characteristics: Parents of a very young age and/or with low education, single parents, and parents with large numbers of dependent children present as risks to the provision of responsive caregiving and the development and protection of children.[26]

Parental Lack of Understanding of Children's Development Needs: Parents who lack an understanding of children's developmental needs are more likely than others to engage in neglectful or harmful practices.[27]

Mental-Health Issues: Untreated mental-health issues in the family, including maternal depression, present a significant risk to children's cognitive, social and emotional development as well as increase their risk exposure to abuse, neglect and violence. These issues could also indicate that the child is at risk of mental illness.[28, 29]

Societal Attitudes, Official Attitudes, and Harmful Cultural Practices: Widespread societal, cultural or religious acceptance of the use of violence against children, especially for the purported purpose of discipline, significantly raises the risk of abuse of children in their homes, communities and residential care facilities.[30] It also potentially limits children's rights of access to information and to participation in decisions that affect them.

Limited Social Networks and Supportive Services: Social isolation and lack of access to supportive services addressing poor living standards, socio-economic instability and inequality are up-stream risk factors that impact on parental capacity for caregiving and on children's development, protection and participation.[31]

Age: Children in certain age groups are at greater risk than others of poor development and violence, abuse, neglect and exploitation. Due to their physiological immaturity, the plasticity of the developing brain, and their reliance on adult caregivers, the youngest of children (those under the age of 5 years) are particularly susceptible to adversities such as unresponsive parenting, poverty, toxic stress, environmental toxins and home accidents, malnutrition and illness.[32] Poor nutrition and ill health contribute to stunting in children under the age of 3 years. The youngest of children are also at a greater risk of abuse and violence, notably at the hands of those responsible for their daily care; such abuse and violence includes corporal punishment.[33] Adolescents are a further age group at a higher risk than others of violence and abuse.

Gender: Girls are at a higher risk than boys of sexual assault; boys, on the other hand, are at a higher risk of physical violence. They also experience higher levels of bullying than girls, both as victims and perpetrators.[34]

Disability: Children with disabilities are significantly more at risk than other children to adversities such as high levels of poverty, poor access to health services and early learning opportunities, inadequate responsive care from caregivers, and abuse and neglect.[35]

1.10 Protective Factors

The science is clear: disadvantage or the presence of risk factors does not lead inevitably to poor development and violence against children. Children who benefit from proven protective factors, especially in their earliest years, are more likely than others to survive, to face a less significant risk of violence and abuse, and to develop to their full potential.

Studies consistently identify a number of key protective factors that reduce the risk of violence, abuse, neglect and exploitation and that support the care, protection, and development of vulnerable children. Crucially, these factors, described below, assist development most effectively where they occur in a synergistic combination with each other; by the same token, the presence of one in the absence of the others severely curtails their impact.

Responsive and Nurturing Care by Parents, Families and Caregivers: The most significant protective factor available to most children are their parents, other primary caregivers, and family. Parents and the family have the single-largest influence on a child's development.[36] They are duty-bound, and for the most part desire, to have the best interests of their children at heart and ensure they develop to their full potential.

The provision of love, nurturing and responsive parental or family care, especially in the earliest years of life, is the foundation upon which every child's development, safety and protection depends. Moreover, it is crucial for interrupting the intergenerational cycle of poor development, laying the basis for core adult capabilities that are necessary for providing nurturing and responsive care to the next generation of children.[37]

The science shows that irrespective of the form of hardship or threats that may have been experienced, the children who end up doing well are most often those who have had at least one stable and responsive relationship with a parent, caregiver or other adult. These relationships add the support, scaffolding, and protection to children's lives that both buffer them from developmental disrup-tions and help build key capabilities – such as the ability to plan, regulate behaviour, and adapt to changing circumstances – that enable them to adapt to adversity and thrive. Positive experiences, supportive relationships, and adaptive skills and capacities build the foundation of what is commonly known as resilience.[38]

Responsive and nurturing care includes the formation of strong emotional bonds between the child and caregiver; providing for children's basic needs, such as food, nutrition, health, safety and education; and positive parenting practices and the avoidance of harsh discipline and violence in the home.[39, 40]

Promotive and Preventative Support for Parents, Families and Caregivers: The ability of parents, families and caregivers living in adversity to offer nurturing and responsive care and protection is compromised by many of the risk factors described above. As such, the provision of a suite of promotive and preventative social, economic and psychosocial support services to parents and families to prevent or overcome the risks they face is key to building parental resilience and their capacity to provide nurturing and responsive care.

The conditions under which the majority of families live in South Africa engender high levels of stress for both parents and their children. For children, learning how to cope with adversity is a critical element of their healthy development. However, their resilience, or learned ability to cope with stress, depends on appropriate parental or family care that can serve as a buffer to mitigate the impact a child's environment has on his or her development. Where parents are unable to play this role and their resilience

against social and economic adversity is compromised, the nurturing child-parent relationship often breaks down. The result is what the child protection sector refers to as 'neglect', and which in child development terms 'the persistent absence of responsive care' is.[41]

Effective child care and protection in adverse or high-risk environments hence depends on the provision of promotive services and support that include:

- Material support;
- Psychosocial and mental health support;
- Parenting support programmes which provide education on optimal development practices, responsive parenting and positive discipline that start in early childhood and continue throughout the child's life; and
- Additional parenting support tailored to address the challenges faced by caregivers of especially vulnerable children, such as children with disabilities and very young children; children exposed to substance abuse; children who have experienced loss or trauma; and children living on the street.[42]

Child Protection Services: In addition to support services to families and children to promote development and prevent violence, abuse and neglect, it is equally important that intensive, targeted child protection interventions be provided for child victims. Access to early and effective identification, therapeutic and reintegration services is critical for strengthening the resilience of children exposed to violence, abuse, neglect or exploitation and for interrupting the intergenerational cycle of abuse and poor development.[43]

Schools and Social Networks: Community networks are an invaluable mechanism for supporting parents in providing nurturing care and protection, and thus present a further key opportunity for building resilience and interrupting negative intergenerational cycles.[44] Effective schools are one social network with the proven ability to impact positively on the resilience of children living in adversity, particularly those in violent families and communities. The evidence indicates that where they adopt a comprehensive approach to child safety and development, schools can provide the basis for systematic prevention interventions.[45]

Efficient, Respectful and Inclusive Child Care and Protection Systems: Research shows that it is not only the provision of services and support that are key protective factors: the strength of the supporting system is equally important. In other words, the efficiency, respectfulness and inclusivity of the care and protection system is itself a protective factor. For example, having streamlined processes that enable coordinated access to services – rather than numerous processes and overcrowded service centres and courts of law – helps to build resilience; conversely, uncoordinated, inefficient and inaccessible systems undermine it.[46]

1.11 Policy Implications of the Legal, Developmental and Evidentiary Imperatives

Effective and legally compliant nationwide child care and protection calls for a population-based developmental response that secures the provision of a comprehensive continuum of promotive, preventative and protection services through an efficient, inclusive and well-run child care and protection system. The suite of services and support must be provided in appropriate combinations throughout the life cycle of the child to maximise the protective factors and minimise the risk factors in homes, communities and schools.

This necessitates a thorough understanding of, and planning, resourcing, delivery, and coordination of, appropriate programmes that respond to specific contextual protective and risk factors, as well as to the scale, nature, and location of the causes of the relevant problems.

The success of a developmental approach depends not only on the services provided but the smooth functioning of the system itself. As such, it is essential that the policy is supported by a strong, inclusive and well-coordinated system that does not cause secondary harm.

This entails a child care and protection system that:

- Provides effective policy guidance to, and leadership and coordination of, multiple relevant role-players;
- Provides information management and monitoring systems to enable evidence to be gathered, analysed and used to inform planning that responds to the local risk and protective context;
- Provides adequate resources and a competent workforce for the efficient and effective delivery of appropriate combinations of services; and
- Holds the full diversity of role-players to account and monitors progress in the care and protection of children in South Africa.

1.12 A Continuum of Care and Protection Services and Support

The national child care and protection system will provide a combination of material, parental and psychosocial support and services to support the development of all children and build the resilience of vulnerable children and their families and caregivers so that children are protected from the potential harm caused by deprivations, including violence, abuse, neglect and exploitation. Where the preventative safety net of services fails, the system must ensure the provision of early, responsive protective services that minimise harm, protect children from further harm, and restore their nurturing caregiving environment.

All parents and families need support to maximise their parenting knowledge, capacities and abilities, and all children and their families have the right to safe and nurturing environments in which all children grow, play, learn and develop. This places a duty of care and protection on the GRSA to make a suite of parenting support programmes and services available to all parents and to ensure safe and nurturing environments. For example, all parents and children, regardless of their circumstances, should be able to access information on the dangers of harmful parenting and the benefits of positive parenting practices, to access quality health care, and to access an education system that provides quality teaching and learning complying with governing legal standards. Similarly, all children and parents depend on the Government to provide safety and security in schools and communities as well as laws of general application that prohibit all forms of harmful conduct against children.

In countries with historical challenges and deeply entrenched patterns of poverty, inequity and exclusion, children face numerous additional risks that make them especially vulnerable to transgression of their rights and to violence, abuse, neglect and exploitation. Risks raise the likelihood of poor outcomes, but such outcomes are not inevitable if policies secure promotive environments free of external stressors and provide preventative services to build the resilience of parents and families to enable them to mitigate risks and secure the well-being and optimal development of their children. It is therefore imperative that South Africa's growth and development plan is premised on an explicit commitment to invest in children's development.

This requires child-centred development plans, including this care and protection policy, and programming that create nurturing, risk-free environments. It requires the provision of fit-for-purpose safety nets or programmes aimed at optimising parental capacity for nurturing caregiving and at preventing the occurrence of the social, economic and cultural stressors that could limit parents' and families' capacity for providing care and protection. Where the risk factors occur, the safety net should provide preventative support to parents and families to build their capacity to overcome these risks, to limit the potential harm to children's care, and to adopt practices that ensure the optimal development and safety of their children.

Only where the preventative safety net fails and children are deprived of parental or family care, and/or experience violence, abuse, neglect, or exploitation, or find themselves in the criminal justice system, should the care and protection system provide responsive protective services. The objective of formal protective services should be to protect the child from further harm, minimise the impact of the harm to the child's development, and restore the child to a safe, nurturing family environment where he or she receives the care and protection needed to develop to his or her full potential.

The theory underlying the developmental approach is that if there is significant investment in policies and programmes that focus on promoting nurturing and safe environments and optimal parenting and caregiving practices for all children, and which provide additional targeted services for vulnerable children, only a small minority of children would require intensive child protective services.

1.13 Promotive Enabling Services

The developmental approach requires, in the first instance, the provision of universal services that enable all parents to promote the development of all children. It requires the adoption of laws and programmes that ensure universally available services that enable all parents and families to fulfil their care and protection duties and ensure the survival, protection and development of their children. Universal availability does not necessarily mean the provision of free services to all. Rather, it means the development of systems, programmes and services that provide legal protection and safe and nurturing environments for all children, and which make available an adequate number and spread of essential quality services in sufficiently close proximity to all children and families so that they have an equal opportunity to access them if required.

This requires that the national care and protection system provide a protective legal framework applicable to everyone in the country and a package of quality services that promote safe and nurturing public environments, protect all children, and enhance parenting knowledge and practices to optimise the development of children to their full potential. These services include:

- Basic services such as safe water, sanitation and electricity;
- Support for pregnant women and parents of young children;
- ECD services;
- Quality early and basic education;
- Protection of parents in the workplace to enable them to fulfil their shared parental care and development responsibilities, and the provision of day-care to secure the protection of the children of working parents;

- Family promotion, strengthening and preservation programmes, encompassing, inter alia, parent support programmes that provide education programmes on child development and protection, positive parenting practices and the dangers of harsh disciplinary practices; public advocacy, communication and education on child development and rights, including positive parenting and the harm caused by corporal punishment; recognising the role of community media;
- Safe shelter and human settlements;
- Safe and developmentally supportive play and recreation facilities;
- Community safety and law enforcement services;
- Opportunities for children's participation in decision-making processes that affect them; and
- Economic strengthening.

1.14 Prevention and Early Intervention Services

The imperative for a continuum of services requires, furthermore, the provision of additional support to targeted groups of vulnerable children and their families. These services target in particular children and families who may fall through the safety net and are exposed to risks that undermine children's development and expose them to a heightened possibility of violence and maltreatment. This requires the targeted provision of a combination of material, parenting and psychosocial support to vulnerable parents, families and children that includes:

- Material assistance, including cash transfers, free and/or subsidised day-care and education services, and assistive devices and rehabilitation services for children with disabilities;
- Community based prevention and early intervention programmes for targeted vulnerable children and households;
- Skills development and employment programmes;
- Psychosocial support for parents and children;
- Parental education programmes, especially for parents of vulnerable children;
- Peer support programmes;
- Services for victims of domestic violence that cater for the needs of women with children;
- Diversion programmes to keep children out of the criminal justice system; and
- Appropriate alternative dispute resolution programmes.

1.15 Responsive Protective Services

In the case of children who have succumbed to the risks in their environments, the child care and protection system must secure formal child protective services including identification, assessment, investigation, children's court proceedings, a care and protection order and permanency plan.

The minority of children who lack parental or family care (due to the death or absence of parents or caregivers, or the inability of parents or families to care for them) and/or who are exposed to the criminal justice system, and/or experience violence, abuse, neglect or exploitation, must receive a basket of accessible, protective, therapeutic, rehabilitative, reunification, reintegration and after-care services, such as the following:

- Protection against, and criminal sanctioning of, harmful practices and specialised measures addressing the protection needs of targeted vulnerable groups of children, for example, protection against trafficking, exploitation, child labour, all forms of abuse, torture and domestic violence, including the use of corporal punishment in all settings, the home included;
- Safe and developmentally supportive alternative care arrangements and placements in the absence of parental or family care as a measure of last resort and through lawful due process;
- Child-Friendly and developmentally promotive child justice services for children in conflict with the law;
- Therapeutic and psychosocial services;

- Developmental interventions that support resilience-building in children and youth in preparation for their life as young adults and to ensure they have the capability and support networks to cope once they have been reintegrated into the community;
- Rehabilitative services;
- Family reunification, reintegration, after-care services and ongoing support services to ensure the return of the child to a developmentally promotive family environment;
- Transitional support services to all children who are in out-of-home placements; and
- Preparation for independent living and transitional support services for youth who are not returning to families and are aging out of care at the age of 18, to prepare them emotionally and practically for their transition to the environments to which they will return, to support them through the transition, and to provide after-care support that enables their reintegration into the other options for care in the community.

Figure 1 below depicts the continuum of services and the logic of the developmental approach to the care and protection of children. The foundation of the approach is the universal provision of effective promotive child care and development services; building on that are targeted prevention and early intervention services for vulnerable children. These two strata of services must be a priority in that they seek to produce enabling and nurturing environments that secure the well-being and development of the majority of children in South Africa. This would also result in a much smaller, and diminishing, child-population in need of intensively responsive protective services, as depicted at the apex of the diagram.

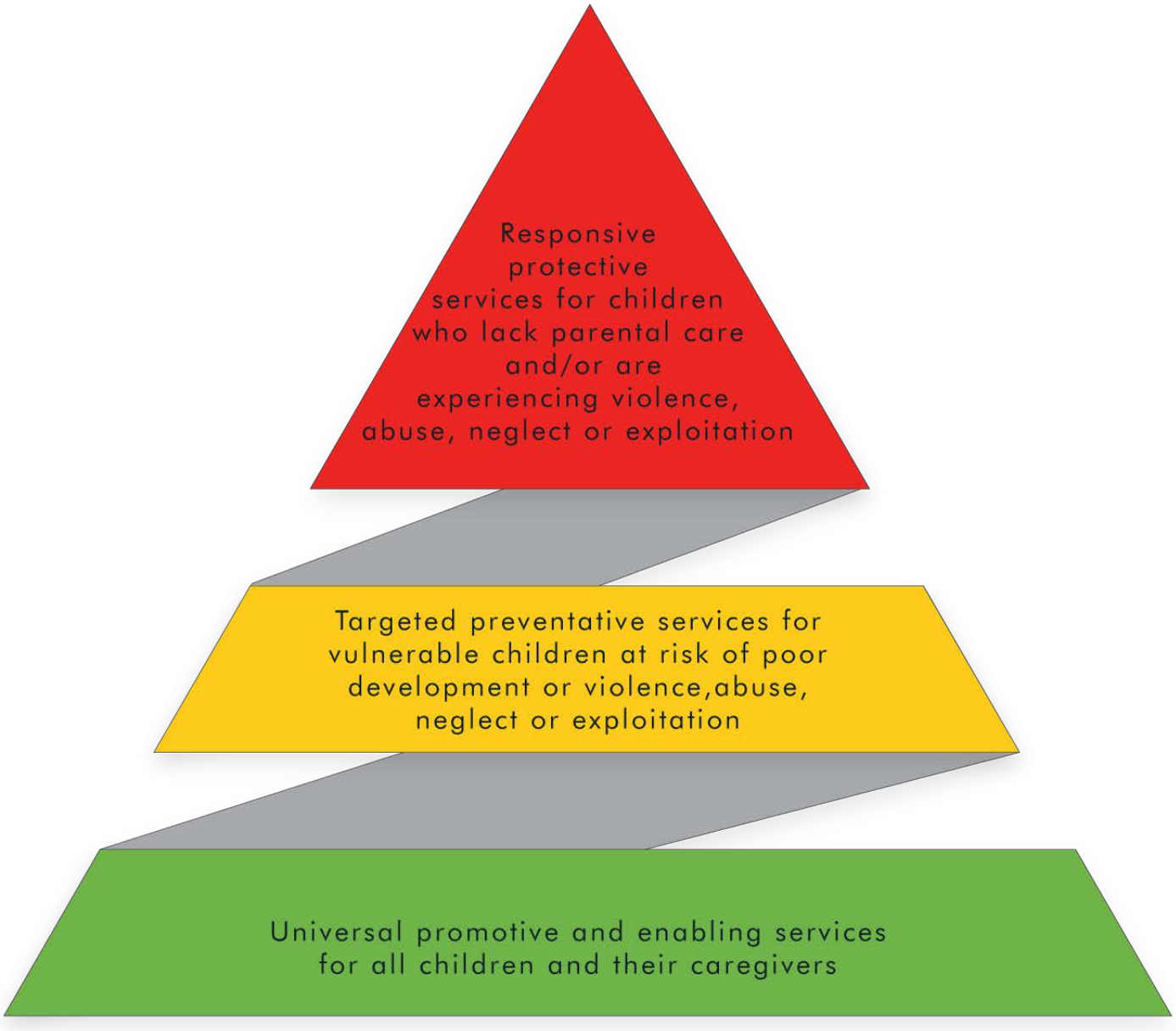

Figure 1: Diagram of the national developmental child care and protection framework, comprising promotive, preventative and response care and protection interventions for children and their families

1.16 Essential Features and Outcomes of a Developmental Child Care and Protection Policy

In terms of the law and the science, the child care and protection system should exhibit the following features:

a. It must prioritise investments in promotive and preventative interventions, particularly those with the proven ability to achieve immediate development benefits for the child and longer-term benefits for the sustained development of the country. This includes investing in ECD services to build sound foundations and in the continuation of ongoing family and community-based support to sustain nurturing environments and networks throughout the life cycle of the child.

b. It must prioritise parental support and family-strengthening initiatives, as development and protection start, and are sustained in the home.

c. It must be promotive and provide a universal platform of public services to support and promote the development of all children through the realisation of their rights.

d. It must create supportive, safe and enabling spaces in families and communities, as well as in facilities and institutions, for nurturing responsive relationships and care.

e. It must identify children at risk of neglect and abuse and provide targeted, appropriate and additional early intervention services that address the risk to seek to avoid abuse, neglect and exploitation. These services must build the resilience of vulnerable families and children to enable responsive and nurturing caregiving relationships that can ensure the development of children to their full potential. This requires the provision of:

i. Material support;

ii. Services and support to strengthen core parenting/caregiver skills and capabilities; and

iii. Continuity in services to maintain strong and healthy parent/caregiver and child relationships in every care-relationship, whether biological, kin, foster or adoptive, or based in formal residential care.

f. It must have effective and strong child protection systems and procedures in place for the early identification of children who lack family care, experience abuse, neglect and exploitation, and/or are exposed to the criminal justice system; and for the provision of responsive protective services to the child, family and caregivers to protect the children from further harm, limit the impact of their circumstances on their development, and secure their placement and retention in permanent responsive caregiving relationships, preferably with their families.

g. Where family placement is not feasible and young people are still in alternative care at the age of 16 years and above, the system must provide guidance on how best to prepare and support youth for the transition from care to other living options within their community.

h. It must provide support at multiple nested levels, all of which have a relational impact on the development of the child at the centre.

i.
- At the level of the child;
- At the parental/caregiver level;
- At the level of community institutions providing support to children, parents and families;
- At the level of residential care; and
- In the governing policies and programmes of the GRSA.

j. It must provide guidance for the provision of services and support in combinations that are appropriate to the age and developmental stage of the young child, adolescent and young adult.

k. It must ensure an integrated, connected and coordinated response that effectively addresses the full suite of intersecting adversities that impact on the development of core skills and capabilities.

l. It must mandate and obligate the full diversity of responsible duty-bearers, role-players to work collectively and collaboratively in partnership to secure children's development and protection through a countrywide network of care and support.

1.17 A Strong Supporting Child Care and Protection System

An effective and legally compliant child care and protection response requires an effective and efficient system and institutional arrangements. The system must be made up of:

a. An enabling legal and policy framework: This entails a body of enabling policies, laws and programmes mandating, obligating, regulating, and harmonising the roles and responsibilities of all role-players – including government departments, across all three levels of government, and non-governmental role-players – to take measures to advance the policy vision, goals and objectives.

b. Effective leadership, coordination and management mechanisms: This includes strong political leadership, coordination mechanisms and management structures and systems for population-based planning and provisioning at a national, provincial and local or municipal level to meet the developmental and protection needs of all children, including the most vulnerable and marginalised.

c. A continuum of programmes: This entails the development and delivery – through appropriate models of service provision, including community, home and facility-based programmes – of an effective continuum of promotive, preventative and responsive programmes suited to meeting the risks and opportunities children and their families face.

d. Adequate human resources, a competent workforce and infrastructure: The system must be managed and implemented by and through human resources and infrastructure adequate for delivering, and accounting for the delivery, of quality care and protection services.

e. Information, monitoring and quality improvement systems: The system must be supported by strong appropriate standards and information management and monitoring systems in order to plan for, measure, and continually improve, the accessibility, quality, safety and impact of child care and protection services.

f. Adequate funding: The policy must be supported by the allocation of adequate public funds to ensure delivery of the full continuum of developmental care and protection services.

g. Inclusivity and effective partnerships: This policy and the system established to support it must ensure the participation of children and the broader public in the development and targeting of services as well as their implementation and monitoring.

1.18 Conclusion

This chapter has set out a framework for, and essential features of, a compliant and effective developmentally focused child care and protection system. The next chapter states the Policy's vision, goal and objectives in engaging with the systemic nature of the problems at hand.

CHAPTER 2

THE PURPOSE, MISSION, VISION, GOALS AND OBJECTIVES OF THE POLICY

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2.1 The Rationale for the Policy

Given the current gaps and challenges, the GRSA has developed and adopted this Policy to strengthen the national child care and protection system to fulfil the country's responsibilities to ensure the care and protection of children so that they may all, especially the most vulnerable, survive, develop to their full potential, and be protected from violence, abuse, neglect and exploitation.

2.2 The Purpose, Mission, Vision, Goals and Objectives of the Policy

2.2.1 Policy Purpose

The purpose of this Policy is:

1. To strengthen the developmental child care and protection system. It does so by providing the conceptual, legal and systemic foundations and mandate for collective action by responsible role-players to ensure the well-being of all children in South Africa, especially the most vulnerable, by ensuring that they all survive, develop and thrive to their full potential and are protected from violence, abuse, neglect and exploitation.

2. To provide the overarching policy direction that guides national responses by government departments, branches and levels. The Policy mandates and requires all government agencies to review and, where necessary, revise their policies, laws, strategic and annual plans, as well as their budgets and monitoring and evaluation frameworks, to align with and give effect to, their responsibilities under this Policy.

Specifically, the Policy seeks to strengthen the national developmental child care and protection system in a manner that remedies the current gaps and challenges that undermine the development of children, and in so doing, the development of the country, by:

1. Stating the shared and common purpose of the child care and protection Policy and system, which is the glue that holds the many different parts of the system together and ensures they work synergistically;

2. Defining developmental child care and protection;

3. Requiring that all laws, including those already in place, are aligned to and advance the vision, goal and objective of this Policy; where necessary, laws should be reviewed and revised to ensure alignment;

4. Ensuring harmonised and coordinated action by all role-players to advance the goals and objectives;

5. Identifying role-players responsible for child care and protection and their roles;

6. Defining the continuum of developmental care and protection services;

7. Identifying groups of children who are particularly vulnerable due to intersecting risks and ensuring that their needs are prioritised and they receive an appropriate and comprehensive package of care and support that is necessary to equalise their opportunities and ensure their development to their full potential, and that appropriate systems are in place to identify and ensure access to quality services through appropriate delivery platforms; and

8. Identifying and mandating the strengthening of the developmental child care and protection system at the following levels:

i. Coordination, Leadership and Management Arrangements;

ii. Information Management, Monitoring and Quality Improvement;

iii. Human Resources;

iv. Infrastructure;

v. Financing, Funding and Partnerships; and

vi. Participation.

2.2.2 Policy Vision

All children in South Africa live in safe and nurturing families, communities and societies which enable and support their survival, their development to their full potential, their protection from violence, abuse, neglect and exploitation, and their participation in decisions that affect them.

Specifically, the policy vision is that:

1. All children receive the responsive and nurturing care and protection they need to secure their well-being, including their survival, development to their full potential, their protection from abuse, neglect and exploitation, and their participation in matters that affect them.

2. All vulnerable children whose development and safety are at risk because of their personal, social and economic circumstances, or who experience violence, abuse, neglect or exploitation, receive the appropriate, extra care, protection, support and services they need to develop to their full potential.

2.2.3 Policy Mission

The mission of the Policy is to provide a common and unifying framework for the effective and systemic translation of government's care and protection responsibilities to ensure the optimal development of all children.

2.2.4 Policy Goals

All children in South Africa receive the developmental care and protection services they need in an enabling and supportive environment to survive, develop to their full potential, be protected from violence, abuse, neglect, exploitation, and discrimination, and participate in decisions that affect them.

The Specific Goals of this Policy are as Follows:

1. A comprehensive package of promotive public child care and development programmes and services is universally available for all children, families, parents and guardians to support and maximise existing capacities to provide the care and protection their children need to develop to their full potential.

2. A package of targeted preventative and early intervention programmes and services, as defined in this Policy, is available and accessed by all vulnerable children exposed to risk factors which may undermine caregiving capacity and create a risk to children's development and protection. That is to say, all children who are in need of care and their caregivers are provided with a package of additional integrated support and services in combinations that are responsive to their specific risks, their stage of development and age to minimise the risk, address the underlying cause of vulnerability, and build protective environment that promotes their well-being and development to their full potential. This includes 'cash plus care' (for example, social protection programmes which include cash transfers, access to basic services, parenting education programmes, free education, subsidised day-care and early education, assistive devices and rehabilitation services for children with disabilities).

3. A package of quality appropriate, responsive protective services and programmes, as defined in this Policy, is available and accessed by all children in need of care and protection against all forms of violence, abuse, neglect and exploitation: that is to say, an intensive integrated package not only of promotive and preventative care but also protective services are provided to all children who are deprived of parental or family care and and/or experience violence, abuse, neglect or exploitation. This includes, but is not limited to, early identification and early interventions, which include alternative care, rehabilitative, therapeutic, child justice, reintegration, and reunification services.

2.2.5 Policy Objectives

The objective of the Policy is to ensure the attainment of the vision and goals by strengthening the developmental child care and protection system.

Specifically, it is to ensure:

- An enabling policy and legal environment;
- Adequate evidence and population-based programmes;
- Adequate leadership, management and coordination to ensure harmonised collective action by all role-players that advances the mission, vision and goals of this Policy;
- Adequate human resources;
- Adequate financial resources;

- Effective information management and monitoring systems to support evidence-based and responsive planning, engage in ongoing coverage and quality assessments and improvements, and measure progress in achieving the goals of this Policy; and

- Effective public and children's participation.

2.3 Policy Principles

Given the rights-based developmental orientation and objectives of the Policy, the Policy and the child care and protection system must be designed to give effect to the following principles:

- Inter-Dependence of Rights and Development: The rights-based developmental approach implicitly requires the development of children to their full potential through realisation of their rights.

- Child-Centred: The system must be designed around, and in response to, the needs, rights and vulnerabilities of children.

- Recognition of and Respect for Parents and Families as Primary Duty-Bearers of Care and Protection: Parents and families are the primary duty-bearers for the provision of care to ensure the development and protection of their children; the Policy and system must prioritise maximising their capacity to do so.

- The Best Interests of the Child: The system, procedures and services must be designed and delivered to advance the best interests of the child.

- Asset-Based rather than Deficit-Focused: The national developmental child care and protection system is asset-focused and aims to enhance and maximise caregiving capacities and create enabling supportive caregiving environments and contexts.

- Respect for Views of the Child: Children have the right to participate in all decisions and processes that affect them, and this must be advanced in the design, procedures and services making up the national child care and protection system.

- Equity, Non-Discrimination and Social Inclusion: This Policy is founded on the universality of children's rights to survive, be protected from abuse and neglect, and develop to their full potential. This means that no children may be excluded from access to any of the child care and protection services provided for in this Policy based on any of the constitutionally prohibited grounds, including race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, language, culture or birth. Moreover, to ensure the prevention of discrimination and promotion of equality, special measures will be taken to ensure access for vulnerable children.

- Recognition of Children's Right to be Free from all Forms of Violence in all Spheres of Life: No child may be subject to corporal punishment or be punished in a cruel, inhuman or degrading way. Hitting a child is assault.

2.4 Policy Approach, Strategy and Priorities

Ecological Approach: Children must receive the responsive, nurturing and protective care and support they need to survive and develop to their full potential in all settings, from the family, through to the school and community.

Life-Course Approach: Children must access age and developmental stage appropriate care and protection services from birth until the age of 18 years.

- Comprehensive, multisectoral and integrated responses.
- Strengthening of families and of community-based support networks and initiatives: The promotion of children's well-being and their protection against, as well as the prevention and elimination of violence, abuse, neglect and exploitation, starts in the home, in the nature of the relationships between children and their parents. Therefore, the national response will prioritise strengthening families and the relationships between children and their caregivers.
- Prioritising delivery of services that address the drivers of vulnerability and with the potential to interrupt the negative development cycle of vulnerable children.
- Prioritising ECD as the key measure to sustainably equalise development opportunities and interrupt the intergenerational cycle of vulnerability and poor development.
- Responsive, evidence and population-based planning is essential for the prevention and elimination of poor developmen and violence and abuse of children in South Africa.
- Strengthening the child care and protection system. The Policy prioritises strengthening the systemic platforms for evidence based and responsive provisioning to ensure access to a continuum of appropriate quality services.

Specifically, the Policy requires:

- Law reform to create an enabling and supportive legal framework;

- Systematisation of promotive, prevention and early intervention programmes through the mainstreaming of the policy responsibilities into line departments' annual plans, budgets and monitoring and evaluation frameworks;
- Systemisation of developmental programmes for children and youth placed in alternative care;
- Human resources development;
- Effective leadership and management to better coordinate, lead and drive evidence and population-based planning and provisioning of effective promotive and preventative developmental foundations and quality protective services;
- Increased financial resourcing and prioritisation of resources for promotive and prevention services and systems; and
- Increased participation of affected and responsible role-players, including children, adolescents and young people.

2.5 Conclusion

This chapter has stated the Policy's vision, goal and objectives in seeking to strengthen the national developmental child care and protection system so as to remedy the current gaps and challenges that undermine the development of children in the country.

The next chapter provides a situational overview and assessment of the measures taken to date to devise and implement a developmental child care and protection system; the impact it has made on the lives of especially vulnerable children; the impact it has made on national development; and the gaps and challenges, as measured against the framework described in Chapter 1 that informs the strategies and priorities of this Policy.

CHAPTER 3
SITUATIONAL ASSESSMENT

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3.1 Background

Children in South Africa experience a combination of risk and protective factors that must be systematically addressed and harnessed to ensure that children survive, are protected and develop to their full potential.

The unfortunate reality in South Africa is that many of its children grow up and develop in families facing multiple, frequently intersecting vulnerabilities. These impact on the capacity of their caregivers to provide responsive and nurturing care and protection. There are consequently numerous children who do not enjoy their rights to survive, to develop to their full potential, to protection and to participation. Significantly, these risk factors co-occur, creating clearly identifiable vulnerable groups with complex care and protection needs.

Many children live in families in which they are separated from their biological parents. Households are often headed by females with limited household income or employment prospects, as well as with limited access to quality infrastructure and social services such as health care, quality education and child care services. Family structures and living conditions are a legacy of the divisive social and economic policies of apartheid which separated families, leaving women and children in under-resourced homelands while men moved to cities as labour migrants with little contact with or involvement in their children's lives. Despite the dissolution of apartheid and its exclusionary laws, such as the pass laws which limited the freedom of movement of Africans, apartheid-created family structures and vulnerabilities have persisted.[47]

The vulnerability of parents, families and children has been aggravated by more recent global, regional and national developments. These include the global economic crisis, the scourge of HIV and AIDS, rapid urbanisation, and the increased migration of adults and children into and within South Africa in search of economic and political refuge.

Despite multiple adversities, children's outcomes improved with the dissolution of apartheid. This is the result of a number of protective factors, such as caring parents and caregivers, traditional social networks, and a clear commitment by the Government to children's rights. The first president of a non-racial, democratic South Africa, the honourable Nelson Mandela, identified children as a priority. Since then, the GRSA has implemented a multitude of child-sensitive, pro-poor policies and programmes aimed at addressing the risks facing historically marginalised children and their families.

Child Online Protection is one of the 'new' areas of protection that needs to be considered in the context of the advent of the policy as it is important to note that children needs to be protected online as much as they need to protected offline. The Department of Communications and Digital Technologies has a mandate to create an enabling ICT environment for all citizens including children and part of this enabling environment is to work with the Department of Social Development to ensure that children are empowered and protected when they use and access information communication technologies.

3.2 Measures Taken to Effect the Right to Care and Protection

3.2.1 Legislative Measures

South Africa has taken numerous steps to date to build a legally compliant child care and protection system. The post-apartheid years focused on the universalisation of services essential to the development of all children, services which were formerly the preserve of the white minority.

The GRSA has pursued its transformation agenda through the adoption of a range of policies, laws, strategies and programmes designed to create a developmentally enabling and supportive environment, with a strong focus placed on remedying inherited inequalities. Key policy, legislative and programmatic measures taken are described in the next section.

Several national, multisectoral and comprehensive policies and strategies have been developed in affirming the rights of children to develop to their full potential as well as to be protected from all forms of violence, abuse, neglect and exploitation.

These include the following (described in more detail in Annexure C):

The Constitution of South Africa:
The Constitution recognises and guarantees the rights of all children to support and services to ensure their well-being – their survival, protection from abuse, neglect and exploitation, and development to their full potential.

The White Paper on Social Welfare (1997):
The White Paper rejected the former fragmented, rehabilitative-focused social welfare policy in favour of a transformative and holistic developmental social welfare policy. It sought to shift the national response from a welfare-based model to a rights-based social development model.

The White Paper on Families (2012):
The White Paper on Families recognises that strong and supportive families are central to the development of children and society

more broadly. It further recognises that South Africa has many different forms of families, and that the Government must prioritise supporting them to fulfil their care and development potential.

National Plan of Action for Children (NPAC) in South Africa 2012-2017:
The NPAC calls for coordinated, rights-based measures to ensure the protection as well as development of all children to their full potential. It outlines South Africa's goals and objectives and the responsibilities of different role-players.

The White Paper on the Rights of Persons with Disabilities (2015):
It affirms the rights of children with disabilities and obligates the formulation of policies and programmes within a social model of disability that prioritises their care, inclusion, protection and development to their full potential.

White Paper on the Rights of Persons with Disabilities Implementation Matrix 2015-2030:
It commits the Government to taking concrete measures, including programming as well as strategic, resourcing and monitoring steps, to give effect to the responsibilities set out in the White Paper.

Framework and Strategy for Disability and Rehabilitation Services in South Africa 2015- 2020:
The Framework, developed by the Department of Health, recognises that all people in South Africa, including children, have a right to develop to their full potential and to equal enjoyment of all their rights. It commits to the development of an integrated, comprehensive and appropriate suite of disability and rehabilitation services to support the development and protection of children across their life cycle.

National Integrated Early Childhood Development Policy (2015):
The National Integrated Early Childhood Development Policy recognises that development, especially in the earliest years of a child's life, is key to the equalisation of children's opportunities to develop to their full potential and to the attainment of the country's national development goals. It mandates and prioritises the public provision of a comprehensive continuum of care and protection services for young children, especially in their first 1,000 days when risks are the greatest and investments yield the highest developmental returns.

Integrated Plan of Action on Violence against Women and Children:
The Plan is a multi-sectoral initiative that rests on three pillars: prevention and protection; response; and care and support.

Children's Act (Act No. 38 of 2005):
The Children's Act is a comprehensive law developed through an extensive nationwide review of the apartheid-era Child Care Act and system. It adopts a holistic and developmental approach to care and protection of children, and seeks to give effect to South Africa's responsibilities to children under the Constitution, UNCRC and ACRWC. It recognises parents and families as the primary care and protection duty-bearers. It further recognises that they need support to fulfil these duties, and that in certain cases children are deprived of parental or family care and need additional, higher levels of support.

The Act recognises the multiplicity of care arrangements that exist in South Africa, and accordingly mandates and regulates the provision of a continuum of support to parents and families, as well as children in alternative care settings, to ensure their well-being, optimal development and protection.

In Addition, Specific Departments have Adopted Laws to Advance and Equalise Children's Development and Protection Rights. These include the following (described in more detail in Annexure C):

- Basic Conditions of Employment Act (No. 75 of 1997)
- Births and Deaths Registration Act (No. 52 of 1992)
- Child Justice Act (No. 75 of 2008)
- Choice on Termination of Pregnancy Act (No. 92 of 1996)
- Correctional Service Act (No. 111 of 1998)
- Criminal Law (Sexual Offences and Related Matters) Amendment Act (No. 32 of 2007)
- Domestic Violence Act (No. 116 of 1998)
- Films and Publications Act (No. 65 of 1996)
- Immigration Act (No. 19 of 2004)
- Maintenance Act (No. 99 of 1998)
- Marriages Act (No. 25 of 1961) and Recognition of Customary Marriages Act (No. 120 of 1998)
- Mediation in Certain Divorce Matters Act (No. 24 of 1987)

- National Health Act (No. 61 of 2003)
- Probation Services Act (No. 116 of 1991)
- Protection from Harassment Act (No. 17 of 2011)
- Refugees Act (No. 130 of 1998)
- Social Assistance Act (No. 13 of 2004)
- Social Services Profession Act (No. 110 of 1978)
- South African Schools Act (No. 84 of 1996).

3.2.2 Programmatic Measures

The GRSA has actioned its commitments through a range of public promotive, preventative and responsive protective services. Key programmes are described in the following section.

3.2.2.1 Universal Promotive Programmes

- The universalisation of free health care for all children under the age of 6 years, including screening for disabilities and developmental delays. More recently, the GRSA initiated a national Health Insurance Plan, alongside its Primary Health Care re-engineering initiative, to ensure universal access to quality health care.
- The development of a national ECD system with the aim of securing the universal availability of, access to an essential package of ECD services.
- The strengthening and consolidation of a national basic education system in terms of which all children are provided with basic education (from Grade R to Grade 9 or until the child reaches the age of 15 years, whichever occurs first).
- The Department of Basic Education (DBE) has established a school-based crime prevention programme that seeks, through a 'whole-school' approach, to address issues such as bullying, cyber-bullying, substance and drug abuse, sexual offences, and xenophobia. The DBE has also integrated support for vulnerable learners into the education system through the Care and Support for Teaching and Learning (CSTL) programme.
- The universalisation of child participation through school representative structures and the national children's parliament.

3.2.2.2 Prevention and Early Intervention Programmes Targeting Vulnerable Groups

- A social assistance programme of grants, including the Child Support Grant (CSG), Care Dependency Grant (CDG), Foster Child Grant (FCG) and Social Relief of Distress.
- Subsidised day-care or partial care and early learning services for children in poverty, and an ECD infrastructure expansion programme in under-serviced areas.
- Free schooling for primary and high schools in the poorest quintiles, a system of school-fee exemptions for children living in poverty, and a school nutrition programme in poor schools.
- Subsidised basic services through local government's indigent programmes, such as water and sanitation.
- Job creation programmes for parents, caregivers and young peoples, such as the Expanded Public Works Programme (EPWP).
- Programmes for children with disabilities, inclusive of free health services and screening, and special education facilities for such children.

A range of home and community-based services providing prevention and early intervention services, including:

1. Screening for vulnerability;
2. Screening for violence, abuse, neglect and exploitation;
3. Parental education;
4. Referrals for social and material support;
5. Behaviour change interventions; and
6. Psychosocial support.

3.2.2.3 Responsive Protective Services

The GRSA has a strong legislative framework in place that makes provision for the delivery of formal, responsive protective services for children in need of care and protection. The framework includes the following:

- A statutory duty on responsible adults to report suspected cases of child abuse, neglect or exploitation;
- A well-developed framework of child protection laws, children's courts and systems for the assessment and court-ordered placement of children in need of care and protection, including in:
    1. Foster care;
    2. Temporary safe care;
    3. Residential child and youth care centres; and
    4. Adoption.
- Funding, registration and regulation of alternative care settings;
- Therapeutic and restorative services for affected children;
- Rehabilitation programmes and reintegration services for children in alternative care and children in the criminal justice system;
- Protection services for groups of children with unique protection needs, such as trafficked children;
- Child-sensitive court-based procedures for children in the criminal justice system and children requiring responsive protective interventions; and
- The child justice system's giving effect to the principal principle of incarceration of children as a last resort through the promotion and use of multiple sentencing options, including community-based restorative justice.

3.3 Situation of Children

This section considers the current situation and status of children, with specific reference to their demographics, vulnerabilities and impact of the measures described above on their development and protection.

3.3.1 Demographics and Socio-Economic Status of Children

3.3.1.1 Numbers of Children in South Africa

South Africa has a large and mobile child-population requiring care and protection services. In 2018, the total population was estimated at more than 57.73 (57,725,600).[48] There are 18.5 million children between the ages of 0-18 years in the country, making up 34 per cent of the total population.[49]

The distribution of children across provinces and between rural and urban areas fluctuates due to migration. Approximately half of all children (44%) live in rural households. However, the proportion of urban children has increased, from 47 per cent in 2002 to 56 per cent in 2014.[50] Between 2006 and 2011, large numbers of people migrated from the rural provinces of Limpopo and the Eastern Cape to Gauteng and the Western Cape. All provinces received substantial numbers of international migrants in the same period, with Gauteng and the Western Cape receiving the most.[51] Large numbers of foreign migrants also enter the provinces along South Africa's borders, such as in the North West, Mpumalanga and Limpopo.

Within the child population, there are children who share similar, often intersecting, risks, which creates identifiable 'vulnerable' groups of children whose survival, development and protection are at significant risk. Particularly vulnerable groups include the following:

- Children with disabilities;
- Children who are HIV positive;
- Children caring for sick parents or family members;
- Children living without their biological parents;
- Orphans;

- Child-headed households;
- Children living, begging and working on the streets;
- Children living in poverty;
- Young children under the age of 6 years, adolescent boys, and girls; and
- Children exposed to violence, abuse, neglect and exploitation.

3.3.1.2 Children with Developmental Delays or Disabilities

Up to a quarter of the child population experiences developmental delays and disabilities. Due to data challenges, it is difficult to ascertain the exact number of children with disabilities in South Africa. The 2014 General Household Survey indicated that there are just more than 1.2 million children between the ages of 5 and 18 years living with a disability. This is not a full reflection of the total population with disabilities, as it excludes five year olds and does not consider children with developmental delays.

It is estimated that close to 25 per cent of children in lower and middle-income countries are at risk of developmental delays, and that this number is set to increase in the absence of improved access to appropriate supportive services to ameliorate the risks they face.[52]

3.3.1.3 Family Structures and Living Arrangements of Children

Large numbers of children do not live with their biological parents. This is a phenomenon unique to South Africa and driven by a range of factors, including historic population control, labour migration, poverty, housing and educational opportunities, low marriage and co-habitation rates, high rates of divorce, customary care arrangements, as well as high orphaning rates.[53]

The proportion of children living with both parents is low and has declined since 2002 from 39 to 35 per cent in 2015. Fathers are absent from the lives of nearly half the children in the country. Forty per cent of children live with only their mothers and not their fathers; 21 per cent do not live with either parent. Children in the poorest 20 per cent of households are far less likely to live with both parents than children in the wealthiest homes. Only 17 per cent of the poorest children, compared to 75 per cent of the wealthiest, live with both parents.[54]

In 2015, there were just over three million (3.1 million) orphans in South Africa (17 per cent of all children). Three per cent were maternal orphans (590,000); four per cent were double orphans (631,000); and ten percent were paternal orphans (1,881,000).[55] Most orphans live with adult family members.

In 2015, a total of 58,000 children were identified as living in 35,000 child-only households (this represents 0.3% of the total child population). It is noteworthy that most children in the child-only households are not orphans. Eighty-four per cent have a living mother, and many children in these households are over the age of 15 years. Most such households are temporary in nature but face greater risks than other households. They are clustered in the poorest 20 per cent of households, are at a higher risk of poorer living conditions, and have poorer access to basic services, less income and lower levels of access to grants.[56]

While most children from broken families live with relatives, there are those who do not and are at risk. They include the estimated 250,000 children who live and work on the streets and who face challenges in accessing education, health care and psychosocial support.[57]

3.3.1.4 Child Poverty

Poverty levels among children in South Africa remain high, with the burden of inequitably carried by historically marginalised groups. More than half of all children live below the upper-bound poverty line of R965 per person per month (62% or 11.6 million). Eighty-one per cent of African children, compared to seven per cent of white children, live in poverty. The national average hides the severity of poverty in the former Bantustan homelands: 81 per cent of children in the Eastern Cape, 78 per cent in Limpopo and 74 per cent in KwaZulu-Natal live in poverty. In 2015, nearly one-third of all children (29%) lived below the food poverty line and as such were at risk of malnutrition and poor health and development.[59]

Unemployment in households caring for children is high, and socio-economic exclusion of young people (those aged 15-24 years), very high. In 2015, 31 per cent of children lived in households with no employed adult, with the ratio being much higher in poor households (70%). In the same year, a third of all young people were not employed, in education or in training of any kind.[60]

3.3.1.5 Exposure to Violence, Child abuse, Neglect and Exploitation

South Africa is marked by exceedingly high levels of violence, abuse and neglect of children. The scale of violence against children has cost the country an estimated R238.58-billion.[61]

Available data confirm the excessively high rates of violence and abuse of children across multiple settings – homes, schools and communities. What is of concern is that the very high figures are likely to under-represent the scale of the problem, given the levels of under-reporting in the country.

Among the most prevalent forms of violence are physical violence, homicide, corporal punishment, sexual abuse, rape, emotional abuse, neglect, intimate partner violence, bullying, gang violence, and xenophobic violence.[62]

A recent national study showed that 35 per cent of children in the country have been sexually abused and the same proportion have experienced physical violence; 26 per cent have suffered emotional abuse; and 15 per cent, neglect. Overall, 42 per cent have experienced some form of violence.[63]

In 2013/14 the SAPS reported that 29 per cent of reported sexual offences were perpetrated against under-18s (amounting to 51 cases per day).[64] The child homicide rate in South Africa is 5.5 per 100,000 – this is more than double the global average.[65] Between 35 and 45 per cent of children witness violence against their mothers by her partner.[66]

Home and school environments present significant safety risks in that children regularly experience corporal punishment, cruel and humiliating forms of punishment, and bullying. A study in Mpumalanga found that 56 per cent of respondents reported abuse by the very people responsible for their care and protection – caregivers, teachers, and relatives.[67] Fifty-seven per cent of parents report using corporal punishment or smacking their children, and 33 per cent report, using a belt or other object when administering punishment. It is not just corporal punishment that is pervasive in homes: 84 per cent of child rapes are perpetrated by relatives, friends, acquaintances and neighbours.[68]

The most vulnerable are at the highest risk. They include children with chronic illnesses, children with special needs, younger children, and children living in poverty.[69]

3.3.1.6 Vulnerable Age Groups

The care and protection of the very youngest children and adolescents are at greater risk than others because of overlapping and intersecting vulnerabilities.

South Africa has an estimated six to seven million young children under the age of 6 years. The young-child population varies in concentration, location and risks faced, depending on the province and whether children live in urban or rural areas.

Large numbers of these young children live in poverty. In 2015, nearly four million, or 62 per cent, of them lived in poor households below the upper-bound poverty line (62%), while 30 per cent lived below the food poverty line.[70] Close to two million do not have access to piped water in their households (32%), and 24 per cent do not have access to adequate sanitation.[71] Despite the elevated need for material support, in 2014 only 57 per cent of children under 1 year of age who were eligible for the CSG received it, compared to more than 70 per cent of older children.[72]

Seventy-seven per cent of young children between the ages of 23 months and 6 years are not fed a minimum adequate diet, and 27 per cent of children under the age of 5 years are stunted.[73] Poor young children are also at a higher risk of exclusion from early learning programmes and much less prepared for school than their wealthy counterparts. More than one million children between the ages of 3 and 5 years do not access early learning programmes, with the majority living in the poorest quintiles.[74]

The second highest proportion of child homicide in South Africa is amongst children younger than 5 years (40%), with the homicides occurring primarily in the context of abuse and neglect.[75]

Vulnerability is also higher among adolescents. The highest proportion of homicide is amongst 15 to 17 year olds (41%), with the homicides arising mainly from interpersonal violence. Adolescents are a greater risk than others of being not only the victims of violent crime but its perpetrators: in secondary schools, about 90 per cent of threats, sexual assaults and thefts, and 69.8 per cent of assaults, are committed by other learners.[76]

3.3.2 The Positive Impact of Measures to Date

Care and protection challenges in the immediate post-apartheid era were formidable. Building a comprehensive system with a developmental orientation that served all children in South Africa, not only a white minority, required massive scaling-up of support and services, as well as significant legislative and programmatic innovations and system-building interventions. The challenges have been even more complex due to the growing size, mobility and social and economic circumstances of the child-population.

Despite the complexity of the task at hand, the extensive policy innovations and legislative reform of the past two decades have contributed to improvements in the lives of children, notably in their standard of living, reductions in poverty, and a declining child mortality rate.

3.3.2.1. Access to Health Care and Health Outcomes

Access to essential health services critical to children's survival and development has improved significantly, and the child mortality rate has reduced substantially. For example, the percentage of women attending their first antenatal class within the first 20 weeks of pregnancy increased from 31 to 61 per cent between 2005 and 2015; immunisation coverage increased from 70 to 89 per cent between 2002 and 2015. In 2001, only 66 per cent of deliveries took place in facilities; this increased to 85 per cent in 2015

The increase in access to, and impact of, the national Prevention of Mother to Child Transmission (PMTCT) programme has also been significant. Early infant testing for HIV was below 50 per cent in 2006 and is now universal, with the transmission rate having dropped to one per cent.[77] Accumulatively, this has significantly improved children's survival rates. The infant mortality rate improved from 39 deaths per 1,000 live births in 2009 to 27 in 2015, and the under-five mortality rate dropped from 56 to 37 deaths per 1,000 live births between 2009 and 2015.[78]

3.3.2.2 Access to Basic Services

Access to clean water and hygienic sanitation has improved substantially over the past two decades. The proportion of children living in households with clean water on site improved from 59 per cent to 69 per cent between 2002 and 2017. Improvements in access to basic sanitation have been even more substantial, with the proportion of children living in households with basic sanitation increasing from 45 per cent to 74 per cent in 2014.[79]

3.3.2.3 Access to Birth Registration

Birth registration rates in South Africa have improved substantially over the past two decades. In 2006 only 64 per cent of births were registered in the year of a child's birth. However, in 2015, this figure had increased to 85 percent.[80]

3.3.2.4 Access to Social Security

South Africa provides an extensive platform of material support in the form of cash grants to poor and vulnerable households and children. The CSG, Care Dependency Grant (CDG and FCG) are paid to the caregivers of children living in poverty, children with disabilities, and children in foster care, respectively. The CSG was introduced in 1998 and initially reached only 22,000 children; in October 2018, it reached more than 12 million children (12 416 479). More than 400 000 children accessed the FCG in 2018 (450 163), and 149 838 children accessed the CDG.[81]

The CSG has had a positive impact on the well-being, development and protection of children. It has improved children's access to health care, early education, and food and nutrition, and has had a positive impact on children's engagement in risky behaviours.[82] However, the developmental impact of the CSG depends on early access from before the child's first birthday.

The CSG has also contributed significantly to reducing child poverty. Between 2003 and 2015, child income poverty levels[83] dropped from approximately 80 down to 62.[84]

3.3.2.5 Access to Early Childhood Care and Basic Education

Access to early childhood care and education, as measured by early learning enrolments, has increased substantially. By 2015, 17 per cent of children aged 0-2, and 63 per cent of children between the ages of 3-5 years, were enrolled in an early learning group programme. Whilst there are inequities in access among richer and poorer children, these have reduced since 2002, when only 17 per cent of the poorest quintile were enrolled: now, 58 per cent of the 3-5 year olds in quintile one are enrolled.[85]

Access to basic education has also improved considerably. South Africa universalised a year of pre-school (Grade R), which has seen a massive increase in pre-school enrolments. Similarly, school attendance among children of compulsory school going age (7-15 years) increased by more than 25 percentage points since 2002 to reach near-universal coverage.

3.3.2.6 Access to Community-Based Prevention and Early Intervention Programmes

The Department of Social Development has implemented a range of community-based care and protection programmes which, targeting vulnerable children under the age of 18 years, have sought to identify and provide comprehensive prevention and early intervention services. The largest of these is the Isibindi programme, which has reached more than 1.3 million children with a comprehensive suite of prevention and early intervention services.

Valuable lessons have been learnt and documented in the two comprehensive studies the DSD commissioned, namely, the Sustainability Study (2016), which evaluated key design, planning, financial and implementation dimensions of the Isibindi programme through a sustainability (future options) lens, and a Mid-term Evaluation (2016), which was conducted through a programme-implementation lens to identify strengths and challenges.

Based on the literature and evidence from the Isibindi roll-out and similar programmes, there is a clear argument in support of the DSD's intention to institutionalise the provision of community-based child and youth care services which are preventative and early intervention in design, as a key strategy towards achieving the DSD's mandate. Investment in such a programme, while it should not be done at the expense of response programmes, will help to contribute to an overall reduction in long-term demand for DSD services and in the vulnerability and social challenges faced by the country's children and youth.

3.3.2.7 Access to Formal Protective Social Welfare and Child Justice Services

The adoption of the Children's Act and the Child Justice Act strengthened the formal child protection and child justice systems. Progressive measures included:

- The introduction of child-friendly court proceedings aimed at avoiding secondary abuse of children;
- The introduction of a variety of alternative sentences aimed at keeping children out of the criminal justice system;
- Improved availability, accessibility, regulation and quality of care provided through family-based alternative care options for children deprived of family care; and
- Improvement in the availability of registered child and youth care (CYCC) residential centres complying with governance and quality standards for placement of children in need of additional care and protection.

These developments have enabled the placement of children in court-ordered alternative care. In 2014, a total of 11,105 children were living in child and youth care centres; 506,911 children were in foster care; and 1,165 children were adopted.[86]

A further consequence has been the diversion of children in conflict with the law from the criminal justice system, the placement of children in facilities separately from adults, and the passing of more non-imprisonment sentences, compared with other options aimed at the rehabilitation and reintegration of the child into the family and community.

These measures have served accumulatively to keep more children out of the criminal justice system and ensure developmentally supportive sentences. The number of children in conflict with the law decreased since 2009/10 from 109,811 to just over 500,000 in 2014/15. Of those in conflict with the law, the majority receive non-imprisonment sentences. In 2014, only 39 children were sent to prison, compared to 543 who received community-based sentences, 179 who received restorative justice sentences, and 245 who were placed in compulsory residence in CYCCs.[87]

The strengthening of the child justice system has sought to secure the placement of children who have committed crimes or are in conflict with the law and are sentenced to Secure Care Centres.

South Africa's approach to children who are in conflict with the law and are accused of committing offences is informed by the Constitution, ratified international and regional child rights treaties, the Children's Act (No. 38 of 2005), Child Justice Act (No. 75 of 2008) and the Probation Services Act (No. 116 of 1991) as amended.

Article 40(1) of the UNCRC states that 'state parties shall recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society'.

The Child Justice Act and the Children's Act were simultaneously promulgated on 1 April 2010 and marked a major milestone in child care and protection as well as the child justice legal and practice landscape in South Africa. Both these pieces of legislation brought about fundamental changes in the manner of how to deal with children in need of care and protection and child offenders in the criminal justice system. The objects of the Children's Act are to give effect to certain rights of children as contained in the Constitution and to set out principles relating to the care and protection of children. The Child Justice Act provides for the establishment of a criminal justice system for children who are in conflict with the law and are accused of committing offences.

The DSD, through its provincial offices, manages a total of 31 CYCC which specifically provide for the Secure Care programme for awaiting-trial, awaiting-sentence and sentenced children. Among these CYCCs, only 12 cater for sentenced children, whereas the rest (19) are for children awaiting their trial and sentence. During the 2016/17 financial year, 239 children were detained to serve sentences ranging from three to six months, for compulsory diversion, to five years. In the 2017/18 financial year, from April to September a total of 225 children were also detained in secure care centres.

The introduction of sentencing to compulsory residence in CYCCs imposes implementation challenges. The DSD is the primary duty bearer for securing the care and protection of children detained and sentenced in these centres. However, there are a number of legislative and regulatory gaps resulting in an inadequate enabling protective framework. For example, while the concept of child and youth care centres emanates from the Children's Act, the Act does not provide clear and definite provisions on how to manage detained and sentenced children within the CYCCs. To address this policy gap, the DSD is finalising the Policy on Children Detained and Sentenced to Secure Care Centres.

Whilst there have been significant innovations and improvements in the care and protection of children, the child care and protection system has not achieved its overriding developmental objectives. It has not equalised opportunities for, and secured the development of, all children to their full potential, especially the most vulnerable. Inequality, social exclusion and violence against children continue to be extremely high. Large numbers of vulnerable children remain trapped in environments where they are subjected to development risks, including poverty and high levels of violence, abuse, neglect and exploitation.

Vulnerable children remain trapped in an inequitable cycle of exclusion and poor development which drives both poverty and inequality. This is further intensified by grave limitations in the overarching child care and protection system. In particular the capacity to ensure children's routine access to key promotive, preventative and protective services critical to interrupting the vicious intergenerational cycle of poverty and exclusion. The services in question include nutrition support, parent support and education, early and basic education, social assistance, and effective early identification, protection and therapeutic services to guard them against violence, abuse, neglect and exploitation.[88]

Nutritional Support: Poor nutrition is one of the main drivers of poor development. Despite a plethora of nutrition policies and strategies, malnutrition – and stunting, especially – remains a problem, particularly among the most vulnerable of children. The very youngest experience high levels of stunting: 27 per cent of children under the age of 5 years are stunted, a rate which has not changed significantly in the past 20 years. Stunting in the first five years of life is a predictor of immediate and long-term health and development problems, including a risk of increased infection and intellectual impairment, which in turn compromises school performance and employment prospects, and sets the course for life-long chronic illnesses. Stunting in the first two years is especially damaging to a child's development, and the results may be irreversible.[89]

The leading causes of the high levels of malnutrition among vulnerable children include inadequate nutritional support and counselling for parents and caregivers on critical issues such as breastfeeding, appropriate complementary feeding, and dietary diversity.[90, 91] Further causes are lack of access to maternal nutritional support during pregnancy, inadequate household income, poor access to sanitation, and late identification and poor-quality treatment of the disease.[92]

Parenting Support and Education: It is well recognised that parenting support and education programmes, including support for positive parenting practices, are key to improving developmental and protection outcomes for children living in adversity. There is, however, a significant gap in the availability and accessibility of these programmes, notably for vulnerable children and their caregivers. Little data and information exist on these programmes, which is in itself an indicator of failure to systematise planning and provision to ensure population-level coverage and quality.

Social Assistance: Despite South Africa's well-developed programme of social assistance and its growth in coverage, many vulnerable children and their caregivers are unable to access grants. Nearly two million eligible children do not access the CSG, and take-up rates are especially low among the very youngest children. Only 57 per cent of eligible children under the age of 1 receive the CSG.[93] Late access for young children is all the more problematic given the link between early access and improved development outcomes.

Large numbers of orphaned children in the care of relatives do not access the social assistance they need because of the historical diversion of these families into the foster care system as a mechanism to access the FCG. South Africa saw a massive increase in the early 2000s in children orphaned by HIV and AIDS, which swelled the numbers of children and caregivers who had to be processed by the foster care system. The system was designed to accommodate about 50,000 children in need of protection. However, by 2010, more than ten times this number of children were in the system. Approximately 80 per cent of the children were orphans in the care of relatives and in need of financial assistance rather than the intensive protective support which foster placements were intended to provide.

This placed tremendous strain on the foster care system, with the excessively high numbers of children and caregivers entering it having created administrative bottlenecks. It has led to the exclusion of large numbers of children in need of intensive protection services and left the system unable to maintain its monitoring and renewal of court-ordered foster placements. Critically, this has also resulted in the exclusion from the FCG of many of the orphans unable to access the system because of overcrowding, delays and inequities in administration of the relevant processes.[94]

Early Childhood Development and Education: Access to, and the quality of, ECD services are inadequate for overcoming the inequities in vulnerable children's opportunities to develop to their full potential. This is particularly the case for children under the age of 2 years, given the lack of home and community-based ECD services, and for poor children living in under-serviced areas, as well as children with disabilities.[95]

Patterns of inequity formed in the early development years persist and work exponentially to prejudice especially vulnerable children's access to and completion of quality basic education. Whilst South Africa has a high enrolment rate (97% among 7-17 year-olds), almost half of the children who enrol in Grade 1 drop out before they complete Grade 12. In addition, the quality of the education received is poor, notably so for vulnerable and disadvantaged children. Children who are particularly vulnerable to poor educational outcomes include those living in poverty, children with disabilities, those whose parents have low levels of education, and maternal orphans.[96]

Child Protection Services: As previously observed, South Africa has exceedingly high levels of violence against and abuse of children. The GRSA has made significant strides in establishing and strengthening its child protection system. It has a well-developed statutory framework anchored by the Children's Act and Child Justice Act, and a supporting countrywide multi-sectoral child protection system. The GRSA has taken various steps to strengthen the system, including legislative reform and the introduction of a social work bursary to augment the workforce.

Despite the legislative and systemic advances made over the past decade, it is the case, as is evident from the preceding data, that many children who are at risk of, or who experience, violence or abuse are unable to access early identification and effective interventions and services that are needed to 'enable healing and recovery, and to prevent the negative long-term psychological and behavioural outcomes associated with violence exposure'. This leaves 'children at risk of continued abuse … [a]nd [presents missed] opportunities to prevent violence in the short-term and break the cycle of violence are missed'.[97]

Data on the scale of the gap in available services are limited due to the inadequacy of monitoring and surveillance systems. However, a recent study of five sites in the country provides insight into the scale and seriousness of those gaps. The study found, inter alia, that:

- The majority of children (52%) reported to social services as victims of violence or abuse received no therapeutic support at all. In addition, only 33 per cent of children received therapy, counselling or support services to assist their families.
- Fifty-eight per cent did not benefit from reunification services once removed from their families, and were still in alternative care four years after the reported abuse. No special measures were noted or implemented for victims with disabilities.
- The majority of social workers and police were reluctant to report or otherwise act against parents for the use of violence against their children. This is of particular concern, given that the study found that 80 per cent of victims 0-4 years old were related to the perpetrators of violence and abuse.

In addition, the quality of services provided is poor and there are significant delays. Findings in this regard include the following:

- Assessments by social workers are cursory and do not comply with standardised forms and processes that serve as quality-assurance mechanisms. In many of the files reviewed, there were simply no reports available, suggesting that none of them had been completed.
- Assessments are delayed in many cases. Nearly ten per cent take place more than a year after a case is reported.
- Delayed removal or a failure to remove children at risk is a common occurrence. When children are removed to temporary safe care, less than a quarter of the removals are reviewed by the children's court as required by the Children's Act.
- Investigations take a long time. In 19 per cent of the cases reviewed in the study, the investigations took more than a year to complete.
- Very few cases of child abuse and neglect are referred to the children's court, including cases involving children who were removed from their families to temporary safe care, removals which in terms of the Children's Act must be reviewed by the court. This strongly suggests that 'social workers are not bringing children before the children's court, despite a duty to do so'.[98]

The report concludes that, in sum:

> [c]hildren are receiving fragmented services that are … damaging to their long-term physical and psychological well-being, exposing them to secondary trauma and increasing the risk of re-victimisation and perpetration.[99]

Child death reviews: Fatal child abuse is the most severe consequence of violence against children, in particular of child abuse and neglect.[100] It is an important proxy measure for the effectiveness of a country's child protection system. However because fatal child abuse is not always managed within a child protection framework, many of these deaths remain hidden. A South African child homicide study estimates a rate of 5.5 per 100,000 children under 18 years.[101] This is more than double the global child homicide rate. In addition, the relationship between child homicide and fatal child abuse was noted, with nearly half (44.6%) of child homicides being related to child abuse and neglect, and with 75 per cent of all fatal child abuse cases occurring among younger children under 5 years.

Studies from high-income settings have shown that fatal child abuse is poorly detected in vital statistics by child protection services and the police, resulting in a huge underestimate of fatal child abuse. Underestimating the burden of violence against children has been shown in multiple settings, with only a third of these deaths classified as homicide. It is estimated that 13 per cent of all injury deaths in children under 15 years are due to child abuse and neglect.[102] The poor detection rates of child abuse deaths are due primarily to difficulties in identifying such deaths, poor investigation and lack of reporting by police to child protection services, and a lack of standard definitions of child maltreatment.

To address the poor identification of child maltreatment deaths and to develop policy and interventions to prevent such deaths, Child Death Review (CDR) teams have been established in high-income countries.[103] These CDR teams review each child death using a public health framework to identify factors to prevent future child deaths. The set CDR processes collate comprehensive data for each child death, and each death is considered a sentinel event, identifying potential modifiable factors to inform recommendations for improvement of the health and child protection system.

CDR teams have been shown to be effective due to their multidisciplinary nature. The core team, consisting of a forensic pathologist, investigating officer, child protection worker (social worker), prosecutor and paediatrician, meet regularly to share case-specific information on the circumstances surrounding each child death. Over the last three decades, CDR processes have evolved in high-income countries with variation across countries, but most have adopted a prospective rapid-response approach for all unexpected child deaths to understand the clinical causes and contributing factors.[104]

There is now substantive evidence on child death reviews in South Africa, including the gaps identified by the child homicide study, the review of international practices to manage child deaths, and the lessons learnt from the CDR pilot implemented in two sites (Salt River Mortuary, scaled up in all health districts in the Western Cape, and Phoenix Mortuary in KwaZulu-Natal).[105] Where the capacity exists, provinces should be encouraged to establish the necessary institutional mechanism to establish CDR teams.

3.4 Underlying Systemic Gaps and Challenges

Although the GRSA has developed a comprehensive legislative framework aimed at ensuring the provision of services and support to children and families to secure their care and protection, developmental and protection outcomes for children are poor.

The limited impact of the governing policies and laws is driven by weaknesses in the supporting child care and protection system. The problem is clearly articulated in a diagnostic review of the national protection system published by the Department of Planning, Monitoring and Evaluation:

> A significant number of government departments, and all three spheres of government, have responsibilities related to VAWC [violence against women and children] and have put a substantial number of interventions in place to respond to the challenge. However, crucially, these interventions do not add up to a systematic approach, where all interventions work together to strengthen the protective environment around each woman and child.[106]

Critical gaps and challenges are evident across all seven systemic platforms:

- An Enabling Legal and Policy Framework: While many policies and laws are in place, they are poorly implemented. An underlying reason for this is that a number of responsible line departments and levels of government have not aligned their policies, laws, strategic and annual performance plans, as well as their supporting monitoring and evaluation plans, with the overarching national child care and protection policies.
  Thus, whilst there is clear evidence of high-level national political commitment to child care and protection, often this is not translated through the governmental planning-and-implementation machinery into population-level, resourced and impactful sectoral programmes on the ground.[107]

- Leadership, Coordination and Management Mechanisms: Given the multi-sectoral nature of national child care and protection, numerous role-players are involved at multiple levels. It is critical that the role-players are well-coordinated to ensure both alignment between the policy vision and their routine operations as well as integrated planning across sectors. Moreover, it is crucial that all role-players not only consider themselves obligated but account for delivering on their responsibilities.
  The realisation of national child care and protection depends on strong, effective leadership and coordination at multiple levels of the system; diagnostic reviews, however, identify weak coordination and inadequate leadership as causes of the inadequate national response to children's protection in the country. The studies point in particular to a lack of political leadership; lack of agreement on what the lead department is and what role it and the coordination mechanism should play; and lack of accountability of the multiplicity of role-players to a common vision.[108] Existing coordination mechanisms and systems, that is to say, are not adequate to ensure integration, intersectoral collaboration and accountability to the national policy vision. Coordination is weak at national policy and planning levels as well as at the level of service delivery. The delivery of effective services to one child involves many role-players: ensuring they work collaboratively requires strong networks and referral protocols and mechanisms. Indeed, '[effective] and routine cross-referrals [are] the foundation of an effective child care and protection system'.[109] However, the evidence strongly suggests that these are lacking. The scale of the problem is evident from the finding of a five-site study that 74 per cent of cases of child abuse reported to social services are not reported to the police for investigation and that in 71 per cent of cases reviewed the files showed no evidence of interagency referral from social services to police and vice versa.[110] Where there are referrals, there is limited or no follow-up by the referring agency. The 'lack of referrals results in victims not receiving therapeutic support and unrehabilitated perpetrators continuing to be a threat to children'.[111]

- A Continuum of Programmes: There is abundant evidence regarding the continuum of programmes that must be available, accessible and accessed by all children and families who need them. The continuum must include promotive, preventative and responsive protective services at scale and at a population level. That is to say, they must be designed to ensure coverage and appropriate targeting to address the contextual risk and protective factors in sufficient quantities, and be of an adequate quality to ensure that all children receive the services they require to survive, be safe and develop to their full potential. Equally so, the services and support must be provided to strengthen the full complement of environments within which the child lives, learns and plays. Services, in other words, must be available at a home, community, school and facility level.

  Currently, there are significant gaps at all levels of the continuum. The demand for protective services, driven in part by the failure to provide promotive and preventative services, absorbs much of the care and protection budget, yet fails to meet demand or secure the provision of population-level quality services to protect children and ensure that they heal and recover.[112]

- Human Resources and Infrastructure: The quantity and quality of services provided to children, especially protective services, are inadequate. Many reasons can be found for this, but severe limitations in the numbers, qualifications, skills, oversight and support mechanisms of the protection workforce are key to the problem.

  - Numbers: There is a chronic shortage of child protection personnel, despite various measures by the DSD to grow the workforce. Whilst the number of social workers increased from 9,072 to 18,213 between 2000 and 2014, only 9,289 are employed by the Government or non-profit organisations (NPOs), in addition to which only a portion of them work with children and families.[113]

- Negative Attitudes: Personnel, including police and social workers, hold negative attitudes towards violence, abuse and neglect of children. For example, when parents physically abuse their children, service providers often regard it as 'justifiable' punishment or discipline, even when there is evidence of a pattern of abuse. Similarly, there is a negative attitude amongst service providers such as police and social service practitioners towards children with mental health disorders, with the use of derogatory labels being common.[114]

- Training, Skills and Competencies: Few social workers, social work managers and children's court officials receive adequate pre or in-service specialised training on child protection policies, protocols, laws and systems.[115, 116]

- Oversight and Mentoring: It is not enough to have a cadre of frontline workers providing services – they must be adequately trained, mentored, monitored and continually supported in fulfilling their responsibilities. However, inadequate numbers of management staff, oversight mechanisms and quality improvement systems are in place to ensure effective and legally compliant service delivery by the social services workforce in the country.[117] Deficits in human resources are a critical systemic weakness that escalates the scale of the overall challenge. The large capacity gaps create 'a vicious circle of increasing demand, as staff prioritise urgent cases and de-prioritise prevention, which ultimately increases the number of victims'.[118]

- Information, Monitoring and Quality Improvement Systems: The successful attainment of the national child care and protection policy goal requires focused responsive, evidence and population based planning, monitoring and ongoing quality improvement based on the results of the monitoring. This in turn depends on the routine collection of data and information on the situation of children and their families, but the systems in place for the collection, analysis and use of data for these purposes are very weak. This is a significant problem, one that underlies many of the other systemic weaknesses identified in this section.[119] In addition, there is insufficient evaluation of programmes and, as such, little evidence of which programmes work. This is especially true of prevention programmes.[120]

- Funding: Child care and protection services in the DSD are under-funded. Funding of DSD programmes is significantly lower than even the most conservative costing estimates. In addition, the funding and delivery model used for the provision of prevention and protective services frustrates delivery. Sixty per cent of services are provided by NPOs or designated child protection organisations; however, they received less than half (49%) of the provincial social welfare programme budget.[121]
  The budget allocated to child and family welfare services by the national and provincial DSDs amounts to only four percent of the consolidated DSD budget (compared to the 36% allocated to social assistance). Moreover, there is significant variation across provinces in their allocations to child and family services and in the amount allocated per child. The latter ranges from R245 in the Eastern Cape to R609 in the Northern Cape (in 2016).[122]
  Within this already inadequate budget, a large percentage of funds goes to personnel costs, leaving little for programmes in general and even less for prevention and early intervention programmes in particular. In 2016, the total budget for prevention and early intervention services amounted to less than one per cent of the consolidated DSD budget.[123]

3.5 Conclusion and Problem Statement

It is evident from the preceding situational assessment that securing the survival, protection and development of all children to their full potential requires strengthening the developmental underpinnings of the national child care and protection system. Priority must be given to increasing the coverage and quality of promotive and preventative services, notably for children experiencing multiple and intersecting vulnerabilities. At the same time, it is essential that responsive protective services be improved so that every child in need of care and protection is brought into the formal protective framework and afforded an equal opportunity not only to survive but develop to his or her full potential and, in so doing, share in interrupting the negative intergenerational cycle.

It is the intent of this Policy to remedy the identified gaps and challenges and contribute to the country's national development goals through the strengthening of the national child care and protection system. The next chapter deals with the responsibilities and rights of different stakeholders including children, families, communities and the state.

CHAPTER 4

BALANCING THE RESPONSIBILITES AND RIGHTS OF CHILDREN, FAMILIES, COMMUNITIES AND THE STATE

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4.1 A Collective Nationwide Duty of Child Care and Protection

The realisation of this Policy's goals depends on a strong countrywide network of nurturing and supportive care and protective environments capable of:

- Identifying the care and protection risks and needs of children and their caregivers at every point of contact; and
- Ensuring that children and their caregivers receive the support they need to ensure that all children survive, are protected from violence, abuse, neglect and exploitation, and develop to their full potential.

This Policy is grounded in the recognition that, under international law and the Constitution of South Africa, all children have a right to parental or family care. It recognises the associated fundamental principle that parents, caregivers, and the family are at the centre of a child's care and protection, and that both parents bear equal responsibility for their child's well-being. The Policy further recognises that some parents, caregivers and families cannot fulfil their duties without support. The duty to provide this support is vested in the state, acting in partnership with non-governmental partners.

The Policy seeks to give effect to its founding principles by creating supportive environments that allow children to remain with their parents, caregivers and families and by enabling the latter to provide children with nurturing and protective care.

In pursuit of this aim, the Policy recognises and seeks to advance a nationwide collective responsibility for ensuring the care and protection of children, on the ground, inter alia, that the UNCRC, ACRWC and NDP, subtitled Our Country: Make it Work, require all duty-bearers and role-players in society to fulfil their collective responsibilities to children and the country at large.

The Policy thus obligates, mandates and guides a host of role-players to work in partnership with each other in supporting parents, caregivers and families to secure the care, protection and development of all children in the country.

4.2 A Network of Caregiving Arrangements and their Duties of Care

Shaped by historical, political and socio-economic forces and contemporary pressures such as migration and HIV and AIDS, parenting and caregiving arrangements in South Africa take complex forms. Family structures are, for the most part, not typical nuclear ones; equally so, urbanisation and modernisation have caused significant shifts in, even the dissolution of, the extended community networks of care that have long been part of the cultural landscape and on which people could rely in the past for support.

South Africa is thus characterised by a diversity of parental, familial and community-based forms of care and protection. In response to this changing terrain, international, constitutional and domestic laws have shifted from the common law parent-centred approach to a child-centred one. This approach recognises that children live in a multitude of arrangements where it is not marriage or biological parentage only or per se but relationships with them that determine responsibilities and duties. In this regard, the GRSA recognises that many children are cared for by persons who are not their biological parents, either by agreement with the parent, or as a result of a process of removal of the child, and/or in terms of a court order.

While the fundamental principle remains unaltered – that parents and families bear the primary duty of care and protection – these changes raise the need for clarity about the nature of families and care arrangements that are recognised in law. These relationships with children entail, the duty of care and protection they impose on parents and caregivers, the rights that the latter have in respect of their children, the rights they have to be supported in fulfilling their duty of care, and the role-players responsible for providing such support. Clarity is needed on these issues because it is critical that the law regulate the diversity of caregiving arrangements so that they comply with international legal and constitutional principles, are in the best interests of the child, and contribute to the developmental care and protection of children.

This chapter of the Policy thus describes the array of parental, family, caregiving, and alternative care arrangements that are recognised by the law, as well as the associated roles and responsibilities of the different caregivers. Furthermore, there are various role-players that are active at the multiple levels in which children grow up and that have a duty of care to ensure a promotive and protective environment for children as well as a duty to support parents and other caregivers in fulfilling their care and protection responsibilities. This Policy identifies such key role-players, their roles and responsibilities, and their interaction with parents and caregivers as well as with each other.

4.3 Parents as Primary Caregivers, their Responsibilities and Rights

In terms of the Constitution of South Africa, the UNCRC and ACRWC, every child has the right to know his or her parents, the right to parental or family care and protection, and, as far as possible, and the right to live with his or her parents. Parents are, in terms of the governing legal instruments, the primary duty-bearers responsible for the upbringing, development and protection of their children. The duty of care and protection is exercised through a continuum of Parental Responsibilities and Rights (PRR) that include:

- The duty to care for the child;
- The right to maintain contact with the child;
- The duty to act as guardian of the child; and
- The duty to contribute to the maintenance of the child.

Children are born into and cared for in a diversity of parenting and family arrangements and relationships that are recognised in law and attract varying levels of parental responsibilities and rights. Whilst parents are the primary duty-bearers, they, or a court of law, may assign or delegate some or all their parental responsibilities and rights to supporting caregivers or family members.

A distinction is drawn between care and guardianship. 'Care' encompasses the routine, daily care of children necessary to ensure their survival, development and protection; 'guardianship' includes responsibilities related to the legal status and relationships of the child.

The duty of care includes:

- Respecting, protecting and promoting the child's constitutional rights;
- Provision of daily material needs, including shelter, health and nutrition, food and clothing, basic services, and education;
- Guiding, directing and securing the child's education and upbringing, including his or her religious and cultural education;
- Safeguarding and promoting the child's well-being, which includes, where necessary, the parent's requesting assistance from supportive government and non-governmental service providers if he or she feels unable to do so;
- Protecting the child from violence, abuse, neglect, degradation, discrimination, exploitation and any other form of harm;
- Adopting positive parenting practices that promote the development of the child, avoiding the use of corporal and othe forms of humiliating or degrading punishment, and administering all forms of discipline and guidance with humanity and in a manner consistent with the inherent dignity of the child;
- Maintaining a sound and healthy relationship with the child;
- Accommodating any special needs the child may have;
- Ensuring that the best interests of the child are paramount in all decisions affecting him or her;
- Giving children an opportunity to participate in decisions that affect them and giving their views due weight in accordance with their age and maturity; and
- Consulting with the other parent before making major decisions affecting the child.

Guardianship includes the duty to:

- Administer and safeguard the child's property;
- Assist in contractual, administrative and other legal matters; and
- Give or refuse consent to the adoption, departure or removal from the country, passport applications, or immovable property transactions.

4.3.1 Biological Parents

The general rule is that all biological parents automatically acquire full parental responsibilities and rights upon the birth of the child, including care, contact and guardianship. However, there are several exceptions to this, as set out below.

4.3.1.1 Mothers under the Age of 18 Years

Where the biological mother of a child is a child herself, her parents or guardian will have full PRR in respect of the child until the mother turns 18.

4.3.1.2 Biological Fathers not Married to, or Living with the Mother at the Time of the Child's Birth

Biological fathers over the age of 18 years who are not married to the mother automatically acquire PRR if they fulfil the following mandatory requirements, that:

- At the time of the child's birth he lived with the mother in a permanent life partnership; or
- Regardless of whether he has lived or is living with the mother, the father;

    1. Demonstrates commitment towards the child by acknowledging the child, either by having his details registered on the birth certificate or by paying damages in terms of customary law;
    2. Contributes or attempts to contribute to the child's upbringing; and
    3. Contributes or attempts to contribute to the child's maintenance.

Unmarried fathers may acquire PRR through the conclusion and registering of a parenting agreement with the mother or on application to court, if they do not meet the above requirements or if there is a dispute.

4.3.1.3 Children Born through Assisted Reproductive Procedures

Changes in family structures, coupled with advances in medical science, particularly in reproductive technology, have contributed to the country's diversity of parental arrangements. This has implications for the rights of children and parents, including the right of the child to identity and family care, the right of parents to make decisions about reproduction (section 12(2) of the Constitution) and, in the case of surrogacy, the rights of the surrogate mother to dignity, security and control of her body. In matters of technologically assisted reproduction, the best interests of the child are of paramount importance in all decisions and considerations.

The following subsections clarify the responsibilities and rights of parents and children born as a result of various recognised assistive reproductive procedures.

4.3.1.3.1 Surrogacy Agreements

In South Africa, surrogacy is recognised and regulated when it is entered into for altruistic reasons by a surrogate mother and commissioning parent(s) to enable the commissioning parent(s) to have a child that is genetically linked to at least one of the parents or, where there is a single person, a child that is related to that person. Commercial surrogacy agreements concluded for financial gain are prohibited and constitute an offence.

All surrogacy arrangements must be regulated by contracts approved by the High Court. This is to ensure the protection of the responsibilities and rights of all parties concerned, including the rights and protection of children against exploitation and the acquisition of parental responsibilities and rights by the commissioning parent(s) prior to the conception and birth of such a child.

Where a valid surrogacy agreement is concluded, the commissioning parent(s) acquire full PRR in respect of the child, and the surrogate mother has no PRR.

This means that:

- Any child is for all intents and purposes the child of the commissioning parent(s) from the moment of the birth;
- The surrogate mother is obliged to hand over the child to the commissioning parent(s) as soon as reasonably possible after the birth;
- Neither the surrogate mother nor her husband, partner or relatives have a right of parenthood and/or care in relation to the child;
- Neither the surrogate mother nor her husband, partner or relatives have a right of contact with the child, unless so provided for in the agreement between the parties;
- The surrogate motherhood agreement may not be terminated after the artificial fertilisation of the surrogate mother has taken place, except where the law permits; and
- The child will have no claim for maintenance or of succession against the surrogate mother, her husband or partner or any of their relatives.

4.3.1.3.2 Children Conceived through Artificial Fertilisation

Persons who wish to have a child through artificial fertilisation may do so with the assistance of donor gametes.

Informal artificial fertilisation arrangements in the form of a contract between a male gamete donor and the birth mother and her partner or spouse will not be legally enforceable. Artificial fertilisation must be done by means other than natural means at a fertilisation clinic. In the event that a child is born from an informal arrangement, the birth mother's spouse or partner will not automatically acquire PRR and would have to adopt the child or apply to court for PRR.

Every child has a right to know who his or her biological parents are, and therefore a child born as a result of artificial fertilisation may access information relating to his or her genetic parents when the child turns 18 once he or she has had pre and post-disclosure counselling. The child's parents may apply for medical information relating to the gamete donor(s) before the child turns 18 if it is necessary for the medical care of the child.

4.3.2 Termination and Suspension of PRR

It may be necessary in certain circumstances to terminate or limit a parent's PRR to protect the child. These may be limited or terminated only on application to court.

Application for Suspension, Termination, Transferring, Restricting or Circumscribing Parental Responsibilities and Rights

The following persons may apply to the High Court, regional court in divorce matters or children's court for the suspension, termination or transferring, restricting or circumscribing of parental responsibilities and rights:

(a) A co-holder of parental responsibilities and rights in respect of the child;

(b) Any other person having a sufficient interest in the care, protection, well-being or development of the child;

(c) The child, acting with leave of the court;

(d) In the child's interest by any other person, acting with leave of the court; or

(e) A family advocate or the representative of any interested organ of state.

The Director-General of the DSD, a provincial head of social development, or a designated child protection organization may apply to a High Court, a regional court in divorce matters or a children's court for an order, to suspend for a period, terminate or transfer any or all of the parental responsibilities and rights without the consent of the parent if this is in the best interests of the child.

Applications must take into account the age of the child and the period for which the child has been in alternative care. Applications may be made if the child is:

- Older than 7 years and has been in alternative care for more than two years;
- Between 3 and 7 years and has been in alternative care for more than one year; or
- 3 years or younger and need in alternative care for more than six months.

The court must consider the application taking into account provisions relating to parental responsibilities and rights, the child's need for a permanent family environment, whether attempts have been made to reunite the child with the person who has parental responsibilities and rights, the child's relationship with that person and their commitment to the child, contact with the child in the year preceding the application, and the probability of adoption or an alternative placement for the child.

4.3.3 Co-holders of PRR

Given the complexity of care arrangements, it may be that there are co-holders of PRR. The responsibilities and rights of co-holders are regulated by the Children's Act. However, this Policy restates the underlying principles governing these relationships. In summary, all decisions regarding the division or sharing of PRR must be in the best interests of the child and must be determined through a process of mutuality and mediation where there are disputes. The overarching principle is that children should not be misused by adults and that the state shall ensure, through the regulation of the process and legally prescribed criteria for recognition of co-holders of PRR, that children's interests are paramount and protected in all circumstances.

The Policy encourages co-parenting. In respect of major decisions[124] involving the child, co-holders of PRR should consult with each other. However, co-holders may still act independently and without the consent of other co-holders, unless a court order or parenting plan dictates otherwise.

This Policy promotes the child's right to participate in decisions that have a significant impact on the child. Co-holders of PRR have a duty to consult with the child and include the child in any major decision that will affect him or her.

4.4 Family Care Arrangements with Non-Biological Parents and Caregivers

In South Africa many children live with and are cared for by persons other than their biological parents. This Policy recognises and regulates these arrangements to ensure that the best interests of the child are served, that the child enjoys the right to develop to his or her full potential, and is protected from all forms of violence, abuse, neglect and exploitation through the provision of adequate care and protection by his or her caregivers.

The GRSA recognises and regulates several family and care arrangements practised in South Africa to ensure that all children deprived of parental care and protection, for whatever reason, enjoy their right to family, parental or alternative care. Furthermore, it regulates the relationships to ensure children and their caregivers receive a comprehensive package of care and protective support to maximise opportunities and address risks specific to their circumstances and the care arrangement in question. This requires, inter alia, that non-biological caregivers acquire and exercise PRR and that they be supported to fulfil their responsibilities.

The general principle is that, other than the child's biological parents, any person who has an interest in the child's care, well-being and development can acquire some or all of the recognised PRR. This includes members of the child's present and/or former extended family (such as a grandparent, aunt, uncle, sibling and a present or former step-parent), as well as the present and/or former partner of the child's biological parent. It also covers someone who has no family ties with the child (such as an adult friend). The list extends to the child's teachers, social worker, doctor, and so forth. Any one of these interested persons may acquire some or all PRR, either by agreement with the parents or primary caregiver, or through an administrative or court order recognised by this Policy for these purposes.

The extent of the responsibilities and rights acquired by the caregiver vary depending on the nature of the care arrangement, the nature of the relationship between the caregiver and child, the legal recognition of the arrangement, the opportunities and risks associated with the care arrangement, and the process for formalisation of the arrangement and acquisition of PRR. PRR mentioned above exclude guardianship, which may be granted by the relevant court.

4.4.1 Kinship care of orphaned or abandoned children

Kinship care has been practised for many years in South Africa. It has, however, not been formally regulated within the child care and protection system. Numerous social challenges, including HIV and AIDS, have impacted significantly on family structures. Many children have lost one or both parents, and there has been a growth in the number of children living with their relatives or extended family members, including an increase in youth and child-headed households and skip-generation families.

This Policy recognises appropriately supported and recognised kinship care of orphans or abandoned children as a valuable and legitimate alternative to parental care. It is recognised as such because it has been shown to support the well-being, development and protection of children in the absence of their parents. Recent studies demonstrate that there are more developmental advantages than risks associated with supported and regulated kinship care, especially for orphaned children. Stable and supportive families are associated with several positive outcomes. These include higher levels of self-esteem; lower levels of antisocial behaviour such as crime, violence and substance abuse; higher levels of work productivity; lower levels of stress; and more self-efficacy to deal with socio-economic hardships.

Whilst kinship care holds significant opportunities for supporting the survival, development and protection of orphaned and abandoned children, the Policy also recognises that this group of children, as in the case of all children who have lost their parents, are exposed to a number of risks that make them vulnerable. It recognises that families caring for such children, as well as the children themselves, may need additional support to mitigate these risks and maximise the opportunities of the care arrangements. However, it is not assumed that they are in need of care and protection. As in the case of all other vulnerable children, this group of children, if identified by any responsible role-player as being at risk, should be screened, following the procedures prescribed in this Policy and the law, and depending on the results, be referred for either promotive, prevention and early intervention services, and/or formal protection services.

4.4.1.1 Responsibilities and Rights of Caregivers in Kinship Care Arrangements

The temporary recognition of a kinship care arrangement by the South African Social Security Agency (SASSA) is pursuant to an administrative or legal procedure during which a caregiver may acquire partial or full PRR. Kinship carers may make application to court, as provided for in this Policy, for an order conferring guardianship.

4.4.2 Youth and Child-Headed Households

Youth and child-headed households are a reality in South Africa. For children whose parents are terminally ill or who have already lost parents through death or abandonment, the loss of their home and siblings may compound feelings of grief and loss. Furthermore, the family home may be the only asset the child is likely to inherit. Although child-headed households are not optimal choices for the care of children, this Policy recognises a child-headed household as a legitimate form of care where no other adult relatives are available to provide care, and subject to compliance with the prescribed regulatory procedures described in Chapter 5 for ensuring the well-being, protection and development of children in the care of siblings. As far as possible, these households should serve only as a short-term or interim solution while a suitable permanent alternative arrangement is being sought, and should always be subject to adult supervision.

4.4.2.1 Responsibilities and Rights of Role-Players in Child-Headed Households

The recognition of a child-headed household pursuant to the procedures in Chapter 5 confers responsibilities and rights on the child heading the household, as well as the supervising adult.

The child heading the household takes all day to day decisions and may confer or raise any concerns with the supervising adult. If not satisfied with the way in which the supervising adult is performing his or her duties, the child may report the supervising adult to the organisation or organ of state which appointed the adult. The supervising adult may report any concerns or unresolved issues to the organisation, after consultation with the child.

The supervising adult is responsible for collecting and administering money for the household, but may not make any decisions without conferring with the child heading the household and other children.

The child-headed household is entitled to, and must receive a package of promotive, preventative and protective services necessary for addressing risks to their well-being, development, safety and protection, including:

- Material support, such as cash grants, which may include the CSG, or the CDG, as well as subsidised early education and free schooling;
- Specialised support for children with a chronic illness or disability;
- Counselling;
- Family preservation services;
- Parenting/caregiving education for the child heading the household; and
- Rehabilitation, therapeutic or psychosocial programmes.

4.4.2.2 Guardianship by Family Members Caring for Orphaned Children

Whilst this Policy recognises a range of extended kin arrangements, this recognition does not confer guardianship on the caregivers, which can be obtained only through a court order. Guardianship applications may be launched in the children's court or the High Court.

4.4.3 Children in Informal Care Arrangements

Numerous children live in informal care arrangements, either indefinitely or temporarily, with persons with no formal PRR in respect of them. Persons who care for a child temporarily in this way have a duty to safeguard and protect the child and can make medical decisions except decisions relating to surgical operations, regarding the child when the child lacks capacity and consent cannot be obtained from parent or guardian. However, such a person may not create the impression, explicitly or implicitly, that he or she is the biological or adoptive parent of the child. In situations where a parent or other person with PRR is available to do so, informal care arrangements should be formalised through the conclusion of PRR agreements following the relevant procedures prescribed in law.

4.5 Formal Alternative Care Arrangements

Section 28(1) (b) of the Constitution provides that a child is entitled to parental or family care. Where neither is available or suitable, or presents a risk to the child's protection, children are entitled to appropriate alternative care which constitutes a critical component of the package of responsive protective services prescribed by this Policy.

This section sets out the forms of alternative care recognised by the GRSA that children who are found to be in need of care and protection, may be placed in alternative care by the children's court. It further sets out the associated responsibilities and rights of children and caregivers in the case of such placements. The children's court plays a central role in the care and protection of children, the regulation of PRR, and their placement in alternative care. The role of the children's court, including its role in the placement of children in need of care and protection, is described in further detail later in this chapter under the general sub-heading of the role of government. The court's role is described comprehensively along with that of the other key branches of government. In addition, the formal procedures governing these arrangements are outlined in Chapter 5 of the Policy, which describes the essential package of responsive protective services to which all children in need of care and protection are entitled.

As previously stated, this Policy promotes parental or family care as a priority and the most beneficial site of care and protection. There are circumstances, however, where parental or family care is not available or suitable thus leaving the child in need of care and protection. In such cases, a social worker is required to investigate and refer the child to the children's court for a decision as to the child's care and protection needs and status. Where the proceedings conclude that a child is in need of care and protection, the children's court may issue an order which is in the best interests of the child, including an order placing the child in one of the following alternative care arrangements:

- Temporary safe care;

- Foster care; or
- Placement in a child and youth care centre.

4.5.1 Objectives of Alternative Care

The objectives of alternative care are to:

- Ensure that, in line with the principle of permanency planning, all children in need of care and protection are guaranteed placement in a safe, appropriate and developmentally supportive environment;
- Ensure the continued protection and provision of nurturing and responsive care to children deprived of their parental or family care by providing safe and healthy care arrangements outside their family environment;
- Ensure, as far as possible, that alternative care placements are a temporary measure to provide care and protection until the child can be reunified with his or her family or be permanently placed in alternative care;
- Ensure that children are placed in temporary safe care for as short a period as possible;
- Ensure the availability of supportive programmes to assist transitioning of children from the alternative care system and their return to permanent family-based nurturing and protective environments; and
- Ensure that all children are placed in the most appropriate form of alternative care to meet their needs and are supported by individualised programmes that address their unique care, protection and developmental needs and risks.

Whilst alternative care arrangements may be temporary or permanent, the aim is ultimately to secure the child's permanent placement in a supportive and nurturing parental or family care environment. Where alternative care is necessary, all steps should be taken to place children in family, or community-based care alternatives that are safe and nurturing and provide quality services and support for them. Residential care or care in a child and youth care centre should always be a measure of last resort.

Furthermore, where children are placed in alternative care, the objective should be to return them to a strengthened parental or family care arrangement where caregivers are enabled and supported to provide nurturing, responsive and protective care. As such, alternative care placements should, as far as possible and where appropriate, be accompanied by therapeutic and other services supporting both the child's recovery and adjustment in placement and strengthening families in appropriate ways to facilitate successful, sustainable family reunification or independent living. All children in care should receive transitional support to be prepared psychologically and practically for reintegration into families and their environments. They should also receive after-care support facilitating such reintegration.

4.5.2 Temporary Safe Care

Temporary safe care is an interim form of alternative care to ensure that children who are at an immediate risk of harm are protected for the duration of formal court proceedings that determine their care and protection needs and most appropriate care or placement options. It is a special measure that can be used by a designated social worker or police official where they believe, on reasonable grounds, that the child is in immediate danger and that his or her safety depends on prompt removal from a harmful environment.

Temporary safe care can be provided either by a person or a place, or in a child and youth care centre that is approved to deliver such a programme to children.

4.5.3 Foster Care

Foster care is a form of alternative care in which a children's court places a child in need of care and protection in the care of a person who is not his or her parent or guardian.

The placement may be:

- With a person who is not a family member of the child;
- With a family member who is not the parent or guardian of the child; or
- In a registered cluster foster care scheme, the aim of which is to pool resources and provide community-based care to foster children by caregivers.

Foster care entails placing the child in a nurturing foster family environment or in community-based cluster foster care. The objective is to minimise the impact of the harm experienced by the child which led to the finding of the child being in need of care and protection, to ensure the ongoing development of the child to his or her full potential by strengthening the child's capacities and resilience, and to restore the child to a permanent, nurturing and responsive parental or family-based care environment.

Given that parental or family care is the preferred care environment, foster care is intended in most cases to be a temporary or short-term placement. Foster care should therefore promote permanency planning towards either, and in the first place, the goal of family reunification, or the goal of connecting children to other safe, nurturing and long-lasting family relationships.

4.5.3.1 Responsibilities and Rights of Foster Parents

A foster parent acquires PRR related to care and contact but does not acquire guardianship of the child. The regulation of the foster parent's responsibilities and rights should be documented in a comprehensive foster care plan that forms part of the foster care order made by the court.

Foster parents have the right to make day-to-day decisions necessary for the care, upbringing and development of the child. Where decisions are made by the foster parent that will affect the placement, the biological parents and the child (if sufficiently mature) must be consulted. Their responsibilities include providing for the daily needs of a foster child; where the foster parent receives an FCG, this must be used to support the child. The foster parent must respect the views of the child and employ positive parenting practices when guiding his or her behaviour. Foster parents may not employ any form of degrading punishment or discipline.

The foster parent must co-operate with the designated social worker (including allow him or her access to the home and to the child). The foster parent must not obstruct contact between the child and his or her biological family members and other persons who have an interest in the well-being of the child if such contact has been approved by the designated social worker. The foster parent has a responsibility of reporting periodically to the social worker on progress the foster child is making in the developmental areas identified in the individual development or care plan.

4.5.4 Child and Youth Care Centres

The GRSA is obligated to provide safe residential institutions as a form of alternative care for children in need of care and protection. These institutions must offer quality care and developmental programmes that are accessible, inclusive and based on children's needs. In furtherance of this responsibility, the GRSA provides regulated and registered CYCCs. Placement in a CYCC should be in the child's best interests and a measure of last resort if other alternative placement options are not appropriate. The placement of young children in CYCCs, in particular those under the age of three years must be carefully considered given the extensive evidence on the possible impact on their development.

The GRSA commits to ensuring an adequate and differentiated spread of CYCCs to ensure accessibility for all children, including children with disabilities; with acute and chronic illnesses; with disruptive behaviour disorders; those in temporary care who have been trafficked and commercially sexually exploited; and those needing assistance in transitioning when leaving a CYCC.

The objective of CYCCs is to provide residential care outside the family environment to more than six children, with the care entailing a therapeutic programme of development, care and protection suited to the child's particular risks and needs. CYCCs aim to provide differentiated programmes for developing children holistically according to their specific therapeutic and developmental needs identified in their comprehensive assessment, care plan and individual development plan. The intention, as with all forms of alternative care, is to ensure the protection and ongoing development of the child with a view to returning him or her, where possible, to a permanent nurturing parental or family care environment.

While secure care centres are categorised as CYCCs, the legal jurisdiction, authority and management are provided for by the Child Justice Act and the Probation Services Act.

4.6 Adoption

Adoption is an integral element of the national child care and protection system. It is dealt with in detail in Chapter 5 as a responsive protective service.

Adoption is recognised as a permanent care option. It is a legal process whereby a child is placed in the permanent care of a person who is not the child's biological parent or guardian. It is an option that should be considered where the care of a child by parents or extended family is not possible or is not in the best interests of the child. It focuses on providing a family to a child whose circumstances warrant permanent care. This includes:

- Orphaned or abandoned children;
- Children who have no guardian or family member willing and able to care for them;
- Children whose parents, family or caregivers have abused or deliberately neglected them and in whose best interests it is that they not return to their family;
- Children who are stepchildren of persons who are intending to adopt; and
- Children whose parents or guardians have consented to their adoption, unless their consent is not required.

4.6.1 Objective of Adoption

The objective of adoption is to find a permanent and stable family for a child that provides an inclusive, safe, supportive and nurturing environment where children may grow to their full potential. It aims to create family relationships for the child that are intended to last a lifetime. The intention is to find a family for the child, not a child for a family, and all decisions must be determined by the best interests of the child.

4.6.2 PRR and Associated Consequences of Adoption for Biological and Adoptive Parents

Adoption is a permanent placement which results in the termination of the parental responsibilities and rights of the child's biological parent(s) or guardian(s) unless if stated otherwise in the post-adoption agreement. Parental responsibilities and rights in relation to an adopted child are conferred on the adoptive parent(s). This does not apply to a child adopted by the spouse or partner of the child's biological parent or guardian, as the PRR of the biological parents or guardians are not terminated but shared with the adoptive parent or where parties to the adoption enter into a post-adoption agreement.

After finalisation of the adoption, adoptive parents must register the adopted child in the National Population Register at the Department of Home Affairs.

4.7 Supportive Duty-Bearers, Role-Players, their Roles and Responsibilities

Whilst parents, families and supporting caregivers are the primary duty-bearers responsible for the upbringing, development and protection of their children, they may need help in fulfilling their responsibilities. In these cases, the UNCRC and ACRWC alike recognise that they have a right to receive support from governmental and non-governmental role-players, such as business, the media and civil society, in meeting their parenting responsibilities.

4.7.1 The Government's collective roles and responsibilities: A nationwide child surveillance system

This section describes the GRSA's role in the provision of support and regulation of children's care and protection rights and associated parental, family and caregiver responsibilities and rights. In ratifying the UNCRC and ACRWC, and in seeking to achieve its development goals, the GRSA is committed to ensuring that all children and their parents, caregivers and families receive the services and support they need to ensure children's care, development and protection. It is committed, furthermore, to ensuring that an effective nationwide system of surveillance is in place to identify and refer children who are at risk to access an appropriate suite of child care and protection services. The system is grounded in a government-wide responsibility, shared by all departments and agencies that encounter and/or provide services to children and their families, to establish systems and build capacity to identify, refer and/or support vulnerable children and their families in accessing services. This Policy commits all relevant government departments and agencies to ensuring that their systems and staff are equipped to recognise vulnerable children, and to supporting them as well as their parents, families and caregivers in accessing appropriate child and family services.

As previously stated in this Policy, attaining the country's development goals and fulfilling its human rights commitments requires the accessibility of child care and protection services. Notably, it requires that children whose survival, safety and development are at risk, are linked with services necessary to interrupt the negative cycle of poor development and or harm. This demands a massive scaling-up of the surveillance of children and systems for linking children and families at risk with appropriate mitigating services. Given the levels of vulnerability in South Africa and its limited social welfare resources, the task cannot be carried out by social workers or social service practitioners alone. It requires nationwide vigilance by all government departments and agencies that have contact with children and families, which requires in turn that all such departments and agencies mandate their staff and develop their systems to recognise and support vulnerable children and families to access services.

This does not mean that all departments and agencies now have to conduct assessments and investigations into the circumstances of all vulnerable children. What it does mean is that all relevant departments and agencies constitute integral parts of the national child care and protection system. Within this system, departments and agencies bring differing levels of scrutiny to, and have differing service provision duties in respect of vulnerable children, depending on their mandates, competencies, service delivery responsibilities, and the severity of the risks faced by the children.

All relevant departments and agencies bear a minimum duty to understand and recognise vulnerable children and families through a basic screening process, along with an accompanying duty to provide the promotive and preventative services for which they are primarily responsible. Where children are identified as vulnerable, there is a further duty on all departments and agencies to refer them to a social service practitioner for an initial screening of the risks they face and the services required. Where such children are found in need of care and protection, there is a duty to refer them to a social worker for a full assessment and investigation, referral to the children's court, and access to appropriate responsive protective services.

Figure 2 depicts the increasing intensity of the surveillance and support required across the care and protection continuum which is the basis of this Policy.

Figure 2: Continuum of surveillance responsibilities: from screening to investigation

4.7.1.1 Roles and responsibilities of different levels of government

The GRSA is duty-bound to provide a continuum of promotive, preventative and protective services to parents, family members, caregivers and children to support the fulfilment of their respective care and protection responsibilities and rights.

In addition to its obligation to provide promotive services such as sanitation, health care and education, the GRSA is duty-bound to provide a network of alternative care environments in the form of regulated, safe and nurturing institutions, facilities and services for the care of children. These include child care services for the children of working parents and alternative care arrangements and facilities for children deprived of parental or family care. Crucially, the GRSA is committed to developing lawful and inclusive administrative and judicial processes to ensure that children are removed from their families as a measure of last resort. Where children are removed, the GRSA is committed to establishing processes that ensure the best interests of the child are always taken into account, that no child is removed from the family against his or her will without due consideration and a decision on the matter by a competent authority, and that the placement is periodically reviewed with the objective of returning the child to his or her family wherever possible.

These commitments cannot be honoured by one government department or agency alone. All three branches of state – the executive, legislature and judiciary – and many government departments at all three levels of government – the national, provincial and local – bear responsibility for the provision of developmental care and protection services to children, their parents, caregivers and families. Responsibility for the provision of the continuum of care and protection services cuts across concurrent national and provincial competencies (in terms of Schedule 4 of the Constitution).

In broad terms, responsibility for national planning and coordination, the development of laws, policies and norms and standards and the setting of high-level targets rests with the respective national departments. Responsibility for the delivery of services (such as health, social welfare services and basic education) is devolved to the provinces. This includes responsibility for funding, delivery of services directly or through contracted NGOs, and monitoring and evaluation of the services' compliance with prescribed norms and standards.

In terms of the Constitution, the Municipal Systems Act (No. 32 of 2000) and the Children's Act (No. 38 of 2005), local government is responsible for:

- The provision of basic services, including water and sanitation, to communities;
- Contributing to the realisation of the rights set out in the Constitution, including health care services, food, water and social services;

- The development of policies and by-laws governing child care facilities, including child-minder services;
- Municipal planning and spatial development, including providing and regulating land used for child care facilities and safe and adequate play and recreation facilities; and
- Any responsibilities that the provincial DSD may assign to municipalities for the provision of child care services as provided for in the Children's Act.

In summary, municipalities have a critical role to play in securing developmental child care and protection services. The relevant services and associated responsibilities and budgets should be reflected in all municipal Integrated Development Plans and specific sectoral policies and by-laws, which in turn should be reviewed and harmonised with this Policy.

4.7.1.2 Responsibilities of Government Departments

The Policy recognises the DSD as the lead department responsible for coordination of the national child care and protection system. It is, however, not the sole or primary provider of child care and protection services. The collective responsibility of care and protection is shared by all departments at national, provincial and local levels, in partnership with the NPO sector as well as with parents, the media, the business sector and children themselves.

The next sections identify key government departments that share this responsibility and their respective roles and responsibilities.

Department of Agriculture, Land Reform and Rural Development

The Department of Agriculture, Land Reform and rural Development is responsible for:

1. Improving the food security and production capacity of households and poorly resourced farmers, and developing market channels for food;
2. Ensuring safe and developmental environments for farm, forestry, and fishery workers and their families; and
3. Enforcing legislation that prohibits child labour.

The vision of this Department is 'vibrant, equitable and sustainable rural communities'. Its mandate is to initiate, facilitate, coordinate, catalyse and implement the Comprehensive Rural Development Programme. It is responsible for ensuring services in rural areas that provide food security and nutrition, basic services such as water and sanitation, and access to information for children and their parents through:

- Establishment of food gardens and Agri-parks;
- Development and use of innovative service delivery models to enhance food production and ensure food security;
- Increasing the number of jobs available in rural areas;
- Provision of economic, social and ICT infrastructure; and
- Improved disaster management services.

Department of Basic Education

The DBE is responsible for the following:

1. The systematic screening, identification and referral of vulnerable children to appropriate service providers for access to care and protection services. The DBE is responsible for establishing and maintaining school-based surveillance and monitoring systems to enable the identification, tracking and provision of support to vulnerable children through the Education Monitoring and Information System (EMIS) and the programme of Care and Support for Teaching and Learning (CSTL).
2. The provision of universal, quality and accessible basic education, including Grade R, as well as support for quality early learning programme development and registration.

Department of Communications and Digital Technologies

The Department of Communications in collaboration with its agency, the Films and Publication Board are responsible for protecting children from sexual exploitation in media content and to educate the broader South African society to make informed choices in this regard. It is also responsible for:

1. Developing and monitoring the implementation of information, communication and technology policy and legislation that create conditions which empowers and protect children in the Information Communications Technology space and positively impact on their well-being.

2. Ensuring cyber security and online protection of children; and to ensure the development of robust, reliable, secure and affordable ICT infrastructure that supports and enables the provision of a multiplicity of applications and services to meet the needs of the country and its people in particular that of children and parents.

3. The department also oversees a number of State Owned Companies (SOCs) that provide services to ensure that children are protected and empowered in the ICT environment, this includes the broadcasting, telecommunications, information technology and the internet.

4. The department also has the responsibility to assist the country to take up the opportunities that the Fourth Industrial Revolution has to offer and in this regard the department has a specific focus on children to raise awareness on online safety.

5. The department has developed an overarching strategy on Children and ICTs that guides the work of the department and its SOCs in the area of Child Protection. In this regard it implements the Comprehensive Child Online Protection Program that includes the following:

- School based Awareness Workshops on Online Safety;
- E-Parenting Sessions targeting parents;
- Learner Driven Initiatives such as the support to the Web Ranger Programs; and
- Child Online Counselling Program supporting ChildLine SA.

Department of Cooperative Governance

The Department of Cooperative Governance is responsible for funding and promoting fulfilment of municipal responsibilities and coordination of the Expanded Public Works Programme and Community Work Programme, which are potential sources of employment for caregivers as well as a resource for employment of outreach workers.

Department of Correctional Services

The Department of Correctional Services is responsible for:

1. Supporting babies who are with their incarcerated mothers and for effective child home integration once they reach the age limit at which they have to leave their mothers; and

2. Providing services and rehabilitation programmes to incarcerated child offenders and those under community corrections.

Department of Defence

The Department of Defence should give effect to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict by prohibiting the conscription into the military of children under the age of 18 and forbidding non-state armed groups from recruiting anyone under the age of 18 for any purpose.

Department of Employment and Labour

The Department of Employment and Labour is responsible for:

1. Creating conducive working environments, working conditions, basic conditions, minimum wages, compensation of occupational injuries, employment equity, labour relations and unemployment insurance;

2. The administration of child-sensitive employment policies and maternity, paternity, adoptive and surrogate leave benefits;

3. The monitoring, prevention and prosecution of child labour; and

4. The regulation and monitoring of children in the performance, advertising, artistic and cultural sector.

Department of Finance

The Department of Finance is responsible for planning, resourcing and monitoring public expenditure on child care and protection allocations approved by Cabinet.

Department of the Government Communication and Information System

The Department of the Government Communication and Information System is responsible for supporting the implementation of a national child care and protection communications campaign and information to promote knowledge and awareness on child care and protection.

Department of Health

The Department of Health is responsible for the following:

1. The universal immunisation, systematic screening, identification and referral of vulnerable children to appropriate service providers for access to care and protection services;
2. The provision of pre and post-natal health care, health and nutrition programmes, parenting support programmes, and early learning support for parents of children between the ages of 0-2 years, through health facilities and home visits by community workers;
3. Integrated school health and sexual reproductive health programmes;
4. Reporting of all cases of abuse and neglect and the assessment of children who may have been abused; these assessments include medical, forensic and psychological assessments of the child, and psychiatric assessments;
5. Providing mental health care services for children who have suffered abuse or neglect;
6. Providing rehabilitation and medical care to promote the healthy growth and development of children, as well as to treat children subjected to violence, abuse or neglect; and
7. Assistive devices for children with disabilities.

Department of Higher Education and Training

The Department of Higher Education and Training is responsible for coordination of the education and training sub-systems of post-school education, including universities, TVET colleges, Sector Education and Training Authorities (SETAs), and Adult Basic Education. As such, it is the key role-player in facilitating access, equity and quality in the development and provision of tertiary qualifications for social service practitioners and professionals.

Department of Home Affairs

The Department of Home Affairs is responsible for the following:

1. The provision of universal birth registration services, identity documents and death certificates;
2. Identification and referral of vulnerable children to appropriate service providers for access to care and protection services;
3. Maintaining the birth and population register, recording adoptions in the register, recording the change of a child's surname, and issuing death certificates and passports; and
4. Ensuring the provision of documentation to children, including unaccompanied and separated migrant children, to ensure their care and protection as required by this Policy.

Department of Human Settlements

The Department of Human Settlements is responsible for developing policies and laws at a national and provincial level which are implemented at a provincial and local level to ensure that children, including children in child-headed households, have access to adequate housing, sanitation, play, educational and recreational facilities.

Department of International Relations and Cooperation

The Department of International Relations and Cooperation plays a key role in:

1. Supporting intercountry adoption;
2. Facilitating the submission of country reports to human rights treaty bodies;
3. Preventing, responding to and cooperating in addressing international crimes against children; and
4. Providing consular services in matters concerning the care and protection of children.

Department of Justice and Constitutional Development

The Department of Justice and Constitutional Development (DoJ&CD) is responsible for ensuring the realisation of the rights of children to protection from abuse, neglect and exploitation through the administration of, inter alia:

- Securing payment of maintenance by persons with a legal duty of support to children;
- The Domestic Violence Act (No. 116 of 1998);
- The Criminal Law (Sexual Offences and Related Matters) Amendment Act (No. 32 of 2007); and
- The National Register for Sex Offender.

National Development Agency (NDA)

The NDA is responsible for granting funds to civil society organisations for the purpose of implementing development projects of poor communities and strengthening the institutional capacity of other civil society organisations that provide services to poor communities; promoting consultation, dialogue and sharing of development experience between civil society organisations and relevant organs of state; debating development policy; and undertaking research and publications aimed at providing the basis for development policy.

National Prosecuting Authority

The National Prosecuting Authority is responsible for instituting criminal proceedings on behalf of the state.

Office of the President

The Presidency is mandated to ensure the smooth functioning of government and synergy between the three levels of government. More specifically, it is mandated to ensure coherence in planning, coordination, policy development and implementation; performance monitoring and evaluation to promote a culture of accountability across the three levels of government; and mobilising the country towards a common vision.

Department of Planning, Monitoring and Evaluation

The Department of Planning, Monitoring and Evaluation is responsible for enhancing government service delivery in order to achieve national priority outcomes through performance monitoring and evaluation and by supporting transformation through innovative solutions. It is thus responsible for supporting the departments responsible for care and development services in developing and implementing systems and processes for continuous monitoring and improvement.

Department of Public Service and Administration

The Department of Public Service and Administration is responsible for the development of workplace policies and programmes providing for child care services to support government employees.

Department of Public Works and Infrastructure

The Department of Public Works and Infrastructure is responsible for ensuring that infrastructure provisioning in all national departmental facilities accommodates the needs of children and their caregivers, including those with disabilities.

Department of Science and Technology

The Department of Science and Technology is responsible for supporting play, creativity and inductive reasoning among children.

Department of Social Development

The DSD is responsible for the following:

1. The systematic identification, assessment, screening and referral of vulnerable children by relevant social service practitioners, or investigation by social workers, and their referral and/or provision of appropriate and relevant promotive, preventative and responsive protective services.

2. The universal availability of, and access to, a number of promotive services, including ECD and partial care services; child and family services; family promotion and strengthening programmes, including parent information, empowerment and education programmes on child development, play and protection, positive parenting practices and the dangers of harsh disciplinary practices; and public communication and education on child development and rights, including positive parenting and the harm caused by corporal punishment.

3. The targeted provision of quality prevention and early intervention services to vulnerable children, including material assistance such as cash transfers; subsidies for partial care, early childhood development services; skills development; rehabilitation services; psychosocial support for parents, families, young people and children; parental education programmes for parents and caregivers of vulnerable children to enable them to understand and respond to risks; peer support and mentoring programmes; diversion programmes for children, and promotion, awareness and outreach services.

4. The targeted provision of responsive protective services for children in need of care and protection, including protection against prohibited harmful practices, and specialised measures addressing the protection needs of targeted vulnerable groups of children. Examples are protection against trafficking, child labour, sexual abuse, torture and domestic violence, including the use of corporal punishment in all settings; safe and developmentally supportive alternative care arrangements and placements; therapeutic programmes and psychosocial services; rehabilitative services; transitional support services, family reintegration and reunification services and ongoing support services to ensure the return of the child to a developmentally promotive family environment.

The national DSD is responsible for policy development, national planning, regulation and development of norms and standards for service provision, and evaluation of efficiency and effectiveness.

The provincial departments of the DSD are responsible for provincial social development planning and management of the services described above, as well as for registration, implementation, quality improvement and monitoring of social development programmes.

South African Social Security Agency (SASSA)

SASSA is responsible for the following:

1. The systematic screening, identification and referral of vulnerable children to appropriate service providers for access to care and protection services; and

2. The provision of social grants and social relief of distress (SRD) to all eligible children and their caregivers.

South African Police Service

The South African Police Service (SAPS) is responsible for the protection of children against violence, abuse, neglect and exploitation and the investigation thereof. In this regard SAPS works closely with the Department of Social Development for example in joint investigations of cases.

Department of Sport, Arts and Culture

The Department of Sport, Arts and Culture is responsible for transforming the delivery of sport and recreation by ensuring equitable access, development and excellence at all levels. As such, it is responsible for the equitable provision of play and recreation facilities for children.

It is responsible for:

1. Regulation of the performance, advertising, artistic and cultural sector;

2. The promotion of early language and home language development;

3. The provision of book and toy libraries;

4. The promotion of music and arts among young children; and

5. The maintenance of museums and heritage sites.

Statistics South Africa

Statistics South Africa is responsible for collecting, analysing and distributing census and community survey data of children. It is mandated to collect and provide statistical information on the number and characteristics of children in South Africa, including the number, location and characteristics of marginalised and vulnerable children, and the state of children's enjoyment of all rights, services and benefits, including infringements of the right to protection from abuse and neglect.

Department of Transport

The Department of Transport is responsible for policies and laws ensuring that roads and transport are accessible and safe for use by children, notably those in under-serviced areas and those with disabilities.

Department of Water and Sanitation

As the custodian of South Africa's water resources, the Department of Water and Sanitation is responsible for formulating and implementing policy governing this sector. It has an overriding responsibility for water and sanitation services provided by local government. It is thus responsible for ensuring that national water policies and laws secure the rights of young children to access clean piped water.

It is the responsibility of local government to implement these policies through its planning, spatial development, housing development and child-care facility responsibilities, and thereby ensure the availability of safe water for households with children and for facilities providing services to these targeted groups.

Department of Women, Youth and Persons with Disabilities

The Department of Women, Youth and persons with Disabilities is responsible to co-ordinate and provide oversight in ensuring that government implements inclusive programmes, which are geared towards closing gaps in the representation of women, youth and persons with disabilities. It is also responsible for mainstreaming of women's, youth and persons with disabilities' programmes to bring these groups from the periphery to the centre of society's efforts to end inequality and injustice.

4.7.1.3 Roles and Responsibilities of the Judiciary

International and national laws require that some decisions about the most appropriate care and protection placements and the protection of the responsibilities and rights of children and their caregiver must be determined by the courts. As such, access to courts that contribute to, and are themselves, enabling and supportive environments is critical to the success of the policy vision and goals.

The following courts have a role in the child protection system:

- Maintenance courts, which ensure that parents carry out the parental responsibilities of financially supporting their children;
- Domestic violence courts;
- Criminal courts, which deal with criminal offences relating to children;
- Sexual offences courts, which respond to sexual offences;
- Child justice courts, which deal with matters relating to children who committed a crime or are in conflict with the law;
- Regional courts dealing with divorce matters, which ensure that orders for parental responsibilities and rights of minor children are in their best interests;
- The High Court, which is the upper guardian of all children in South Africa; and
- The Master of the High Court, whose office ensures the protection and administration of the funds of minors through the guardian's fund.

A network of dedicated children's courts has been established with an extended geographical footprint, expanded jurisdiction and a number of responsibilities to increase access to child-friendly and developmentally promotive courts.

Every magistrate shall be a presiding officer of a children's court and every additional magistrate shall be an assistant presiding officer of a children's court for the district of which he or she is a magistrate, additional magistrate or assistant magistrate.

The court may request assistance from professionals, including social workers, occupational therapists or psychologists, medical or legal practitioners, as well as the SAPS, to assist in the fulfilment of its responsibilities.

Despite the children's court's extended jurisdiction, certain matters remain the exclusive jurisdiction of the High Court. These include matters that relate to:

- Artificial fertilisation;
- The departure, removal or abduction of a child from South Africa;
- Applications for the return of a child to South Africa from another country;
- The age of majority or the contractual or legal capacity of a child;
- Safeguarding the child's property interests; and
- Surrogate motherhood agreements.

The high courts and the children's court have concurrent jurisdiction over the guardianship of an orphaned or abandoned child by a family member.

4.7.1.3.1 Jurisdiction and Duties of Children's Courts

The children's courts have vastly increased jurisdiction to make orders related to the care and protection of children. The children's court is empowered to hear a variety of matters, including the determination of the acquisition and exercise of parental responsibilities and rights, the determination of children who are in need of care and protection, and the determination of their placement and the support to be provided. The range of orders is comprehensive and designed to ensure enforcement of the rights of children and protection measures pertaining to these as prescribed. The categories of orders include orders for all forms of alternative care of children; adoption and intercountry adoption; care and contact disputes; shared care and supervised care; early intervention and family preservation programmes; child protection orders and contribution orders.

The court may request assistance from professionals, including social workers, occupational therapists or psychologists, medical or legal practitioners, as well as the SAPS, to assist in the fulfilment of its responsibilities.

Despite the children's court's extended jurisdiction, certain matters remain the exclusive jurisdiction of the High Court. These include matters that relate to:

- Artificial fertilisation;
- The departure, removal or abduction of a child from South Africa;
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- Surrogate motherhood agreements.

The high courts and the children's court have concurrent jurisdiction over the guardianship of an orphaned or abandoned child by a family member.

4.7.1.3.2 Procedure in the Children's Court

As far as possible, proceedings in the children's court should be informal, child-friendly and aimed at problem-solving through the cooperation of all the parties concerned. The presiding officer has the authority to regulate the process in the children's court to ensure compliance with these principles, including managing the examination and cross-examination of witnesses and the production of documentary evidence.

Rules will be developed by the Rules Board that apply specifically in the children's court. The rules for the children's court must also be aimed at increasing court services for children with special needs, such as intermediaries, interpreters and sign language interpreters. To the extent that there are no specific rules, the children's court must comply with the Rules for Magistrates' Courts, including the procedure for appeal and review from the children's court to the High Court.

4.7.1.3.3 Alternative Dispute Resolution

Parties to a children's court matter must be encouraged to settle disputes outside of court as far as possible and should be given appropriate support to help them resolve their dispute. The children's court must ensure that alternative dispute resolution was attempted before proceeding with litigation and may order the parties to participate in an appropriate forum, such as lay-forum hearing, mediation, pre-hearing conference or a family group conference with the assistance of a suitably qualified professional.

Access to the children's court is not limited to the social worker, parent or caregiver. Any person acting on behalf of the child may approach the court for assistance, especially if the child is too young to act for him or herself. A child may also approach the court directly in his or her own name. The children's court may also be approached on behalf of a class of children or in the public interest, for instance when a systemic failure is not limited to a particular child but affects a large group of children or children in general. Any person approaching the children's court may do so by lodging an application with the clerk of the court.

Every person involved in a children's court matter is entitled to legal representation and may appoint an attorney and/or advocate. However, it is not always necessary to have legal representation in the children's court, and a party may appear for him or herself. The children's court must, as far as possible, avoid any undue delay in the hearing and finalisation of the matter.

4.7.1.3.4 Participation of Children in the Children's Court

Every child has the right to participate in any proceedings that concern him or her, subject to the child's age, maturity and stage of development. In every matter the presiding officer must take these considerations into account and determine whether a child is able to participate in the proceedings. A child may choose if he or she wants to participate and to what extent. While participation by the child is not mandatory, it is mandatory that the child should be given an opportunity to choose whether or not to participate.

If the child is able and wants to participate, then the court must give the child an opportunity to express his or her views and preferences. The child's views must be entered in the record and be given due consideration in the court's evaluation before it makes a finding. If the child chooses not to participate, then the presiding officer must record that the child declined to participate. If the presiding officer finds that the child cannot participate, then the presiding officer must put the reasons for this on the record.

Children who testify in the children's court should have the same protection as children who testify in criminal proceedings when the case concerns abuse, including child-friendly waiting and questioning rooms with closed-circuit camera and television equipment and questioning through an intermediary.

A child is also entitled to his or her own legal representative. If a child appears before the court, the court must apply its mind to whether the child needs a legal representative to protect his or her interests. If the court is of the opinion that it would be in the best interests of the child to have legal representation, the court must refer the matter to Legal Aid South Africa. The presiding officer may instruct Legal Aid South Africa to appoint a legal representative for the child.

In cases where litigation is unavoidable, the parties should try to limit the issues through a pre-hearing conference before proceeding with the children's court hearing.

The court must consider at all times whether it is appropriate in the context of a case to order alternative dispute resolution, taking into account factors such as sexual, physical or emotional abuse and/or domestic violence. The court must also ensure that the child's right to participate in the alternative dispute forum is respected, subject to the child's age, maturity and stage of development.

4.7.1.3.5 Protection of Personal Information and Court Records

Children's court proceedings are highly sensitive and can involve information which, were it to become public, would violate some of the parties' rights to privacy and potentially lead to the stigmatisation or secondary victimisation of children. The right to privacy of a child who is the subject of children's court proceedings, shall be protected by restricting public attendance at proceedings; ensuring that children's court records are not open to the public other than for legally prescribed reasons or bona fide research; and prohibiting the publication of any information, by any person, including the media and the child's parents or caregivers, that may reveal the identity of such a child (during and after proceedings).

4.7.1.4 The Roles and Responsibilities of Parliament

Parliament is responsible for ensuring that laws are enacted to give effect to the responsibilities and rights set out in this Policy. In addition, Parliament is responsible for oversight and holding the executive accountable for fulfilling the responsibilities contained in this Policy.

4.7.2 The Roles and Responsibilities of Civil Society and Development Partners

The NDP seeks to advance its social and economic goals by developing human capital, which begins with the country's children. Furthermore, the NDP makes this a collective responsibility of the GRSA, civil society, development partners and others. The Policy, which seeks to put in place the core elements of sustained development, calls for collaboration in establishing a comprehensive safety net of services for children.

The GRSA recognises that civil society and development partners have played a central role in resourcing and providing services to children. Moving forward, it is important that collective efforts be harnessed through effective collaboration, which requires clear understanding of roles in the provisioning of services to children to advance the goals of this Policy.

The GRSA will adopt a balanced approach in which the role of non-governmental partners is recognised and utilised to complement the fulfilment of its child care and protection commitments. However, this is subject at all times to the proviso that the Government retains responsibility for ensuring that all services provided comply with the limits, obligations and responsibilities prescribed by law.

The Government will thus retain overall responsibility for the provision of the spectrum of services. It may contract out the delivery of a number of services and support roles to NGOs and other private entities, but it will remain responsible for the funding, regulation, capacitation and oversight of contracted partners within the national rights-based limits of this Policy. This relationship will be underpinned by explicit expectations, secure contracting and performance requirements, quality control and bilateral accountability mechanisms.

To this end, the GRSA will:

- Develop a regulatory framework governing the provision of services by NGOs in alignment with national child care and protection objectives;
- Fund NGO service providers which are eligible in terms of, and to the extent permitted by, this Policy;
- Regulate the training, qualifications and remuneration of child care and protection practitioners to realise the national policy goals and objectives; and
- Set minimum quality and safety standards that secure the rights and best interests of young children, and monitor compliance with these by NGO service providers.

With regard to the resourcing of services, partnerships and agreements between government and donors will be guided by the priorities identified in this Policy for serving the best interests of children. In order to coordinate and manage donor funding, there shall be transparent and joint planning and reporting at national, provincial and, where applicable, local levels.

4.7.3 The Roles and Responsibilities of Human Rights Institutions

The Constitution establishes oversight bodies, including the South African Human Rights Commission (SAHRC). They are responsible for monitoring, oversight, reporting and acting to remedy the abuse of children's care and protection rights, as well as for improving knowledge of these rights and promoting appropriate practices in this regard by the Government and the public.

The SAHRC is specifically mandated and responsible for the promotion, protection, development and attainment of children's rights, as well as monitoring and assessing the observance of children's rights in South Africa. Specifically, it is mandated to:

- Receive and address complaints of child rights violations;
- Implement child-friendly complaints procedures;
- Ensure availability of child-friendly spaces to encourage children to report violations in a safe environment;
- Conduct advocacy and public education on issues pertaining to children;
- Conduct provincial visits to monitor compliance with children's rights, raise awareness, create partnerships with relevant stakeholders, and promote protection of the rights of children;
- Monitor government compliance with national and international laws that promote children's rights; and
- Initiate hearings, investigations and research into social and political issues affecting children's rights.

4.7.4 The Roles and Responsibilities of Research Institutions

When conducting social research with and involving children, the following principles must be adhered to in order to ensure the protection and participation of children as required by law.

Independent researchers who conduct social research with children and are not affiliated to an academic or learning institution, research council or organisation must obtain clearance from the research ethics committee of an academic or research institution. This includes research with migrant children, children living, working and begging on the streets; child offenders; children in ECD settings, drop-in centres, and CYCCs; children subject to court proceedings; those in foster care, kinship care or adoption; and children in child-headed households.

Among other things, such research ethics committee shall be responsible for:

- Providing guidance on the design and implementation of child related-research;
- Ensuring that child-related research meets ethical standards; and

- Ensuring that the rights of child-research participants are protected.

All child-related research reports in the country should be maintained in a secure and accessible electronic research hub.

4.7.5 The Roles and Responsibilities of the Media

The media have the capacity and power to be constructive and key partners in the realisation of this Policy's vision and goals. This requires that they ensure that their policies and practices respect, protect and promote the rights of children to develop to their full potential and to be protected from harmful media content, violence, abuse, neglect and exploitation.

The media's responsibilities include, but are not limited to, the following:

- Information and material disseminated to children by the media should promote their mental, physical, social, emotional, spiritual and moral well-being and development.
- Material published by the media, and when reporting on children, should not cause harm to the child or infringe upon his or her privacy.
- The media may not publish child pornography, and may not identify children who have been victims of violence, abuse, exploitation, or who have been charged with or convicted of a crime.
- The media must protect children from exposure to potentially disturbing or harmful materials and from premature exposure to adult experiences.
- The media bear a particularly onerous responsibility when it comes to regulation of e-technologies, which children now use from an early age. While they offer children unprecedented opportunities to learn, communicate, create, discover information and be entertained, children's understanding of the associated risks may be low. As such, the media must regulate e-technology to prevent harmful practices among children as far as possible. In addition, the media should, in partnership with other role-players, encourage children to develop safe, responsible online behaviour by providing them with appropriate education and guidance.
- Organisations that engage with children using e-technology should have a specific e-safety policy in place and make it available to parents and children. All staff and volunteers who have contact with children should promote safe and responsible use of e-technology in its many forms. All staff and volunteers should know how to respond if a child directly divulges an e-safety incident and how to escalate it appropriately.

4.7.6 The Roles and Responsibilities of Business and Organised Labour

The business sector has a significant impact on children's care, development and protection. General Comment No. 16 of the UN Committee of Experts on the Rights of the Child regulates its role and articulates the responsibilities of government in ensuring that business recognises, respects, protects and promotes children's development, care and protection in all its dealings.

The business sector has several responsibilities, among them the responsibility to ensure that its employment, marketing, sales and distribution practices, as well as its corporate social investment practices, do not infringe the rights of children and that they protect and promote children's well-being and development.

Specifically, the business sector and organised labour have a responsibility to, inter alia:

- Avoid and eliminate child labour;
- Refrain from engaging in the sale of alcohol and tobacco products to children;
- Ensure the protection and safety of children in business activities, including in the marketing, sale and distribution of products;
- Ensure that products and services are safe, and support children's right's through them;
- Use marketing and advertisements that respect and support children's rights;
- Respect children's rights in the regulation and administration of environment and land acquisition and use;
- Create a work environment that supports parents in the fulfilment of their child care, protection and development responsibilities;
- Ensure children's safety at places of entertainment; and
- Ensure the protection of children against child-sex tourism.

4.7.7 The Roles and Responsibilities of Children

Children do not only enjoy rights but have corresponding responsibilities to their peers, family and society. These include the duty not to infringe the rights of other children to development and protection, and the duty to make use of opportunities availed to them for developing to their full potential.

Children's responsibilities include, but are not limited to:

- Attending school and respecting their teachers and peers;
- Respecting the privacy of others;
- Treating their peers, teachers and parents with respect and not engaging in discriminatory, violent or abusive behaviour;
- Respecting the views, opinions and beliefs of others;
- Respecting the culture, language, gender and religion of others;
- Not exploiting or negatively exposing others in the digital and social media space;
- Considering the support and guidance provided by their parents and caregivers; and
- Where possible, supporting vulnerable peers in knowing and accessing their rights.

4.8 Conclusion: Need for Mechanisms to Ensure Common Cause and Accountability in Multiple Sectors

It is clear from the preceding exposition that the successful realisation of the policy vision and goals requires that all responsible role-players must know and act on their assigned responsibilities to plan and deliver the required package of services. Moreover, all children, especially those exposed to multiple risks, must be assured of accessing a package of services provided by different role-players.

This requires the development of a national system that successfully brings together the diversity of role-players and services to ensure children receive the combination of services they need to survive, develop to their full potential and be protected from harm. The next chapter of the Policy describes the required national child care and protection system.

CHAPTER 5

THE CHILD CARE AND PROTECTION SYSTEM - A CONTINUUM OF SERVICES

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5.1 Introduction

Achieving this Policy's goals requires that the full range of role-players described in Chapter 4 fulfil their responsibilities. Ensuring the required levels of common purpose and coordination, and ultimately the provisioning, for a continuum of child care and protection services calls for the development and maintenance of a strong, supportive child care and protection system. A system is a collection of interdependent components that are organised around a common purpose or goal.[125]

5.2 Vulnerability and child care and protection services

Vulnerable children require some or all of the services of the national child care and protection system, but the particular combination and intensity of services required differs according to the risks and protective factors specific to each child.
The national child care and protection system will ensure that a continuum of services is available and accessed, in appropriate combinations, depending on the nature and intensity of the child's risks and vulnerabilities.

The continuum of care comprises a variety of programmes and services common for all risk groups, inclusive of prevention, early intervention, and protective interventions. The services range from those that are least restrictive – in that they increase a family's freedom of choice by supporting its right to make decisions for its child – to those that are most restrictive, which usually involve out-of-home placement.

The services include:

- A comprehensive, universally available package of promotive child care and protection programmes and services to maximise existing opportunities and parental capacities to support the care and protection all children need to develop to their full potential;

- A package of targeted preventative and early intervention programmes and services for vulnerable children exposed to risk factors that create a need for additional care and who may be in need of care and protection (as defined by this Policy); and

- A package of quality responsive protective services and programmes for children in need of care and protection (as defined by this Policy).

An effective developmental child care and protection system is one that ensures the routine, differentiated surveillance of all children and families who are exposed to risks that could render them vulnerable. Such surveillance is to be conducted by appropriately mandated and enabled government service providers in their routine contact with children, to identify vulnerable children and cause their referral for, and access to, an appropriate combination and intensity of services responding to their specific needs.

As such, the national child care and protection system comprises a network of all service providers (governmental and non-governmental) that come into contact with and provide services to children and families. All such providers are duty-bound to be vigilant and identify children and families facing risks that may render them vulnerable. Any such child or family at risk should be screened by the contact service provider, using systems established for the purpose. This includes health care workers, educators, Home Affairs and SASSA officials.

A child identified as vulnerable and at risk through the screening process defined in this Policy must be referred to the next level of the system, where he or she undergoes more intensive scrutiny by a social services practitioner in the form of a screening as defined in this Policy. The practitioner shall then screen the child and family to determine the nature and intensity of their vulnerability and need for services and support. If they are found to be vulnerable, but not to be in need of care and protection (as defined), the social services practitioner should support them in accessing an appropriate package of promotive, preventative and, if necessary, responsive protective services as provided for in this Policy.

However, if, pursuant to the screening, the social services practitioner finds the child to be facing such elevated risks as to render him or her in need of care and protection, as defined, the practitioner must refer the child to a designated social worker. The designated social worker must conduct a full assessment and investigate the matter to ensure that the child accesses the full continuum of care and protection services through the processes established by this Policy and in relevant legislation.

Figure 3: ***Continuum of Child Care & Protection Services***

5.3 Objectives of the Child Care and Protection System and Services

As previously stated, the main objective of this Policy is that all children in South Africa receive the care and protection services they need in an enabling and supportive environment to develop to their full potential, be protected from violence, abuse, neglect and exploitation, and participate in decisions that affect them.

The objectives of the national child care and protection system are thus:

- To create supportive and enabling environments and contexts that empower parents and caregivers to provide the care and protec-tion their children need to develop to their full potential;
- To provide a continuum of developmental care and protection services to respond to the assessed needs of all children;
- To systematically reduce the number of children in need of care and protection by prioritising the provision of universal promotive services for all families and parents and by focusing on providing targeted prevention and early intervention services for vulnerable children and in so doing build the resilience of the family and enable their continued provision of responsive and nurturing care;
- To ensure that children who are in need of care and protection receive a package of quality responsive protective services that protect them from further harm, limit the impact of the harm experienced, strengthen their resilience and support networks while in care, prepare them for the transition and disengagement from care, and return them to a care environment where they receive the nurtur-ing and responsive care they need to develop to their full potential;
- To ensure that all children placed in alternative care are supported emotionally and practically to make the transition to the environ-ments to which they will return;
- To provide after-care support that enables their reintegration into their families or other living arrangements in the community; and
- To ensure intersectoral and multidisciplinary collaboration amongst all social service practitioners who are involved in child protec-tion services at each stage to cover the child and family's journey from needing to receiving effective protection services where a court-ordered intervention is unnecessary.

5.4 Universal Essential Promotive Services and Support

This Policy is fundamentally positive in orientation and rights and asset rather than deficit-based, geared to enhancing existing oppor-tunities that surround children; in particular, it seeks to maximise opportunities that are implicit in both the duty and desire of parents and families to provide for their children and enable them to develop to their full potential.

The Policy aims to do so with the public provision of a universal suite of promotive services that create supportive environments and contexts to enable all parents and caregivers to provide optimal care and protection for securing the well-being of their children. Specifically, it aims to ensure universal availability of, and access to, services that the NDP recognises as crucial for helping children develop to their full potential and thereby driving inclusive socio-economic growth.

The universal suite of promotive support and services forms the foundation of the national child care and protection system. It is the foundation, too, for a nation of healthy, well-developed children who will be equal participants in all forms of social, economic and
political life. The promotive support and services, are essential to the task of building national development from the bottom up.

5.4.1 Goal

A comprehensive package of promotive publicly provided child care and development programmes and services shall be universally available in South Africa to all children and their parents and caregivers.

The national child care and protection system shall provide adequate promotive services, as defined in this section of the Policy, in sufficiently close proximity to all children and their caregivers to ensure opportunities for equal access.

5.4.2 Objective of Promotive Care and Protection Services

The objective of promotive care and protective services is to create an enabling and supportive context for parents, families and caregivers to maximise the existing opportunities for nurturing care to ensure the development to their full potential, protection from violence, abuse, neglect and exploitation, and participation of all children.

5.4.3 Package of Essential Promotive Services

The package of essential universal promotive support and services includes the following, all of which must be disability and gender-sensitive:

- Health-care, nutritional support and food security measures: health-care and nutritional support will be universalised and include promotive, preventative, screening, early identification and therapeutic care for ill children and children with disabilities;
- Basic services such as safe water, sanitation and electricity;
- Contributory social security such as UIF;
- Universal and equitably accessible ECD programmes and services, as defined in the National Integrated Early Childhood Development Policy, including parent support for responsive care and early learning and stimulation programmes from birth;
- Universal, quality basic education;
- Universal protection of parents in the workplace through regulation of the workplace and employment conditions to enable parents to fulfil their shared parental care and development responsibilities;
- Universally available, safe and nurturing day-care and partial care services for children when they are temporarily not in the care of their parents due to, for instance, parental work responsibilities;
- Civil registration and vital services (Home Affairs documentation), including birth registration, the provision of birth certificates, and death and marriage registration;
- Family promotion and preservation programmes, including parent information, empowerment and education programmes on child development, play and protection, including positive parenting practices and the dangers of harsh disciplinary practices;
- Public communication and education on child development and rights, including positive parenting and the harm caused by corporal punishment;
- Safe shelter and human settlements;
- Safe, affordable, accessible and sustainable transport systems, with special attention to children with disabilities and special needs;
- Developmentally supportive and safe play, physical literacy and activity, and recreational facilities;
- Family and community safety and law enforcement services;
- Opportunities for children's participation in decision-making processes that affect them; and
- Laws of general application prohibiting harmful practices.

5.4.4 Strategies for the Provision of Universal Promotive Services

5.4.4.1 Collaboration across Multiple Sectors

As previously noted, numerous government departments are responsible for the package of essential promotive services. It is critical that services are provided in appropriate combinations to address children's holistic needs. This requires that the diversity of responsible role-players plan, deliver and account collaboratively and in a coordinated manner. This Policy therefore seeks to promote coordinated action by responsible role players through the establishment of various mechanisms and institutions described in Chapter 6.

5.4.4.2 Strengthening Families and Empowering Parents

Given that the strategic focus of the universal provision of promotive services is to empower parents and families, the underlying strategy is to support and strengthen families. The approach taken centres on the services and intended outcomes set out below.

5.4.4.2.1 Promotion of Healthy Families

The promotion of healthy family life focuses on preventing family breakdown by encouraging positive attitudes about the importance of strong families and their supporting communities.

5.4.4.2.2 Family Preservation

Family preservation is intended to strengthen families in crisis and prevent the placement of members outside of family care. Forming healthy and nurturing relationships is central to the preservation of the family. Education and support in this regard include the following:

- Encouraging responsible co-parenting both by mothers and fathers whether they stay in the same household or not;
- Enhancing parents' ability to protect children from exposure to and participation in activities that may be detrimental to their physical, psychological, intellectual and sexual well-being;
- Promoting a conciliatory approach when families are in conflict;
- Discouraging corporal punishment and promoting positive methods of discipline;
- Supporting the family's caregiving functions;
- Mechanisms, including paternity and parental leave, to find a balance between work and family responsibilities, promote equal parenting care and responsibility between fathers and mothers, and encourage gender equality in parenting; and
- Supporting the establishment of ECD centres as affordable child care for working parents and basic education for young children.

5.4.4.2.3 Family Strengthening

While no standard definition exists, family strengthening is often used to refer to the deliberate process of providing families with opportunities, networks, relationship-building and protection to help meet their needs, especially in times of adversity. It is understood to include supporting the following:

- Family economic success: this involves improving self-sufficiency by way of expanded opportunities to work, to earn a wage to meet the family's needs, and to acquire assets for empowering the family over time, as with home ownership and retirement accounts;
- Family support systems: building these involves putting in place key components of family development, such as child care, health care, education and positive parenting;
- Thriving communities: this involves building a supportive environment in which families can pursue long-term goals crucial to their sustainable development; and
- Community-based prevention and early intervention services.

5.4.4.3 Laws of General Application Prohibiting Harmful Practices and Systems Supporting Implementation

Providing a universal enabling context that supports all parents and caregivers and protects all children necessitates laws of general application that prohibit all forms of harm, including violence, abuse, neglect and exploitation of children. As such, the national suite of promotive services requires the following laws and supporting systems to ensure universal enforcement and compliance:

5.4.4.3.1 Discipline of Children

Parents, caregivers and family members are responsible for guiding the development and decisions made by their children. The fulfilment of this responsibility must be undertaken in compliance with the governing laws on discipline and the use of corporal punishment.

The South African Constitution and the ratified UNCRC and ACRWC protect children's rights to be free from violence, abuse and neglect while in the care of parents, legal guardians or other caregivers. In terms of Article 19 of the UNCRC children have the right to be protected from being hurt and mistreated, physically or mentally. South Africa is expected to ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them. Violence has no minimum, moderate or maximum. It remains violence no matter how one views it. The Convention does not necessarily specify what forms of punishment parents should apply. However, it is clear that protection must be from "all forms of violence" and therefore anything that resembles violence is unacceptable. There are ways which are non-violent to discipline children that are effective in helping children to learn about what is expected of their behaviour. These are often effective and appropriate to the child's level of development and take the best interests of the child into consideration which the Children's Act espouses.

According to section 10 of the Constitution, everyone has inherent dignity and the right to have their dignity respected and protected. It therefore follows that any form of disciplining a child which includes violence is contrary to section 10 of the Constitution which values and promotes human dignity. Any violent conduct should be suppressed as it is unconstitutional. The Constitution further provides in section 12, that everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources. The Constitution also protects children's best interests and right to equality, dignity and freedom from maltreatment, neglect, abuse and degradation.

Therefore, all forms of torture, cruel, inhumane or degrading treatment or punishment, including corporal punishment, are prohibited. The Children's Act will have to be revised to prohibit corporal punishment and any other form of cruel, inhuman or degrading treatment or punishment.

This Policy recognises, however, the equally important responsibility on the Government and non-governmental role-players, such as religious and cultural associations, to support parents and caregivers in adopting positive parenting practices. It thus encourages the provision of parenting programmes and support that empower parents and caregivers to know their responsibilities and rights and guide them in the use of positive parenting practices.

As such, the DSD and relevant stakeholders must take all reasonable steps to ensure that education and awareness-raising programmes on positive discipline are implemented countrywide and that prevention and early intervention programmes, as well as programmes promoting positive discipline at home and in alternative care, are available across the country.

The DSD and stakeholders will conduct programmes aimed at parents and caregivers, including programmes to support positive parenting and non-violent discipline. These programmes must cater for different family contexts, ages of children and caregivers, and literacy levels, and provide parents and caregivers with effective alternatives.

Criminal prosecution of parents and caregivers for the use of corporal punishment should be a measure of last resort. Those who use inappropriate punishment (including corporal punishment) should be referred to prevention and early intervention services.

5.4.5 Significant gaps in the suite of promotive services

There are several critical gaps in the suite of promotive services currently provided. These are the result of systemic weaknesses, including legislative deficiencies and incongruences with the country's international and legal responsibilities, programming gaps, and resource inadequacies. This Policy undertakes to address them through strengthening the platform of promotive child care and protection services.

Specifically, this Policy commits the GRSA to address:

1. Inequities in access to universal services;
2. Limited availability and quality health and nutritional support services especially support for appropriate feeding practices for children and universal screening for, and poor early identification of, disabilities and developmental delays and subsequent appropriate intervention;
3. Poor access to quality ECD services;
4. Lack of affordable partial or day-care;
5. Poor-quality early and basic education;
6. Unsafe communities;
7. Lack of recreational and play areas;
8. Lack of inclusive infrastructure;
9. Lack of inclusive education; and
10. Lack of parenting education on child development, including a lack of parenting programmes on positive discipline.

It is recognised that certain of these gaps do not fall within the primary delivery mandate of the DSD. However, as previously stated, the DSD, through its leadership and coordination mandate, will ensure cross-sectoral collaboration and accountability for remedying the identified gaps.

5.4.6. Key strategies for strengthening promotive services

Key strategies for strengthening the package of services and remedying these gaps include:

- Integrating developmental services as far as possible into all programmes for children;
- Law reform to address deficiencies in the enabling framework; and
- Systems strengthening to support developmental services.

5.5 Targeted Prevention and Early Intervention Programmes

The GRSA commits to the provision of a family-focused child-centred package of targeted preventative and early intervention programmes and services for all children identified and/or referred as vulnerable children and/or who may be at risk (as defined in this Policy).

In addition to being provided with the promotive services described above, children identified as vulnerable as defined in this Policy, and their caregivers, will be provided with an appropriate package of prevention and early intervention (PEI) services.

PEI services must focus on strengthening the child's family structure, developing appropriate parenting skills, and building the capacity of parents and caregivers to promote the well-being, best interests, optimal development, safety and protection of the child.

It is critical that all levels of government and supporting role-players prioritise the provision and resourcing of PEI services to interrupt the intergenerational cycle of poor development, violence, abuse and neglect. This prioritisation is essential if South Africa is to make progress in reducing the number of children who proceed to become even more vulnerable and are then in need of care and protection and requiring formal protective services.

5.5.1 Goal of PEI Programmes

Vulnerable children, parents, caregivers, and families have access to an appropriate age, developmental-stage, and needs-sensitive package of prevention and early intervention services.

5.5.2 Objective of PEI Programmes

The package of PEI services will be provided in appropriate combinations responding to the risks that are unique to every vulnerable child in order to build the resilience of the child and caregiver and to minimise the impact of the risk on the child's survival, protection and development.

5.5.3 Package of Essential PEI Services

The package of targeted child, parent, family and community-based PEI services provided to targeted vulnerable children and their caregivers includes the following, all of which will be disability and gender-sensitive:

- Material assistance, which includes cash transfers, subsidies for partial care, day-care and education services, and assistive devices for children with disabilities;
- Skills development;
- Economic empowerment and employment programmes for parents and caregivers;
- Rehabilitation services;
- Community-based rehabilitation services for children with disabilities and specialised services for children with profound disabilities;
- Psychosocial support for parents, families, young people and children;
- Parental education programmes to enhance the knowledge, capabilities and practices that the caregivers of vulnerable children require in order to mitigate risks and ensure that these children develop to their full potential;
- Peer support and mentoring programmes; and
- Diversion programmes for children.

5.5.4 Key Strategies for the Targeted Provisioning of PEI Services

The following strategies will inform the prioritisation and design of programmes and platforms that achieve the most effective delivery of services aimed at creating supportive and enabling environments that build the resilience of parents, caregivers and children.

5.5.4.1 A Life-Course Approach using ECD and Community-Based Delivery Platforms

The package of PEI services will be provided throughout the life-course of children by means of a combination of:

1. ECD programmes providing the prescribed services for children from conception until school-going age, with a focus on the essential package of services provided for in the National Integrated ECD Policy; and

2. Community and home-based services that, having proven capable of addressing risks to children's development, continue to provide PEI to older children once they graduate from ECD programmes and until they reach the age of 18 years.

5.5.4.2 Rationale for Investing in ECD Services

ECD services are the bedrock of a developmental child care and protection system. They are key to the optimal development of all children, especially the most vulnerable, to their full potential, and key to the structural social and economic changes required to ensure that children live in nurturing environments that are safe and free from violence. In sum, ECD services are foundational to achieving both this Policy's goals, as well as the country's broader development goals.

The National Integrated Early Childhood Development Policy recognises ECD services as a universal right of all children and a crucial ingredient in equalising the development opportunities of vulnerable children. It therefore commits to the universal provision of the following essential package of ECD services for all young children and their families, and to ensuring equitable access to the package for vulnerable children:

- Free birth registration services for all children when they are born;
- Parenting and family support;
- Preventative, promotive and curative health care;
- Food and nutritional support;
- Social protection services;
- Protection from abuse, neglect and exploitation;
- Early child care and learning services;
- Information on the value of ECD;
- Water, sanitation and energy services;
- Access to safe housing; and
- Play, recreation and cultural amenities.

The ECD policy commits multiple role-players, including the Departments of health, social development, basic education and others, to act in concert to provide the essential package of services in age and needs appropriate combinations. Moreover, the ECD policy commits to prioritising the development and provisioning of public programmes for the youngest children under the age of 2 years (first 1,000 days), given the proven impact on development offered in this window of opportunity, as well as for children living in poverty, children in under-serviced areas and children with disabilities.

This Policy recognises that ECD services are key to sustained interruption of the intergenerational cycle of poverty, inequality and poor development that frustrates the development of vulnerable children and that of the country. Equally so, it recognises that investments in quality ECD services targeted at the most vulnerable children are pivotal for achieving the prevention and developmental goals of this Policy. Therefore, the provision of quality ECD services, focusing on the essential package of services for children in the first 1,000 days and other targeted vulnerable groups, shall be a priority of the PEI package of care and support.

As such, priority must be given, by all responsible role-players identified in this Policy, to the establishment, funding and implementation of ECD programmes for children in their first 1,000 days and other vulnerable children, with a view to ensuring that the programmes are designed to address barriers that exclude such children and their families from accessing available services. Comprehensive ECD programmes and services must be provided to the following programmes and groups:

- Family and home-based support for pregnant women and children up to 2 years of age, as this is the period of life most susceptible to optimisation and damage;

- Areas without services, especially rural and informal urban areas, as the vulnerability of infants and young children is compounded by the absence of services to moderate the effects of risk;
- The poorest 63.9 per cent of children, since these comprise the most vulnerable children as well as the group that benefits most from ECD services; and
- Children with disabilities and/or developmental delays.

5.5.4.3 Rationale for Investing in Community-Based Prevention and Early Intervention

PEI programmes will be scaled up to reach all vulnerable children, including those who may be in need of care and protection, through community-based PEI programmes that deliver a package of services essential for strengthening family resilience and interrupting the intergenerational cycle of poor development.

The following are key policy directives for the expansion of community-based prevention and early intervention services:

1. The institutionalisation of community-based prevention and early intervention services in the DSD service delivery model and continuum of child care protection services and its implementation mechanisms.
2. The alignment of the theory of change (from vulnerability to resilience) for these services with the key objectives of the NDP.
3. Greater alignment with the beneficiaries of the CSG, thus targeting children most in need.
4. Better evidence-based interventions to ensure alignment between the theory of change and the basket of services presented at programme points.
5. Strengthened and improved regulation of service access points as prescribed.
6. Better alignment and coordination between the Government's community-based workforce and programmes including, but not limited to, child and youth care workers, community development workers, health and EPWP programmes.
7. Ensuring enabling and sustainable employment policies and practices for community-based workers.
8. Capacity-building and programme development to ensure ongoing quality assurance of services and the workforce.
9. Ensuring and exploring enabling partnerships with a diversity of stakeholders, including NGOs.

The foundations of this Policy, and the key to attainment of its developmental goal, require increased investment in those strategies proven to be the most effective in strengthening protective factors, addressing risks and enabling responsive caregiving. A central asset in this regard are the community social networks that surround parents, caregivers and children. South Africa has developed a range of successful best practices during the past decade through its programmes targeting orphans and other vulnerable children. Valuable lessons have been learnt through that process and can now be scaled up. The Policy hence calls for and prioritises the strengthening of community-based PEI in order to maximise this vital asset.

As such, a core strategy in achieving the policy goal and objective is to strengthen and expand children and families' access to community-based PEI services. These should include a combination of interventions, such as, a package of core services as well as access to e.g. child support grants. This is combinations referred to as 'cash plus care' pathways out of poverty.

These pathways are underlain by a package of core services provided to children in the community, household and school setting. The services must be age-appropriate and evidence-based, and be used by individuals, families and communities to bring about positive change in the social-ecological resilience of the identified children and the community.

A coordinated portfolio of services will be provided through community-based programmes, including the following:

Meeting Basic Needs (Food, Social and Financial Security)

The objective of this service area is to enable families and children to obtain material support for basic necessities. In the short term, it entails providing food safety nets – for example, daily meals and nutritional supplements to prevent stunting – and facilitating access to social security grants for children and linkages for caregivers with employment opportunities.

The aim of this service area is to sustain optimal growth throughout childhood, mitigate vulnerabilities that affect development, reduce risk behaviours, and enhance the resilience of emergent young adults who are healthy, aspirational, productive and independent.

Educational Support to Enhance Access and Performance

The objective of social services in education is to increase children's access to and attendance of educational institutions, as well as improve their educational performance or outcomes. The objectives will be advanced by addressing access barriers (such as lack of transport, school uniforms and, particularly in the case of orphans and children with disabilities, parental support for schooling) as well as learning barriers. The latter may include programmes that promote reading, writing and mathematical literacy by availing

safe spaces for children to do homework; providing homework support, reading groups, computer literacy and, for older children, career guidance; and identifying those with learning challenges and referring them for appropriate support.

As the evidence shows, social grants, school attendance and sexual reproductive health programmes contribute to, inter alia, reduced gender-based violence, sexual activity and unprotected sex among girls; this is likely to keep girls in school and in the long-term increase their ability to provide material and social support for their families.

The aim of social support for education is once again to enhance resilience outcomes among young adults, such as productivity, aspiration and independence.

Psychosocial Care and Support

Ensuring the healthy well-being of children requires psychosocial care and support. The aim of these services is to strengthen the life skills and resilience of children and their parents or caregivers through structured programmes, counselling, support and referral.

Core social services include home visits by trained social service practitioners; recreation programmes; safe spaces for play; age- and gender-appropriate holiday programmes; social and life skills programmes; the inclusion of the child's family or household in activities and programmes where possible; and direct social services to strengthen parenting skills.

Evidence indicates that psychosocial programmes contribute to confidence, self-esteem, the ability to cope with bereavement, improved relationships with peers, parents and caregivers, and improved school attendance and performance.

Health Promotion and Access

Social services promoting and facilitating access to health aim to assist children and families through, inter alia, primary health-care promotion (such as hygiene); monitoring the child's health status; education on sexual reproductive health; counselling and support for HIV prevention, treatment and care; and supporting a child or family member who has a disability or is chronically or terminally ill. The goal is that the child will be a healthy young adult. Importantly, the social services must be age and gender-appropriate, and require partnership with health professionals to respond to the health needs of the child.

Child Care and Protection

All children living with vulnerabilities must be protected from all forms of abuse, exploitation, unfair treatment and harm. PEI social services have a critical role in the prevention of child abuse, neglect and exploitation and in building child resilience.

The prevention services include structured awareness-raising activities and programmes on child abuse. Early intervention includes reporting and referral of children experiencing risks, including deliberate neglect, reported abuse, and exploitation. Key officials working with children are legally mandated by this Policy and laws such as the Children's Act to be vigilant, to identify, and to refer and report children at risk, those who are vulnerable, and those who may be in need of care and protection. Members of the public may also do the same.

All cases of abuse must be referred and reported as provided for in this Policy and South Africa's governing laws. As prescribed in this Policy, once identified through screening, such cases must be referred to a social services professional for assessment and, where required, investigation, so that children and their caregivers may receive the suite of child care and protection services necessary to secure their protection and development.

5.5.4.4 Strengthening Families and Empowering Parents

The focus of PEI services to children and families will be on the following:

- Strengthening families. These services aim to strengthen families and enhance their capability to socialise, care for, nurture and love family members and enable them to become responsible citizens.
- Developing appropriate parenting skills and the capacity of parents and caregivers to safeguard the well-being and best interests of children with disabilities and chronic illnesses. Children with disabilities and chronic illnesses often need specialised care and attention: where parents lack the skill and knowledge necessary to meet this need, it will be provided.
- Promoting appropriate interpersonal relationships within the family. Healthy person-to-person interactions within and outside families should be enhanced to strengthen marriages and interpersonal family relationships.
- Promoting co-parenting between parents whether or not they reside in the same household or reside with the child or not.
- Providing psychological, rehabilitation and therapeutic programmes for children. These services are critical to encourage healing and reparation, and to prevent the recurrence of problems.
- Preventing the neglect, exploitation, abuse or inadequate supervision of children, and preventing other failures within the family environment to meet children's needs. These services are important in allaying children's removal from their families or placement in the formal child care system.

- Preventing the recurrence of problems in the family environment that could harm children or adversely affect their development. When problems occur, they shall be attended to timeously and successfully. Techniques and approaches that equip family members to solve problems on their own should be applied. Prevention services may also be used as part of reintegration and aftercare programmes for children and families that have successfully undergone early intervention, therapeutic or rehabilitation programmes but require further support to reintegrate into the family and community and/or sustain their positive functioning.

- Diverting children from the child and youth care system and the criminal justice system. Avenues introduced in the Children's Act, including pre-hearing conferences, family group conferences and other lay forums, may be used to divert children from the child and youth care system. Similarly, the Child Justice Act regulates programmes to divert children from the criminal justice system. These avenues, including diversion programmes, aim to promote the dignity and well-being of the child in conflict with the law by developing his or her self-worth and promoting family and community reintegration.

- Avoiding the unnecessary separation of children from their families.

- Ensuring a safe community environment and addressing the needs of disadvantaged communities.

5.5.5 Significant Gaps in the Range of PEI Services

The current suite of PEI services has several gaps which were identified in the preceding situational assessment. They are marked by deficiencies in terms of both the services provided and the exclusion of vulnerable groups. Currently, services that are critical to breaking the intergenerational cycle of poverty, such as health care, quality education and protective services, are not accessed by all, and for many, especially the most vulnerable, the quality is poor. Current programmes for vulnerable children are limited in their targeting and reach such that they do not reach, and in so doing, provide the additional care that may be required by, the nearly 12.5 million children currently receiving the means-tested CSG.

The Policy commits to addressing them by strengthening of its platform of PEI services. Specifically, it undertakes to address:

- The limited early identification and referral of vulnerable children for appropriate services;

- The limitation of support for vulnerable children to material support and the resultant lack of 'care' services;

- The lack of adequate material support for children with disabilities (the CDG is limited in scope and coverage);

- The lack of formal legal recognition of kinship care and of measures to ensure the screening of vulnerable children, including orphaned and abandoned children in the care of kin, and the provision of a comprehensive and appropriate package of PEI care services;

- The lack of parenting programmes for parents, families and caregivers of children with additional needs, such as children with disabilities, and for teen parents;

- The lack of access to programmes for migrant children;

- The inadequate availability and accessibility of critical ECD programmes and services for vulnerable children;

- The inadequate reach or scale of community PEI programmes;

- The limited community-based rehabilitation programmes for children with disabilities;

- Inadequate targeting and planning to reach all vulnerable children;

- The limited diversions and assessments of children in conflict with the law; and

- The limited services for children of incarcerated mothers.

5.5.6. Key strategies for addressing gaps and strengthening provision of PEI services for all vulnerable children

Key strategies for strengthening the package of PEI services and remedying the gaps include:

- Systematisation and systems-strengthening to scale up community-based PEI programmes and ECD services for vulnerable children, including increased allocation of resources and improved population and evidence based planning for targeting and provisioning;

- Diversification and expansion of a government-wide screening and referral platforms;

- Strengthened coordinated and integrated planning and delivery of services; and

- Law reform to address deficiencies in the enabling and protective framework.

5.5.6.1 System Strengthening to Support PEI Services

As described in detail in Chapter 6 of this Policy, systems will be strengthened to expand the coverage and improve the targeting of essential PEI services, including ECD and community-based services, to reach all vulnerable children. Specific attention will be paid to management, leadership and information management systems to ensure population and evidence-based planning, resourcing and monitoring for improved coverage, quality and impact. The resourcing (both financial and human) should be increased significantly to match demand and ensure access for all vulnerable children to quality essential services.

5.5.6.2 Development of an Integrated Strategy

An intersectoral and costed strategy shall be developed to ensure equitable spread and accessibility of the suite of prescribed PEI programmes. The strategy shall be led by the Minister of Social Development, who shall consult with relevant Ministers, stakeholders and other interested persons.

The strategy must be adequately resourced, effectively coordinated and monitored, and supported by a strong evidenced-based longitudinal research agenda.

Successful partnership with the non-governmental sector, civil society and the private sector is an essential element of PEI: its importance cannot be understated. The strategy shall make provision for the negotiated development of financing and practice norms and standards to ensure harmonised collective action to advance the country's development goals.

5.5.6.3 Diversification of a Government-Wide Screening Platform

As noted in Chapter 4, this Policy places a duty on all organs of state that come into routine contact with children and their families to mandate and capacitate their workforces to identify and refer vulnerable children for care and protection services.

Moreover, the Policy commits to increasing investments to scale up the reach, targeting and design of community-based services, such as drop-in centres and similar facilities, to ensure an adequate presence and ability in high-risk communities to identify and support vulnerable children in accessing the care and protection services they need.

5.5.6.4 Law Reform

Achieving the PEI goals and objectives may require a review and revision of current laws, including the Children's Act.

Law reform may be necessary to recognise, regulate and ensure that all children (and their caregivers) that are identified or referred as vulnerable, including orphaned and abandoned children in the care of family who may be in need of care and protection, are supported and enabled, through an appropriate and efficient system, to access prevention and early intervention as well as protection services, as the case may be. The PEI legal and procedural framework for orphaned or abandoned children in the care of kin or family, including child-headed households, must align with the following policy provision regarding kinship care.

5.5.7 Kinship Care

This Policy appropriately supports and legally recognises the care and protection of orphaned or abandoned children in the care of family or kin as described in this section. The objective of the appropriate support and legal recognition is to equalise the enjoyment of PRR, the rights of the child, and to unlock the care and protective potential of kinship care relationships. The Policy seeks to do so by:

1. Recognising that orphaned or abandoned children, like other children who have lost their parents, are vulnerable and in need of support and services;

2. Establishing a countrywide duty and procedures for screening and referral of vulnerable children for access to an appropriate suite of care and protection services, including orphaned or abandoned children in the care of kin;

3. Establishing procedures for the recognition of their relationship and acquisition of PRR, including guardianship; and

4. Providing the opportunity to consider adoption as a permanent parenting option.

As previously stated, this Policy recognises kinship care as a legitimate care arrangement that harbours significant protective value for children. At the same time, evidence suggests that there are also some risks associated with kinship care and that children who have lost a parent, and family taking on their care, need additional support to address them. The realisation of this protective potential, and the minimisation of any possible risks, requires that kinship carers and children in their care receive an appropriate package of quality promotive, prevention and early intervention services, including social security when indicated, to build their and their caregivers' resilience and capacity, and where necessary, receive formal protection services.

It is further recognised that only a minority of children in the care of kin experience violence, abuse, neglect or exploitation and require responsive protective services. Therefore, the large majority would not be in need of care and protection and, as such, do not need formal protection services. What is required is a process that allows for and enables identified abandoned or orphaned children in kinship care who require additional support to derive the same protection and benefits for themselves and their families that other vulnerable children are entitled to receive. What is further required is that kinship carers have access to documentation attesting to the recognition of their PRR.

5.5.7.1 Procedures for Recognition, Regulation and Support of Kinship Care Arrangements

Orphaned or abandoned children in the care of kin are recognised as vulnerable. They are thus entitled to access a progressively intensive suite of services, based on risk assessments made in the correspondingly progressive continuum of surveillance provided for by this Policy. Where they are identified, they should be directed for screening by a social services practitioner and supported to access promotive and preventative services. Where the intensity of the risks merit it, they should be referred further to a designated social worker for an investigation and referral for formal protection services.

This Policy establishes a simple administrative process through which kinship care arrangements for orphaned or abandoned children may be recognised and documented, along with their associated PRR; it also establishes a formal judicial process for recognition of the kinship carer as a guardian.

Any kinship carer may approach the court, including a children's court or a High Court, for an order of guardianship.

5.5.7.2 Procedures for Recognition and Regulation of Child-Headed Households

A provincial Head of Department (HOD) may recognise a child-headed household as a lawful care arrangement if:

- The child's parent, guardian or caregiver is terminally ill, has died, or has abandoned the children; and
- No adult family member is available to provide care for the children in the household; and
- A child over the age of 16 years has assumed the role of caregiver; and
- If the children in the household are not found to be in need of care and protection as defined in the Children's Act; and
- If the household functions under the support of an adult designated by the children's court, an organ of the state, or non-governmental organisation; and
- There is no threat of imminent harm, child abuse, neglect, or exploitation.

The recognition of the child-headed household by the HOD shall be based on an assessment of the household by a designated social worker. Where the assessment finds that the recognition of the household would not be in the best interests of the child, and/or that the children may be in need of care and protection, as defined by the Children's Act, the HOD may not recognise the child-headed household. The children must proceed into the formal protection system for assessments and appropriate court orders regarding their placement, care and protection options.

5.6 Responsive Protective Services for Children in Need of Care and Protection

The GRSA commits to the provision of a child-centred package of quality responsive protective services for all children in need of care and protection, as defined in this Policy and relevant legislation.

5.6.1 Goals of the Responsive Protective Programme

All children who are in need of care and protection, as defined in this Policy, are guaranteed:

1. Early access to the formal child protection system, which shall include the provision of safety and risk assessments, investigation into abuse, child-friendly children's court services, including inquiries and reviews, placement and provision of quality care;
2. Access to services to protect them from further harm and to minimise the impact of harm on their development;
3. Access to developmental programmes to strengthen resilience while in care and prepare children and youth for the transition from care when they return to family or community;
4. Services and support to return them to a developmental and nurturing environment; and
5. Access to therapeutic programmes and services to strengthen their families' capacity to protect them from further harm.

5.6.2 Objective of the Responsive Protective Programme

A pillar of national child care and protection as set out in in the Policy is strengthening families through social assistance and available community-based PEI services. In this regard, a key objective of the protection programme is to ensure that only children who are in need of care and protection enter the formal protection system, with resources then being more efficiently utilised to enable timeous and effective responsiveness to children at risk of harm.

South Africa has a high number of children who are orphaned, abandoned or living separately from their parents. Of these children, most are looked after by relatives, a form of care often known as 'kinship care'. Some children living in kinship may be in need of care and protection if, for example, they are victims of abuse, neglect or exploitation. When brought to the attention of appropriately qualified and trained social service practitioners, these cases shall be identified through a safety and risk assessment and the associated procedures described in this Policy and referred to designated social workers for care and protection processes in terms of the legal requirements.

5.6.3 Package of Essential Responsive Protective Services

The package of essential protective services provided to all children in need of care and protection includes the following, all of which will be disability and gender sensitive:

- Protection against, and criminal sanctioning of, prohibited harmful practices and specialised measures addressing the protection needs of children;
- The mandatory duty to report abused, exploited, deliberately neglected and children in need of care and protection;
- Screening against the National Child Protection Register by all employers to determine the suitability of all staff hired to work with children;
- Assessment of all identified and/or reported vulnerable children to determine their care and protection needs;
- Child-friendly and developmentally promotive court systems and infrastructure;
- Safe and developmentally supportive court-ordered care, including adoption and or alternative care arrangements;
- Therapeutic, developmental, psychosocial and other behaviour-modification services and programmes responsive to the individual needs and plans of children;
- Rehabilitative services;
- Permanency planning aimed at reducing the length of time children are in alternative care;
- Transitional support services geared towards strengthening the child's independence, family relationships and networks of community support;
- Family reunification, reintegration services and ongoing support services to ensure the return of the child to a developmentally promotive family environment;
- After-care services that must be provided for all children leaving care, particularly for the first year: young people who have disengaged from alternative care should have access to adequate support to meet their needs, living arrangements, education and employment, and where feasible, have access to support for independent living; and
- Essential, multidisciplinary case management.

5.6.4 Significant Gaps in the Suite of Responsive Protective Services

The current suite of formal protection services has a number of gaps. The Policy commits to addressing them by strengthening its platform of such services. Specifically, it undertakes to address:

- Lack of adequate and/or effective permanency planning, individual development plans and care plans for children;
- Backlogs and delays in assessments and court proceedings for determining children in need of care and protection and placement in alternative care;
- Overloading of protection services by orphans and abandoned children in the care of kin;
- Limited access to assessments, therapeutic services, rehabilitation and reintegration services for children in need of care and protection;
- Slow response times;

- Lack of knowledge and systems for the identification of children that are trafficked, are in child labour and in commercial sexual exploitation, and for identifying and addressing abuse of children in digital media;
- Limited or inadequate spread of temporary safe care facilities;
- Limited or inadequate spread of CYCCs;
- Limited compliance by CYCCs with norms and standards; limited registration; and closure of non-compliant CYCCs;
- Lack of alternative care for children with special needs, including a limited or inadequate spread of CYCCs that adequately address the needs of children with special needs;
- Including children who do not fit into mainstream education or special schools;
- A lack of specialised services for children with behavioural problems and psychological and psychiatric disorders;
- A lack of specialised services for exploited children;
- Inadequate children's involvement and feedback on their care experiences;
- A lack of periodic child death reviews;
- A lack of a regularised surveillance system for violence, child abuse, neglect and exploitation; and
- A lack of comprehensive data, information management, quality assurance and M&E systems.

5.6.5 Key Strategies for Strengthening Provision of Responsive Protective Services

The key strategies that will be employed to strengthen the package of responsive protective services and remedy these gaps include the following:

5.6.5.1 Develop National and Provincial Implementation Strategies

Child protection services involve multiple role-players from different sectors and disciplines. To ensure an effectively coordinated and holistic response to children and their families who require these services, and thereby also to reduce the potential for secondary victimisation of these children, it is essential that an appropriate child protection strategy be devised.

The Minister of Social Development, in consultation with the Ministers responsible for Education, Finance, Health and Justice, any other relevant Ministers, stakeholders and civil society organisations, must develop a comprehensive implementation strategy to ensure that the child protection system is adequately resourced, coordinated and managed.

This responsibility is replicated at provincial level under the leadership of the Members of the Executive Committee (MECs) for Social Development, who must provide a provincial strategy which is adequately resourced, coordinated and managed. Provincial profiles must also be developed in each province to ensure that the necessary information is available to develop and implement the strategies. The strategies must be reviewed periodically to respond to changing needs in child protection.

5.6.5.2 Establish Processes for Designation of Child Protection Service Providers

Child protection is recognised as a key priority field of practice requiring the dedicated commitment of financial, structural and personnel resources. MECs for Social Development are responsible for ensuring that child protection services are adequately financed and provided for. These services may be provided by either the DSD or designated child protection organisations, which, to receive funding, must comply with legal requirements as well as national norms and standards regarding quality services to children and families.

5.6.5.3 Conduct Quality Assurance of Child Protection Services

Quality assurance processes serve in maintaining a high level of quality of child protection services. Quality assurance should be undertaken at regular intervals and in a prescribed manner. All service providers, both governmental and designated child protection organisations, are required to conduct an internal assessment of their services, which must be followed by an assessment of these services by an independent agency.

5.6.5.4 Develop an Effective Multidisciplinary Case Management System

Children and families may not be able or willing to report abuse, neglect and/or exploitation, and therefore certain professionals and occupational workers who work with children are required to report if they reasonably conclude that a child has experienced abuse, deliberate neglect or is in need of care and protection. However, any person may report a reasonable belief that a child requires child protection services.

Reports are made to a designated child protection organisation, the provincial office of the DSD or a police officer. The person who reports must provide information substantiating his or her belief that the child requires protection services, and if the report is made in good faith and it is found on investigation that the child does not require these services, the person is not liable to civil action.

Reported cases must be investigated and managed within a case management system with proper referral, intervention or feedback subsystems. National intersectoral, multidisciplinary protocols should be developed that delineate the roles and responsibilities of key departments and stakeholders in the child protection system. This case management system must be aligned to Part A of the National Child Protection Register.

5.6.5.5 Maintain a National Child Protection Register

A National Child Protection Register (NCPR) has been established and shall be maintained by the DSD and kept in a secure, confidential electronic format.

5.6.5.6 Child Death Reviews

As discussed in Chapter 3, there is now substantive evidence on child death reviews (CDR) in South Africa. This includes the gaps identified by the child homicide study, the review of international practices to manage child deaths, and the lessons learnt from the CDR pilot implemented in two sites (Salt River Mortuary, Western Cape, and Phoenix Mortuary, KwaZulu-Natal). This Policy therefore strongly promotes a multi-agency approach to enact a rapid response to investigate incidents of child deaths suspected to have occurred as a result of child abuse, neglect and exploitation. This response should involve all role-players, including child death review teams, in a medico-legal investigation that adopts a social autopsy approach, where the social contributors to a child's death are discussed alongside the medical cause of death.

The following are key lessons learnt thus far that could inform the development of child death review strategies and practices:

- Multi-agency CDR teams improve communication among role-players who are responsible for child protection and child health;
- CDR teams established a new way of approaching the investigation and management of child deaths. This resulted in the forensic pathologist taking the lead in the identification of potential non-accidental deaths and flagging concerns early on. Similarly, the process facilitated the systematic involvement of social service professionals and a shift in how investigating officers approached the investigation of child deaths;
- The CDR teams facilitate a collaborative case management approach from the onset, and this ensures that all cases are appropriately investigated, showing speedier case outcomes and increased support and protection for remaining children in families;
- The CDR process adopts a case-sharing approach, with a central data collection system that allows for case data to be collated from various data sources and routine analysis of data trends;
- Forensic pathologists play a critical role in reporting suspected non-accidental injury cases not just to the police but also through the completion of a Form 22 to the DSD. This ensures that all cases of suspected child abuse are reported and risk assessments are conducted where there are remaining children in families; and
- Investigations by the designated child protection agencies include risk assessments to identify where siblings or other children in the family are at risk of abuse. Importantly, the review also facilitates the delivery of intervention services for vulnerable families where support services and family strengthening are required.

This process also identifies barriers in the investigation of the reported cases (system failures), the failure of some social workers to conduct adequate risk assessments, and the lack of oversight social work supervisors are fulfilling, all of which contribute to the death of children.

5.6.6 Court-Ordered Care Placement Options for Children in Need of Care and Protection

A key component of the formal responsive protective programme is to ensure the appropriate placement of children in need of care and protection through a formal court order in one of the following alternative care arrangements recognised in this Policy and described in Chapter 4.

Subsequent to the children's court procedures, which include a systematic inquiry into the care and protection needs of the child or children concerned, the court may make an order, which may include:

1. An order for the return of the child to the care of his or her parents or caregivers under the supervision of a social worker;
2. Issuing an adoption order according to the prescribed procedures; and
3. Issuing order for other forms of alternative care, including:

- Temporary safe care;

- Foster care; or
- Child and youth care centres.

The criteria, principles, requirements and procedures governing the placement process and decisions are described in this section of the Policy.

5.6.6.1 Alternative Care

5.6.6.1.1 Circumstances Under which Alternative Care is Permitted

The removal of a child and placement into one of the forms of alternative care recognised by this Policy is permitted only in clearly defined circumstances: a child may be placed in alternative care only if he or she is in need of care and protection as defined in this Policy. The general rule is that a child may be placed in alternative care only when this is ordered by the children's court.

5.6.6.1.2 Alternative Care Principles

To realise the objectives of alternative care as described in chapter 4, the following principles and procedures apply to all alternative care arrangements. Promoting early and continued family re-integration and after-care services alongside alternative care placements: Given that the overriding objective of alternative care is to successfully support and transition the child back to a permanent, safe, supportive and nurturing family environment, alternative care placements must be accompanied by family reintegration measures to support the child's successful reintegration into the family and society upon discharge.

Reunification and reintegration are processes that should begin from the moment children become separated from families or parents and should continue once they are returned to their families and communities.

Similarly, after-care services should be planned as early as possible in the placement and, in any case, well before the child leaves the alternative care setting. All alternative care settings and caregivers must, from the outset, have a clear plan for the provision of appropriate after-care and/or follow-up upon conclusion of their work with children. The plans must ensure the systematic provision of support to the child to prepare him or her to become self-reliant and for integration into the family and community, notably through the acquisition of social and life skills.

The child care and protection system shall include the following mechanisms to ensure effective after-care preparation and support:

- An effective tracking system to keep track of the child once he or she leaves alternative care;
- Peer support networks to provide a mentoring and support role to children once they leave alternative care;
- A youth development sector that is linked to the children's sector and has the mandate and capacity to provide appropriate after-care support programmes for children as they transition from childhood to young adulthood;
- Strong networks between the children's sector and the private sector to assist in job creation for youth at risk;
- Ongoing, systemically available educational and vocational training opportunities for supporting young people leaving care to become financially independent; and
- Access to social, legal and health services, together with appropriate financial support, for young people leaving care and during after-care.

Leave of Absence:
The alternative care system must be sufficiently flexible to allow for a child to be absent for a specified period of time for legitimate reasons essential to the ongoing health and development of the child, and as part of the family reunification process.

On occasions, it may be necessary for children in alternative care to leave the country to pursue activities that further their well-being and development, such as travelling on holiday with a foster family, for educational purposes, or attending a sports or cultural event or competition. Permission for leave to travel outside the country may be granted only by the provincial HOD of the DSD with the consent of the child's parent(s) or legal guardian (if different).

Children Absconding from Alternative Care:
A child absconding from alternative care should not be criminalised. All such cases should be reported and investigated to understand and address the reasons for the child's abscondment.

Transfer of a Child or Person in Alternative Care:
A child or a person may be transferred from one alternative care setting where it is in the best interests of the child or that person, where it is necessary to ensure their protection, and/or to place them in an environment better suited to their developmental needs. Transfers from a more to a less restrictive option may be authorised by the provincial HOD of the DSD, who must act in consultation with the child, parent(s) and all respective care givers. Transfer to a more restrictive setting requires a court order.

Provisional Transfer from Alternative Care:
A child placed in alternative care may be provisionally transferred for a period not exceeding six months for treatment, observation, examination, family reunification or reintegration.

Removal of a Child in Alternative Care:
A child placed in alternative care may experience circumstances that require his or her removal; such circumstances may include abuse, neglect or exploitation. Such a child may be removed and placed in temporary safe care or a nurturing environment approved by the HOD for a period not exceeding six months.

Discharge from Alternative Care:
The provincial HOD of the DSD has the discretion to discharge any child from alternative care by way of a written notice, if it is in the best interests of the child to do so. The child may be discharged from alternative care after reaching the age of 18 or 21 years, or earlier than that based on the recommendation by the social worker, which must be based on an assessment.

5.6.6.2 Temporary Safe Care

In order to realise the objectives of temporary safe care as described in Chapter 4, the following procedures and principles must be adhered to in the placement of a child in this form of alternative care.

5.6.6.2.1 Regulatory Procedures for Temporary Safe Care

Temporary safe care is an extraordinary measure and is subject to rigorous procedural requirements to ensure that it is used when only necessary, limits the impact on children and parents' rights, and secures children's safety and ongoing development for its duration.

When a child is removed and placed in temporary safe care, the social worker or police official must inform the child's parents and the provincial DSD within 24 hours, and the clerk of the children's court on the next court day after the removal.

A formal children's court hearing must then be held and an order made as to the care and protection needs and placement of the child. No child may be kept in temporary safe care for longer than six months.

Temporary safe care can be care either by a person, a place or a CYCC which is approved to provide a programme for the temporary safe care of children. In the case of an individual person, if such person is not a family member of the child, then he or she must be approved (as provided for in regulations) by the provincial HOD of the DSD. If the person is a family member, such approval must be provided within 24 hours, although the social worker must conduct an assessment to determine the person's suitability and appropriateness to care for the child. No more than six children may be placed with an approved person, except where children are siblings.

Regulations and practice guidelines must be developed to guide the placement and care of children in temporary safe care.

5.6.6.3 Foster Care

In order to achieve the purpose and objectives of foster care as described in Chapter 4, any such placement must comply with the following regulations, procedures and criteria.

An order for the placement of a child in foster care must be accompanied by, or ensure that the child, foster parent/s, and parents or caregivers to whom the child will return should have access to, a basket of services that build the resilience of the child as well as the capacity of the caregivers to provide nurturing, responsive care. These may include:

- Therapeutic services to address emotional and psychological needs;
- Behaviour management;
- Family reunification services with an emphasis on strengthening families;
- Family preservation services;
- Material support in the way of the FCG; subsidised ECD; free education; and health care;
- Comprehensive preparation for independent living; and
- Supervision and monitoring of foster placements.

5.6.6.3.1 Principles, Regulations and Procedures Governing a Foster Care Placement

To achieve the aforesaid objectives, services and outcomes of foster care, the following principles, regulations and procedures govern the placement of foster children:

Child-Centred: Foster care, as with any other placement or care and protection remedy, must be child-centred. That is to say, it must respond to the specific care and protection needs of the child in question in the choice of foster parents, programmes and decisions about the duration of the placement.

Professional Assessment of the Child's Circumstances: A foster placement must be preceded and informed by a social worker's assessment of the holistic care, developmental, therapeutic, risk, and safety needs of a child.

Assessment and Matching of Suitable Foster Parents: All prospective foster parents must be screened by a designated social worker for their suitability as foster parents as well as their cultural, religious and linguistic background. They must be fit and proper persons to care for a child, be willing and able, as well as have the capacity, to provide an environment necessary for the care required by the child. Children should be matched with the most appropriate foster parent and family to avoid breakdown of foster placements and strengthen the child's sense of belonging. Where possible, and if it is in the best interests of the child, placements should be made with foster parents who share a similar background to the child.

Number of Children to be Placed in Foster Care: To ensure an enabling environment conducive to supporting the protection and development of children to their full potential, no more than six children may be placed in foster care with one family. There are two exceptions to this rule. This first relates to the placement of children who are siblings or blood relatives, and secondly, in instances where the court deems it to be in the best interests of all the children.

However, more than six children may be placed in a registered cluster foster care scheme. Up to six children can be placed in each of the different households in the same community; these households are then supported at community level up to a total of 10 households, thus limiting the total number of children per scheme to 60.

Regulation of, and Support for Cluster Foster Care Schemes: To achieve their intended objectives and benefits, cluster foster schemes must be registered by the HOD, be run by a provincial department of social development, a designated child protection organisation, and must comply with quality, oversight and monitoring regulations and procedures. The latter shall be regulated through contractual agreements between the designated child protection organisation and the DSD as well as norms and standards prescribed by law.

Any cluster foster care scheme must provide appropriate programmes for foster children. It must also provide capacity-building to enable cluster foster caregivers to care for the children including children with special needs, including children with disabilities, hard-to-place children, children with behavioural problems, unaccompanied children or children transferred from CYCCs. Cluster foster care schemes are entitled to receive material support, should the court order so directs, in the form of the FCG and/or the CDG paid directly to the scheme.

The Duration of Foster Care: As a general rule, foster care orders are temporary in nature and should be made for no more than a period of two years. Courts are permitted to extend the order beyond this period, subject to review of the placement, as well as make shorter foster care orders where this is in the best interests of the child.

A court may make an order for a foster placement that is longer than two years, under the following circumstances:

- If the child has been in foster care with a person who is not a family member for more than two years; or
- If the child is living with a family member and has been abandoned by the biological parents, or is orphaned, or there is no purpose in attempting reunification between the child and the parents.

If a long-term order is made, the court may require a social service practitioner to visit and monitor the child's placement every two years and submit a report in the prescribed manner.

Provision of Quality Therapeutic Programmes: Social service practitioners should ensure that foster children, foster parents and biological parents (where applicable) access programmes providing therapy, psychosocial support, family preservation/strengthening, reunification services, rehabilitation, and preparation for independent living.

Provision of Reunification Services and Support: The primary intent is that foster care orders should be short-term foster placements and that, where possible, children should be reunited with their parents or families. This requires that reunification services be an integral element of the foster placement. Where so ordered, the foster parent(s) should work collaboratively with the designated social worker to prepare the child and family for reunification, and where it is in the best interests of the child, he or she should be reunified with his or her family upon the expiry of the foster placement. If it is not in the best interests of the child, the court may order a continuation of the foster placement and/or reunification services.

Termination of Foster Care: The children's court has the power to terminate foster care. In making this decision, the court must consider the bonds that exist between the child and the biological parents, between the child and his or her foster family, the need for permanency, and the possibility of adoption.

5.6.6.4 Child and Youth Care Centres

As previously stated, the placement of a child in a CYCC should be a measure of last resort. To give effect to this principle, as well as to the objectives of CYCCs as described in Chapter 4, the following principles and procedures must be adhered to in decisions regarding such placements.

5.6.6.4.1 Principles and Procedures Governing CYCCs

Children should only be placed in a CYCC where it is in the best interests of the child and where no other suitable option is available.

The determination of the suitability of placement in a CYCC, and the decision as to which CYCC the child should be placed in, must be informed by a comprehensive assessment by a social worker providing reasons why the child should be placed in a CYCC as well as specifying the therapeutic programme that should be provided to address the child's care and protection needs.

All CYCCs must be registered with the DSD and meet all legally prescribed governance, management, programmatic, structural, health and safety norms and standards. To ensure ongoing quality assurance, every CYCC must regularly undergo and comply with quality assurance assessments after registration.

Residential care programmes should be properly resourced, coordinated, managed and maintained.

5.6.6.5 Adoptions

5.6.6.5.1 Principles Governing Adoptions

Adoption decisions and processes must comply with the following prescribed national and international principles, regulations and procedures:

- Institutional Care as Measure of Last Resort: Institutional care shall always be a measure of last resort for a child in need of a family or family care.
- Subsidiarity Principle: All possible placement options for a child within the country of origin must be explored before intercountry adoption of a child is considered.
- Prohibition of Commercial Gain: Adoption of children shall not be a source of improper financial or other gain. Adoption fees for professional services rendered must be in line with the prescribed fees set out in laws, including the Children's Act and its regulations.

5.6.6.5.2 Procedural Requirements

The following procedures must be complied with to protect the rights of all parties concerned:

Assessment of Biological Parents, Child and Prospective Adoptive Parent(s): To protect the rights of the child, the social worker should conduct an assessment of the biological parents and the prospective adoptive parents. The objective of the assessment is to determine the adoptability of the child and suitability of the prospective adoptive parents. It must be conducted prior to the matter being presented before the children's court.

Biological parents, adoptive parents and, where applicable, the adoptable child must be provided with counselling before a decision on adoption is made.

No child shall be placed with his or her prospective adoptive parents until the child's adoptability assessment has been finalised and the prospective adoptive parents have been assessed and found to be fit and proper in terms of legislation. Prospective adoptive parents shall not be unfairly discriminated against based on their race, gender, marital status, sexual orientation, financial status, or nationality, provided that they have permanent residence in South Africa.

A person who is not a South African citizen or permanent resident does not qualify to adopt a child in South Africa through a national adoption programme. Such persons may return to their country of origin to adopt through an intercountry adoption programme, provided there is a working agreement with the country of origin of the applicant(s) (with the exception of family-related adoptions).

A South African citizen married to a foreign national intending to adopt a South African child through national adoption programme may be considered to adopt.

Maintenance of a Register of Adoptable Children and Prospective Adoptive Parents (RACAP):
An electronic RACAP shall be maintained for the purposes of providing a database of adoptable children and suitable prospective adoptive parents in the country to facilitate matching of unmatched adoptable children and prospective adoptive parents, and to monitor the subsidiarity principle. Access to RACAP shall be limited to prescribed persons, including adoption social workers. Adoptable children and prospective adoptive parents shall be removed from RACAP once they are matched or are no longer available for adoption.

Registration of Adoptions:
The DSD shall keep and maintain an electronic adoption register. The purpose of the register is to keep a record of adoptions in the country. The children's court must send adoption records to the Adoptions Registrar to ensure that the adoption is registered. Adoption records in the Adoption Register should not be destroyed, as adoptees in South Africa and foreign countries may trace their origins at any time after they turn 18 years following any procedures as may be prescribed in law.

5.6.6.5.3 Accreditation and Regulation of Adoption Service Providers

It is the responsibility of social workers in the employ of the DSD to render adoption services. DSD social workers are authorised to provide all child care and protection services contained in this Policy and legislation, including adoption services.

The DSD may accredit Child Protection Organisations and social workers in private practice to provide adoption services, provided they comply with prescribed international and national legal requirements. All social workers are required to be registered with the South African Council of Social Service Practitioners (SACSSP). Adoption social workers in private practice are required to be registered as adoption specialists with the SACSSP.

Social workers in private practice (those who are not employed by an accredited child protection organisation or the DSD) should be accredited by the DSD only if they are specialists and are registered accordingly with the SACSSP.

Any person who is not registered with the SACSSP is prohibited to render adoption services in South Africa. Adoption social workers may advertise for recruiting prospective adoptive parents as well as tracing the biological parents or family of a child who is a subject of adoption in a prescribed manner.

Adoption service providers must provide after-care services to adoptive parents that have adopted for a period of at least 12 months.

5.6.6.5.4 Regulation of Intercountry Adoptions

Intercountry adoption is a legal process whereby a child who is resident in one country is placed permanently with a parent or parents resident in another country.

Intercountry adoption should be considered as a last resort after all efforts of placing a child with families within the country have been exhausted. This provision does not apply to related adoption. Intercountry adoption is a permanent family care option that offers the advantage of a permanent family for a child for whom a suitable family cannot be found in South Africa.

Intercountry adoptions must be undertaken in compliance with international, regional and national laws of adoption.

Intercountry adoptions shall be regulated, monitored, administered and recognised by the Director General of the DSD, who is the designated South African Central Authority (SACA) as required by the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

The SACA may withdraw its consent to adoption at any time before an adoption order is granted if it is in the best interests of the child.

5.7 Children who are in Conflict with the Law, are Awaiting Trial or are Sentenced to a Child and Youth Care Centre Offering a Secure Care Programme

In the response to this category of children, it is imperative that the Constitutional, child rights treaties and the legislation governing child justice in South Africa be applied comprehensively in their best interests. While the Constitution and treaties provide the overar-ching rights protection, the three main laws, namely, the Children's Act (No. 38 of 2005), Child Justice Act (No. 75 of 2008) and the Probation Services Act (No. 116 of 1991) as amended, each contribute specific protective measures in regard to the care, protection, judicial processes and the management and interventions. These intersections are provided below.

The Children's Act sets out principles relating to the care and protection of children in CYCCs and makes provision for the establishment and management thereof. All CYCCs must offer a therapeutic programme designed for the residential care of children outside the family environment. It must be recognised that CYCCs that provide programmes for this specific category of children must not accommodate children who are in need of care and protection. The following principles must be adhered to in all proceedings, actions or decisions in matters concerning a child, including this specific category of children:

- Respect, protect, promote and fulfil the child's rights set out in the Bill of Rights, the best interests of the child standard set out in section 7, and the rights and principles set out in the Children's Act;
- Respect the child's inherent dignity;
- Treat the child fairly and equitably;
- Protect the child from unfair discrimination on any ground, including on the grounds of the health status or disability of the child or a family member of the child; and
- Recognise a child's need for development and to engage in play and other recreational activities appropriate to the child's age.

The Child Justice Act sets out the following objectives:

- Encourage the child to understand the implications of his or her actions and be accountable for the harm caused;
- Promote an individualised response which strikes a balance between the circumstances of the child, the nature of the offence and the interests of society;

- Promote the reintegration of the child in the family and community;
- Ensure that any necessary supervision, guidance, treatment or services which form part of the sentence assist the child in the process of reintegration; and
- Use imprisonment only as a measure of last resort and only for the shortest appropriate period of time.

The Probation Services (Act No. 116 of 1991) as amended is the principal legislation that provides guidance and regulates the management of persons detained and sentenced. The Act gives the Minister powers to make regulations (guidelines/protocols/procedures) regarding any matter which may be or is required to be prescribed in terms of this Act and for matters which in his or her opinion are necessary or expedient to be prescribed in order to attain the objects of this Act. The objects of the Act make provisions for the rendering of assistance to and treatment of certain persons involved in crime and for matters connected therewith. Regulations (guidelines/protocols/procedures) therefore must be made to specifically provide for norms and standards for the oversight, quality assurance and management of children detained and sentenced.

5.8 Special Measures for the Protection of Certain Groups of Children and Children in Need of Care and Protection

5.8.1 Child Labour, Exploitation and Trafficking of Children

Children need to be protected from unfair, unsuitable and illegal labour practices. Accordingly, the use, procurement or offering of a child for slavery, debt bondage, servitude or serfdom, forced or compulsory labour or provision of services, is prohibited.

Other forms of child exploitation that are also prohibited include commercial sexual exploitation, trafficking, the use of children to commit crimes, removal of body parts, child pornography, child marriage and child online exploitation. Any person who becomes aware of the use, procurement or offering of a child for the stated purposes must report this to a police official or social worker.

5.8.2 The Sale of Children

South Africa and the broader region face an increasing risk of the sale of children. Once a child is sold, it may lead to trafficking, illegal adoption, child labour, child prostitution, child pornography, sex tourism and removal or sale of body parts.

The GRSA recognises that combating the sale of children calls for a holistic approach which addresses such contributory factors as poverty, economic disparities, dysfunctional families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, and harmful traditional practices.

Currently, South African legislation does not address the issue of the sale of children. Therefore, this Policy requires the adoption of legislative measures to ensure that the sale of children in any form, whether direct or indirect, is criminalised whether such acts or transactions are committed domestically or transnationally, or on an individual or organised basis.

5.8.3 International Child Abduction

The GRSA is responsible, in terms of the Hague Convention on the Civil Aspects of International Child Abduction ('Hague Convention'), to protect children against their unlawful removal from their country of residence by a parent without consent of the other.

The country's duties are twofold. The first is to secure the expeditious return of children wrongfully removed to or retained in any contracting state. The second is to ensure that rights of custody and access under the law of one contracting state are effectively respected in the other contracting state.

The Policy recognises the Hague Convention as a mechanism to ensure the child's return to the child's country of habitual residence so that issues related to the custody and care of a child can be decided by the court of habitual residence.

In furtherance of its responsibilities, the DoJ&CD has designated the Chief Family Advocate as a Central Authority of International Child Abduction of South Africa.

5.8.4 Unlawful Removal or Detention of a Child

Children may not be removed from a lawful caregiver or detained without the appropriate authority. This includes causing or inducing a child to remain with him or her or any other person. These rules aim to prevent parents or caregivers acting unilaterally and outside of agreed arrangements. In this context, 'detaining' means 'keeping'. An example is where the father of a child has the child for half of the school holidays and then decides to keep the child when the first half of the holiday is over.

5.8.5 Prohibition of the Unlawful taking or Sending of a Child out of the Republic

Children may not be taken out of the Republic of South Africa unless consent has been obtained from the person holding parental responsibilities and rights, including guardianship in respect of that child. This includes causing or assisting the child to be taken out of the Republic, causing or inducing the child to accompany or join him or her or any other person sending a child out of the Republic or sending a child out of the Republic if that person causes the child to be sent or assists in sending the child out of the Republic.

The Office of the Family Advocate may assist the court of habitual residence in relocation matters with an enquiry, investigation, report and recommendation as to whether the relocation would be in the best interests of the child.

5.9 Care and Protection of Unaccompanied and Separated Migrant Children

5.9.1 Risks and Challenges

Unaccompanied and separated migrant children are of global relevance and require specialised and responsive protection within a coordinated and holistic care and protection framework. The number of children on the move continues to increase due to factors such as poverty, political instability, armed conflict, urbanisation, globalisation, and climate change. Of the 60 million refugees worldwide, almost half of them are children. In southern Africa, thousands of such children migrate through irregular channels, alone or with caregivers; in the case of South Africa in particular, while most migrant children are concentrated along our borders, they are found throughout the country.

Unaccompanied and separated migrant children experience a multitude of risks related to their mobility, making them extremely vulnerable to violations of their rights throughout their journey as well as upon arrival at their destination. As previously observed in this Policy, many are subject to abuse and exploitation; cannot access services such as food, shelter, education, health and psychosocial support; and undocumented children who migrate to other countries are often simply repatriated without being provided with the protection, services and care to which they are entitled.

There is hence an urgent need to ensure the recognition and protection of the rights of all children, especially those in the southern African region, who cross borders. Given that South Africa's current legal framework supporting the care and protection of these children is underdeveloped, this section of the Policy provides guidance on the protection, care and proper treatment of unaccompanied and separated migrant children required by the international, regional and national framework.

5.9.2 Regional and International Principles

South Africa is duty-bound as a signatory to international and regional child-rights instruments to protect all children within its jurisdiction. The rights protected by the governing instruments must therefore be available equally to all children, including asylum-seeking, refugee and unaccompanied and separated migrant children irrespective of their nationality, immigration status or statelessness.

A number of principles enshrined in international and regional instruments apply to separated or unaccompanied migrant children outside of their country of origin whilst they are in South Africa. A key principle is respect for the principle of non-refoulement: the GRSA recognises, and is committed to honouring, its non-refoulement obligations deriving from international and regional instruments, as well as the Refugees (Act No. 130 of 1998).

The other such principles, to which the GRSA is likewise committed, are:

- Non-discrimination;
- The best interests of the child;
- The right to life, survival and development; and
- The right of children to express their views freely.

5.9.3 Care and Protection Measures

Unaccompanied migrant children are in need of care and protection, and separated migrant children are potentially in need of care and protection. It is important that unaccompanied migrant child be identified. Children who are identified must be referred to a social worker or reported to a police officer, who must refer the child to a social worker. Where necessary, the child may be placed in temporary safe care, with or without a court order. The social worker shall investigate their circumstances in line with the Children's Act and present his or her findings to the children's court.

All actions and proceedings shall allow for child participation in a manner which is age-appropriate and gender and/or disability-sensitive. A migrant child may be placed in alternative care for a period of two years, and he or she is entitled to receive all necessary care and protective services that are afforded to all children in South Africa.

The individual development plans drawn up for migrant children should be done so with the participation of the child. If the child has knowledge of details of his or her family in the country of origin, International Social Services (ISS) facilitates the process of requesting the suitability report from the country of origin for purposes of determining a longer-term course of action that is in the best interests of the child.

5.9.4 Durable Solutions

The overarching aim of care and protection services in respect of migrant children is to find and implement a durable solution for them that ensures continuity of care and protection in a safe and enabling environment in order to overcome their vulnerabilities and strengthen their individual capabilities and resilience.

The determination of a suitable durable solution which is in the child's best interests requires a careful assessment of the child's personal situation in the host country, the country of origin or the country of residence of family members.

Some of the options to be considered are described in the subsections hereunder.

5.9.4.1 Family Reunification in Country of Origin

An analysis of the possibility of family reunification is the first step in searching for a durable solution. Family reunification is not to be pursued if there is a risk that the child would be subjected to abuse or violations upon return. If, however, it is in the child's best interest to be reunified with his or her family in the country of origin and the whereabouts are known, the case is referred to the provincial focal point of International Social Services. Family tracing and verification and reunification are then managed through the relevant social welfare department in the country of origin, or in collaboration with international networks, such as ISS, the Red Cross/Red Crescent societies, or the International Organisation for Migration (IOM). The relevant social welfare department in the country of origin is responsible for follow-up with the child and the family and providing a feedback report to the South African ISS.

This Policy acknowledges that alternative institutions, such as appropriate NGOS, can support family tracing by using their established networks and partners in the country of origin. Whilst family reunification must be undertaken by an organisation mandated to do so, community-based organisations can provide invaluable support in fulfilling this responsibility.

5.9.4.2 Placement in Formal Care in the Country of Origin

In the absence of availability of care provided by parents or members of the extended family, return to the country of origin should not take place without advance secure and concrete arrangements for care and custodial responsibilities in the country of origin. Safety, security and the socio-economic conditions in the country of origin should be considered, as well as the principle of non-refoulement. The child should not be returned unless it is in his or her best interests.

Article 10 of the UNCRC guarantees a child's right, whether accompanied or unaccompanied, to apply for protection as a refugee, while article 22 guarantees the right of asylum-seeking or refugee children to special protection requiring that the state cooperate with competent organisations which provide such protection and assistance. A refugee should not be repatriated to a dangerous situation (one which gives rise to a well-founded fear of persecution or one that seriously disrupts public order).

Through its international agreements, South Africa has undertaken to offer a safe place of protection to refugees and not to deport or send refugees back to their country of origin. Therefore, the GRSA recognises and commits to respecting the rights of an asylum seeker or child with refugee status, including their right not to be returned to their country of origin, and to appropriate care and protection in South Africa.

5.9.4.3 Placement with a family member in South Africa

If a child wishes to be placed in the care of a family member in South Africa, the local social worker must establish the validity of relationships and confirm the willingness of the child and the family member to be reunited. This may require collaboration with and between provincial departments. The local social worker is responsible for regular follow-up with the child and the family. In cases where reunification is with a family member with legal status in the Republic, and the family member person is someone other than a parent, a formal care order may be issued by a competent court as prescribed.

5.9.4.4 Alternative Care

Should the abovementioned durable solutions not be feasible, a children's court may make an alternative care order. The following alternative care options may be considered:

- Placement in foster care; or
- Placement in a CYCC, if no other option is available.

The child's alternative care placement should ensure links are maintained with the child's community of origin. Wherever possible, the foster family should be from the same community as the child. The status of all children in alternative care should be monitored.

5.9.4.5 Adoption

Adoption should be pursued as a placement option for migrant children for whom this is possible, lawful and in their best interests.

5.9.5 The Role of ISS

South Africa is a member of the global ISS network and, as such, forms part of the international child protection system. ISS has the capacity to provide support and follow-up services at a transnational level and can thus protect children beyond the borders of a country. It promotes cooperation among network members, brings together multidisciplinary actors and establishes intercountry links for finding sustainable solutions to the complex trans-country challenges that this vulnerable group of children faces.

Transnational collaboration is key to effective:

- Family tracing and reunification;
- Evaluation of the individual situation of the child;
- Evaluation of the situation in the country of origin;
- Implementation of the care frameworks and (re-)integration measures; and
- Transnational case handover and monitoring.

5.9.6 Ensuring Quality Transnational Care

A major factor that hinders finding durable solutions for unaccompanied migrant children is a lack of effective transnational collaboration. Several care and protection stakeholders, as well as migration management stakeholders from the countries of origin, transit and destination, need to be involved in developing and implementing these solutions. Effective transnational collaboration is thus critical to ensure that children move safely from one protection system to another and receive continuous care across borders.

5.9.7 Documentation of Migrant Children

Documentation is a key barrier preventing migrant children from accessing adequate care and protection. The Minister of Social Development shall therefore, in collaboration with the Minister of Home Affairs, ensure that unaccompanied migrant and separated children in South Africa are provided with a legal form of identification and appropriate documentation while they are in the child care and protection system. The administrative and regulatory systems and procedures are to be regulated through both the Children's Act and the Department of Home Affairs' migration legislation.

The children's court is duty-bound to issue protection orders for identified and referred unaccompanied and separated migrant children in need of care and protection. The Department of Home Affairs must issue supporting legal identification document to such children for the period of the protection order.

5.10 Conclusion: Cross-Cutting Systemic Challenges

Viewed holistically, the current child care and protection system exhibits several gaps, challenges and weaknesses which, if left unaddressed, will severely limit the translation of this Policy's commitments into meaningful and impactful programmes for children in South Africa. To scale up the provision of the full continuum of services to make a lasting impact on children in the country requires that the institutional arrangements and mechanisms upon which the child care and protection system rest must be strengthened. The next chapter of the Policy identifies and commits to strengthening the systemic foundations of this Policy.

CHAPTER 6

STRENGTHENING THE INSTITUTIONAL ARRANGEMENTS OF THE CHILD CARE AND PROTECTION SYSTEM

CHAPTER 6
STRENGTHENING THE INSTITUTIONAL ARRANGEMENTS OF THE CHILD CARE AND PROTECTION SYSTEM

6.1 Introduction

The NDP requires that the GRSA address the twin challenges of poverty and inequality by building both a developmental and capable state. A developmental state is one that engages with the root causes of poverty and inequality. This Policy represents a significant step towards that objective: by putting in place the continuum of care and protection services for children, it lays the foundations of the developmental state envisaged by the NDP.

However, the NDP stresses that it is not enough to have policies in place: neither social nor economic transformation is possible without a capable state with the capacity to deliver on the Policy commitments. The NDP calls for investments in building state capacity, which it identifies as the most crucial step to realise Vision 2030. It observes that

> [d]evelopmental states are active. They do not simply produce regulations and legislation. They constantly strive to improve the quality of what they do by building their own capacity and learning from experience. They also recognise the importance of building constructive relations with all sectors of society.[126]

This requires strong systems to support the translation of policy commitments into effective transformative programmes. The NDP therefore calls for developmental policies, such as this one, to be implemented by

> [w]ell-run and effectively coordinated state institutions with skilled public servants who are committed to the public good and capable of delivering consistently high-quality services, while prioritising the nation's developmental objectives.[127]

The NDP identifies the following key features of public systems of a capable state:

- A stable and dynamic political-administrative interface that ensures the professional and effective translation of political commitments into sound programmes;
- A strong workforce;
- Strong delegation, accountability and oversight mechanisms;
- Effective interdepartmental coordination and coordination between different levels of government; and
- Mainstreamed citizen participation.

The realisation of this Policy's vision and goals requires a sound national child care and protection system capable of driving government-wide fulfilment of, and accountability for, the Policy commitments and associated multisectoral roles and responsibilities. The impactful implementation of this Policy requires that every role-player accept and action its national child care and protection responsibilities and institutionalise these through integration into its own systems. The Policy requires, furthermore, that they do so collaboratively and collectively to ensure the availability of the full continuum of services for all children and their families.

This chapter identifies and commits to strengthening the national child care and protection system's platforms and institutional arrangements necessary to realise the developmental vision of this Policy through a capable state built on a strong system.

An effective system capable of achieving the Policy goals and objectives requires:

- Political commitment, leadership and coordination of the diversity of responsible role-players to advance the multisectoral national policy vision and goals;
- Translation of political commitment into quality programmes and services by line departments and levels of government, as well as non-government partners, through the integration of responsibilities into their respective planning, operational, and monitoring frameworks;
- An adequate and competent workforce to plan, deliver and monitor services;
- Adequate financial resources to support planning, implementation and monitoring of programmes; and
- A research, monitoring and evaluation framework and institutions that track progress in achieving the overall policy goals as well as the delivery and impact of specific programmes and services, and that ensures the use of information in an evidence-based planning and quality-improvement cycle.

6.2 Leadership and Coordination of the Policy

6.2.1 Introduction

The realisation of the policy vision and goals requires that all identified role-players recognise, accept, action and account for their responsibilities. It further requires that different sectors and role-players work together in the planning and delivery of their respective services, and that progress in realising the overall policy goals and objectives through collective action may be measured and reported on. Ultimately, it requires synergistic intra and cross-sectoral planning, delivery, monitoring and reporting, as well as a holistic assessment of the accumulative progress and impact made through these collective efforts towards advancing the goals of this Policy and that of the NDP.

This in turn requires strong national and sector-specific political commitment, leadership and coordination that unites and ensures action by all role-players to advance this Policy's national priorities. It requires unity of purpose and action, from the highest political level to administrators in line departments, civil society, development partners and the business community, and down to communities, families and children.

Thus, the implementation and impact of the Policy must be overseen by effective national, intra and intersectoral coordination mechanisms. These must be structured to give leadership and direction for action, facilitate collaboration and participation, provide technical support, and hold role-players to account for the planning and delivery of their responsibilities.

The DSD is responsible for international, regional and national reporting on the realisation of children's rights in line with constitutional and international treaty obligations. For this reason, it has established a number of coordinating structures:

1. Inter-Ministerial Committee on Violence Against Women and Children;
2. National Child Care and Protection Forum;
3. National Children's Rights Intersectoral Coordination Committee;
4. National Plan of Action for Children; and
5. Framework for Child Participation.

6.2.2 The National Child Care and Protection Forum

The National Child Care and Protection Forum (NCCPF) is the national mechanism responsible for coordinated planning, provision of technical support for implementation, and monitoring of realisation of the policy goals and objectives.

The NCCPF shall comprise:

- Senior officials from national departments assigned responsibilities by the Policy;
- Provincial child care and protection coordinators;
- Representatives from NGOs, including community-based organisations, faith-based organisations, and international development agencies;
- Experts in child care and protection issues;
- Researchers, child-rights advocacy formations, and relevant state institutions supporting constitutional democracy; and
- Child representatives from the child participation subcommittee.

The NCCPF will be responsible for:

- Supporting organs of state in fulfilling roles and responsibilities allocated to them, including in their planning, collaboration with others, delivery, costing and funding, monitoring and quality improvement of services;
- Monitoring implementation of the Policy and the National Plan of Action for Children;
- Supporting and contributing to the establishment and maintenance of an integrated information management system to enable effective monitoring and analysis of trends and interventions to map the movement of children through the child care and protection system;
- Setting a research agenda for the sector and monitoring the establishment and maintenance of a research hub; and
- Undertaking advocacy for realisation of the policy goals and objectives.

The following subcommittees will be established:

1. Research, knowledge development and innovation;
2. Monitoring, evaluation and quality assurance of implementation of strategic priorities and the NPAC; and
3. Advocacy and child participation.

Provincial and local child care and protection committees will be established to coordinate the policy and relevant role-players at provincial and local government levels.

6.2.3 The National Children's Rights Intersectoral Coordination Committee

The National Children's Rights Intersectoral Coordination Committee (NCRICC) is established to facilitate collaboration between government and civil society organisations. The NCRICC consists of government and civil society organisations which are recognised as key partners in overseeing the protection and promotion of children's rights.

Its purpose and roles are to:

- Facilitate co-ordination, collaboration and synergy in the work of government and civil society organisations in the promotion, protection and fulfilment of children's rights in South Africa;
- Strengthen the capacity, systems and processes relating to the realisation of children's rights;
- Provide a platform for government and other stakeholders to share information, collaborate in initiatives and promote best practices;
- Coordinate and facilitate implementation of the National Programme of Action for Children;
- Facilitate the development of reports and responses to concluding recommendations under international treaties related to children's rights;
- Advocate for and facilitate the ratification of key protocols and optional protocols relevant to children's rights;
- Facilitate the review and recommend changes to the countries legislation and policies to ensure alignment with the Constitution of South Africa, the UNCRC, its Optional Protocols, and the ACRWC, and make legislative recommendations;
- Consult and establish partnerships with a wide range of relevant stakeholders on child-rights; and
- Oversee the development and production of relevant reports on children's rights.

6.2.4 The National Plan of Action for Children and Framework for Child Participation

The National Plan of Action for Children is an overarching strategy that brings together interdepartmental planning, implementation and monitoring of children's survival, growth, development, protection and participation within government's national development framework.

The GRSA recognises the right of all children to participate in decisions that affect them, including decisions related to realising the policy goals and objectives. To give effect to this right, a national framework for child participation ('the Framework') will be developed to ensure systematic and meaningful engagement with children in all matters that affect them.

The Framework will guide the development and adoption of lawful and effective child participation systems and procedures. The objectives of the framework will be, inter alia, to:

- Ensure that systematic and structured platforms and processes are established across all levels of government to afford children the opportunity to express their views and influence decisions that affect them;
- Ensure and standardise child participation across all levels of government, sectors and forums, including those established by this Policy;
- Support the development of tools and guidelines that will promote informed and meaningful child participation;
- Strengthen the coordination and integration of child participation across all the levels of government and ensure it is practised in all environments, from international to family decision-making spaces;
- Support the design methodologies and approaches for meaningful child participation within the South African context;

- Facilitate the development of indicators or measures of meaningful child participation;
- Ensure that children are represented and that they are assured of the right to express their views on matters that affect them and their rights; and
- Support the development of standards and guidelines to ensure that all organs of state adopt child-friendly communication practices that ensure children access information about processes, policies and decisions that affect them.

The NCCPF, together with its provincial and regional structures, will serve as a platform to coordinate child participation in the country. Child representatives will be members of the provincial and national CCPF and present the views of children.

6.3 Financing Child Care and Protection Services

6.3.1 Introduction

The GRSA recognises its responsibility, as provided for in the CRC and the ACRWC, to take all measures necessary for the realisation of children's care and protection rights. This includes the responsibility to secure adequate financial resources for both the provisioning of child care and protection services as well as the coordination and strengthening of the supporting system.

While public financial resources are limited, the GRSA acknowledges that the Constitution of South Africa, the SDG agenda and the NDP require the prioritisation of investments in child care and protection services. Section 28 of the Constitution expressly recognises and protects children's care and protection rights, and the duty to provide these is not, as in the case of comparable socio-economic rights for adults, curtailed by the limits of available resources and progressive realisation. The NDP (and the SDG agenda) reinforce the responsibility to prioritise investments in children, specifically in securing an increase in the reach and quality of children's programmes and services that interrupt the intergenerational transmission of poverty and, as such, lay the foundations for sustained development.

6.3.2 A Collective Resourcing Responsibility

Whilst the duty to secure adequate financial resources rests with the GRSA, this does not mean that all funds must be sourced from the public fiscus. Given that the NDP and the advancement of its goals is a shared and collective responsibility, the duty to provide funding for implementation of the Policy is not the preserve of government alone. The NDP allows, indeed requires, that financial resources are sourced from government, development partners and private business. However, the GRSA is duty-bound to ensure that adequate resources are mobilised and used for implementation of the Policy and pursuing its priorities.

The amount and manner by which the national child care and protection system is financed and the commitment of partners involved will be a critical determinant of success of this Policy and, ultimately, the NDP. The GRSA recognises that meeting its commitments requires the mobilisation and allocation of funds to secure:

- Quality and accessible child care and protection services and programmes, especially in underserviced areas;
- Adequate, equitable, effective and accessible infrastructure to support delivery of quality services in a safe environment;
- Suitably qualified, skilled and competent personnel to implement the Policy and programmes developed to give effect to it;
- Effective management, supervision and quality control mechanisms; and
- Institutional mechanisms and infrastructure necessary to support the implementation of the Policy.

The GRSA will therefore, in fulfilment of its resourcing responsibilities, mobilise funds from governmental and non-government sources, provide leadership and technical information on costing and required budgets, and direct the use of resources to ensure these are used to implement its commitments in this Policy.

To this end, the DSD will develop a costed national integrated implementation plan and develop a supporting national integrated funding framework and strategy to mobilise and direct the use of resources to fulfil this Policy's goals and priorities.

6.3.3 Objectives of the Funding Framework and Strategy

The national integrated funding framework and strategy will regulate, coordinate and support the mobilisation of funds to implement the Policy. It will:

- Develop flexible funding mechanisms which promote and are responsive to local child care and protection contexts, needs, risks and strengths;
- Mobilise diverse and innovative financing sources from government departments, development partners and the private sector in support of child care and protection;

- Enable, support and secure the mobilisation of sufficient resources for the planning, delivery and monitoring of services, the provision of required infrastructure and human resources, and the effective management and coordination of this Policy;
- Increase investments in scaling up promotive and preventative services, as well as in improving the quality of protective services;
- Ensure that resources are used to improve the accessibility of services for vulnerable children, including children with disabilities and those living in underserviced areas; and

Ensure the development of financial planning, disbursement and accountability systems for:

- The adequate and timeous funding of delivery partners;
- Streamlining of funding and avoiding wastages, underspending and duplication of services; and
- Facilitating accountability for expenditure.

6.4 Child Care and Protection Workforce

6.4.1 Introduction

The successful implementation of this Policy and realisation of its goal and objectives depends on people. It depends, that is to say, on having an adequate number of people in all relevant sectors and competencies with the knowledge and skills needed to engage in evidence and rights-based planning, programme and strategy development, service delivery, management, quality assurance, monitoring and evaluation, and on the ability to lead and coordinate the continuum of services.

The availability and quality of services is dependent on sufficient numbers of qualified people. Quality is closely associated with the availability of qualified personnel, levels of qualifications, supervision and mentoring of service providers. Qualifications and training have been positively associated with improved child outcomes over a range of countries and contexts, and are often used as an indicator of service quality. However, qualifications alone do not necessarily make a difference: enabling working conditions, ongoing supervision and support are central to quality improvement and successful programme delivery.

Securing an adequate workforce to implement this Policy thus requires an adequate number of qualified professionals and paraprofessionals in a diversity of sectors and disciplines, including social service professionals and auxiliaries, health personnel, educators, legal professionals and paraprofessionals, and police. In addition, it requires a wide range of competencies, including planning, financial management, human resourcing development and management, administrative and systems development skills, and monitoring, evaluation and quality-improvement abilities.

The GRSA is duty-bound, in terms of not only the UNCRC and ACRWC but the NDP, to invest in the development of the workforce responsible for providing child care and protection services.

There are several gaps and challenges in the current child care and protection workforce, including a lack of evidence-based planning capacity, capacity to coordinate, as well as management and implementation capacity. For example, as noted by the NDP, there are not enough social service practitioners to cope with the pervasively wide range of chronic social conditions. This includes social service practitioners working in child care and protection. The remediation of this requires significant investments in increasing the number and diversity of trained social service practitioners in the child care and protection system.

It is not only the number of qualified professionals that is a problem. Their education content is not always adequately developmental in its orientation. Tertiary education institutions and Further Education Training institutions must educate and train social service practitioners for the child care and protection field in developmental and holistic approaches to the provision of services for children and families, taking into account indigenous practice and local research relating to need and best practice. Where appropriate, retraining and mentoring of the workforce in child care and protection must be offered.

6.4.2 Objectives of Human Resource Development

The main objective of human resource development initiatives is to ensure an appropriate child care and protection workforce with sufficient skills and qualifications, and in sufficient numbers and spread, to support the effective implementation of the Policy.

Features of an adequate workforce include the following:

- A well-resourced and coordinated multisectoral child care and protection workforce;
- Suitably trained, qualified and motivated personnel who are committed to advancing the NDP goals and the goals of this Policy through continuous professional development and improvement of their skills;
- A management, leadership and supervision workforce that fosters a positive culture, an enabling environment, and morale, enthusiasm and energy in the delivery of child care and protection services;
- A diverse, skilled, qualified and motivated delivery workforce;

- An educational platform of pre-service and in-service training and continuing professional development providing accredited training, skilling and development of untrained, unskilled and semi-skilled service providers;
- Mechanisms to support the recruitment and retention of relevant skilled personnel;
- Professionalisation of the workforce through accreditation and adherence to professional ethics; and
- Continuing oversight, quality control and capacity enhancement of the child care and protection workforce.

6.4.3 Categories of personnel required

Categories of personnel required to plan, implement and monitor the Policy include the following:

- Planning personnel;
- Direct service delivery personnel;
- Support service personnel;
- Personnel responsible for oversight, monitoring and evaluation;
- Management and supervision;
- Research and innovation; and
- Advocacy and mobilisation.

6.4.4 Strengthening Human Resources through Workforce Planning

While academic qualifications of high standards remain imperative, the integrity of this complex discipline cannot be maintained without structured continued professional development. The dynamic and ever-changing nature of the child care and protection discipline requires up-to-date and continuing professional development and mentoring of those who work in child care and protection.

Given the multifaceted and multisectoral measures that will have to be taken to achieve the objectives of continuing human resources development, the DSD, in collaboration with relevant stakeholders, will facilitate the development of a workforce planning framework for child care and protection services.

The purpose of the framework will be to define the workforce required for implementation of the Policy and to develop a plan for the effective development and efficient use of the defined workforce.

Workforce planning is about having the right people with the right skills in the right jobs at the right time. It identifies the gap between current workforce capabilities and the workforce capabilities required to achieve the Policy's strategic goals in an ever-changing operational environment. Workforce planning will assist in the analysis of current workforce needs and determination of future workforce requirements and provide an evidence-based approach to planning future staffing and skill needs.

The framework will facilitate informed staffing decisions in line with the relevant departments' strategic goals. It will be a means of integrating and giving meaning to many areas of human resource management often considered only in isolation, such as attraction and retention, staff development, and flexible work practices such as task-sharing and task-shifting.

6.5 Infrastructure

6.5.1 Introduction

The realisation of the Policy's goals regarding the availability of equitable and accessible quality child care and protection services for all children in South Africa requires sufficient infrastructure. It requires a sufficient quantity of functional facilities and programmes that are appropriately spread out to be within safe and reasonable physical reach.

The GRSA commits to ensuring the implementation of this Policy and associated programmes by providing adequate infrastructure to ensure the availability of and equitable access to an appropriate combination of care and protection services, as determined by the needs of the child. The principle of equitable access for vulnerable children will be respected and the provisioning of inclusive infrastructure will be prioritised to ensure access for children with disabilities.

What constitutes adequate infrastructure is determined by four overarching principles:

1. Health, security and safety: Internationally, constitutionally and in terms of domestic laws such as the Children's Act, all children have the right to dignity and a healthy, secure and safe environment. This requires that the environment in which they access services ensures the protection of their and their caregiver's health security and safety.

2. Equity of physical access: Facilities and programme infrastructure must be within physical reach and physically accessible to all children, including those living in remote and/or underserviced areas and those with disabilities.

3. Quality: The environment and infrastructure supporting the delivery of services are a key determinant of the quality of the service provided. There is a link between poor and inadequate infrastructure and the provision of poor services.

4. Registration: Public and private infrastructure should comply with the relevant norms and standards and be registered. Conditional registration of facilities may be granted with terms and conditions, as well as with assistance to comply with norms and standards, assistance which may include financial assistance.

The nature of the physical environment and infrastructure required to provide equitable access to quality services in a safe and healthy environment depends on several factors, including:

- The service in question;
- The model of provision;
- The age of child;
- The health of the child and/or his or her parent or caregiver;
- The presence or absence of a disability or a developmental delay;
- The social and economic circumstances of the child and family;
- The language and cultural background of the child; and
- The geographical location of the child and his or her caregiver.

6.5.2 Child Care and Protection Infrastructure Objectives

All programmes and services should:

- Be delivered in safe and in child and disability-friendly buildings or structures affording protection from the elements;
- Provide hygienic sanitation facilities, clean potable water, access to safe energy sources, and hygienic and safe food storage and preparation areas;
- Be delivered in indoor and outdoor spaces suited to the provision of the relevant programme activities and large enough to accommodate all children making use of the programme;
- Use equipment and materials necessary to deliver the programme activities;
- Provide a service delivery environment conducive to the delivery of quality services;
- Be adequately and appropriately designed to meet the needs of children to ensure that access barriers for vulnerable children are addressed;
- Be adequately and appropriately geographically spread to ensure access for all children in need, notably children living in underserviced areas; and
- Be inclusive so that all children with disabilities may access the services they need.

6.5.3 Types of Infrastructure Required for Care and Protection Services

The provision of the continuum of service requires a diversity of infrastructure, including:

- Management and administrative infrastructure;
- Social development and other sector-specific administrative offices;

- Partial care facilities;
- ECD centres;
- Drop-in centres, safe parks and facilities to accommodate after-school and holiday programmes;
- CYCCs;
- Child-friendly courts;
- Child and youth-friendly spaces;
- Inclusive infrastructure in all service delivery settings for children with disabilities; and
- Emergency access points for children who have been abused.

6.5.3.1 Management Infrastructure

Currently, there is very little management infrastructure to support the planning, delivery and oversight of child care and protection services. Management infrastructure includes:

- Staff trained and tasked to coordinate, manage and oversee service delivery, including ensuring the provision of materials to government-run or supported services and programmes;
- Office space and equipment, such as computers;
- Transport and vehicles;
- Child-friendly spaces; and
- Integrated case management systems.

The GRSA commits to remedying these shortages. It will work with relevant stakeholders to establish management structures at the provincial and/or municipal levels to manage, oversee and coordinate the delivery of child care and protection services.

6.6 Monitoring, Evaluation, Quality Assurance and Improvement

6.6.1 Introduction

A sound monitoring and evaluation system which is designed to support data and information management and evidence-based planning as well as continuing improvement of the quality of services is the bedrock of the capable developmental state required by the NDP.

Such a system is essential for planning, implementation and measurement of the progress and impact made through implementation of this Policy. It will ensure that services to children, families and communities are provided in an integrated, coordinated and uniform manner. Furthermore, it will safeguard that resources are utilised, that services are accessed and delivered in an effective and efficient manner, and that expected outcomes are achieved.

A well-designed monitoring and evaluation (M&E) framework will support the realisation of the Policy and broader national development goals in multiple ways. It will serve as:

- A management tool for population and evidence-based planning of accessible and effective child care and protection services;
- An accountability tool for performance and impact monitoring; and
- An advocacy tool.

To achieve these outcomes, the national child care and protection M&E system should include mechanisms and tools, and be supported by appropriately trained personnel, to routinely collect credible and up-to-date data, analyse and use it to plan for, and to measure compliance with, quality standards, equity and inclusive targets and indicators.

6.6.2 Objectives of the M&E Framework

The objectives of the national M&E framework are to support and achieve the following actions:

- Support intersectoral collaboration and integrated planning and monitoring for an effective and efficient care and protection system;

- Promote and entrench the practice of monitoring and evaluation to catalyse the strategic, effective and efficient use of resources (human, physical, financial, institutional), tools and methodologies, time, and information;
- Facilitate assessments of implementation in relation to service delivery and compliance;
- Identify blockages and gaps contributing to any poor implementation of the Policy;
- Inform evidence-based recommendations for improving implementation and/or service delivery;
- Promote accountability for resource use against strategic objectives by the different partners;
- Support the growth in knowledge of best practices through the identification of successful evidence-based programme components (in terms of design, models of implementation, and institutional factors);
- Facilitate continuous reflection on and strengthening of management, governance and delivery practices; and
- Facilitate the participation of children and their caregivers in the monitoring and improvement of services.

6.6.3 A Fit-for-Purpose M&E System

To achieve the stated monitoring and evaluation objectives, the GRSA will develop a multifaceted system made up of the following components:

- A centralised national child care and protection monitoring, evaluation and research framework which will annually measure progress towards achievement of the national policy vision, goals and objectives;
- A monitoring, evaluation and research framework to assess and develop the knowledge base of child care and protection services;
- Mechanisms for facilitating the use of evaluation and research results by line departments and other stakeholders to improve planning and implementation of child care and protection services; and
- Norms and standards for the delivery of quality child care and protection services.

The national child care and protection monitoring, evaluation and research framework will be centrally designed and implemented to collect and provide information for annual reporting on the progress South Africa has made as a country towards the realisation of the overarching policy vision. To achieve this, the GRSA will, through the national child care and protection M&E framework:

- Receive and collate reliable and timely data on progress made by different line departments and associated stakeholders in the provision of child care and protection services and on the impact that the delivery of such services has made on achievement of the objectives of this Policy;
- Develop indicators and disaggregate data to measure progress against all elements of children's rights, including availability of services, accessibility of services for children, including children with disabilities, and quality of services as measured against prescribed standards;
- Develop indicators that measure, inter alia:
    - Realisation of the policy goals and objectives;
    - Coverage, quality, reach and impact of child care and protection services;
    - The strength of the child care and protection system and improvements in systemic components; and
    - Contribution to related NDP goals and objectives;
- Monitor progress and ensure that the evaluation results are fed back into the planning cycle to ensure ongoing improvement; and
- Develop, through collaborative agreements, processes for feeding the evaluation results into annual departmental planning cycles as well as the national assessments and planning for measuring progress and improvements in achieving the NDP goals and objectives.

The relevant departments responsible for delivery of the various child care and protection services will be responsible for implementation of the relevant monitoring and quality control and improvement systems, practices and interventions.

The DSD will facilitate the development of a Child Care Protection Policy Monitoring and Evaluation plan to support and drive the strengthening of existing M&E systems. The plan will address, inter alia, institutional M&E capacity-building, strengthening of existing M&E structures and systems, building linkages between sectoral systems, and development of standardised M&E procedures and guidelines. It will further address the development of a training curriculum to assist in developing skills critical for policy implementation, including data collection and analysis, and the utilisation of data for evidence-based planning.

6.6.4 Outcomes and Associated Pillars of the M&E Framework and System

The M&E framework and system will be designed to ensure the Policy, programmes and the systems supporting it are developmental in nature, as defined by the NDP. To this end, the framework will be designed to support several outcomes that define a developmental system.

6.6.4.1 Continuing Quality Improvement

One of the key features of a developmentally oriented system is a focus on continuing quality improvement. The M&E framework and system will therefore be designed to support continuing quality improvement across all modes of service delivery that involve child care and protection services. This will be facilitated through several mechanisms, including self-assessment processes and standardised external quality monitoring and support.

There should be a separation of administrative functions from quality improvement processes. The quality management process should be a continuing programme of self-assessment, in-service support and external assessment of services, programmes and, where applicable, facilities/institutions.

6.6.4.2 Quality Assurance

Continuing quality improvement is possible only in the presence of quality assurance or comprehensive performance monitoring. Quality assurance frameworks, including processes and procedures that measure compliance with agreed norms and standards and the achievement of outcomes for children, contribute to continuing service improvement.

To ensure effective implementation of the Policy, especially with respect to tracking progress and managing quality of services, it is essential to monitor the development of implementation plans and the provision of adequate human, material and financial resources as well as capacity-building. The focus should not only be on compliance with relevant children's legislation but on obtaining value for money.

The quality assurance framework shall include all the prescribed dimensions of the child care and protection system.

6.6.4.3 A Research-Driven, Evidence-Based System

A child protection research framework should be developed in partnership with academic and research institutions. The framework will facilitate a well-defined research agenda in support of the generation of appropriate knowledge and evidence for child care and protection.

6.6.4.4 Coordinated Data Collection

Monitoring, quality assurance, improvement and research are not possible without the routine collection and collation of data. This requires a coordinated data collection system for monitoring the situation of children, service delivery and the quality of services provided to children.

The DSD in collaboration with all stakeholders will develop an electronic, coordinated and central National Information System for child care and protection which will be accessible to relevant stakeholders to inform policy formulation, planning and monitoring.

The Information system will seek to achieve the following:

1. A sound and ethically designed and coordinated methodology for data collection and capturing will be agreed upon and implemented.
2. Information regarding child-specific needs, inequalities, and development backlogs will be collected.
3. A compendium on appropriate indicators will be designed in respect of the child care and protection of children.
4. National and provincial data will be accessible and will be disseminated to all parties within budgetary constraints.
5. The National Information System for children will, as far as possible, be compatible with information systems in other government departments, in the provinces and of DSD stakeholders.
6. The system will be implemented only after thorough consultation with all relevant stakeholders.

6.6.5 Independent Monitoring

In addition to requiring internal monitoring systems, the Policy recognises the independent child-rights monitoring role of South Africa's Chapter 9 institutions in supporting constitutional democracy, such as the South African Human Rights' Children's Commission. These institutions are recognised as critical partners in the ongoing monitoring and improvement of the child care and protection system to realise this Policy's developmental and transformative vision and goals.

CHAPTER 7
CONCLUSION

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This Policy has articulated South Africa's collective national child care and protection vision. It provides direction and articulates the requirements for the development and delivery of an effective continuum of child care and protection services that are necessary for sustained development.

This national policy provides directives that are applicable to a range of governmental entities, non-governmental and private stakeholders, communities, and parents or caregivers. It calls on all role-players to commit to the national vision and, to the extent necessary, review and revise their own sectoral policies, plans, budgets and M&E systems so that they work in harmony to create a strong national child care and protection system.

In short, this Policy provides the blueprint for laying the foundations for achieving our national development goals. It does so by providing a vision and a framework of priorities and actions for the building into of developmental child care and protection system supported by a capable public system. To ensure that the Policy drives both social and economic development and transformation, it requires that it, like the NDP, is embraced by all.

ANNEXURES

ANNEXURE A:

International, Regional and National Human Rights Instruments Obligating a Developmental Child Care and Protection System

United Nations Convention on the Rights of the Child (UNCRC) (ratified on 16 June 1995): The UNCRC is grounded in four overarching principles. These are children's right to survive, to develop to their full potential, to non-discrimination and to be heard or participate in all matters affecting them. These must be achieved through the design of programmes and services delivering the full suite of civil and political, protection, and socio-economic rights guaranteed by the UNCRC.

African Charter on the Rights and Welfare of the Child (ACRWC) (ratified on 7 January 2000): The ACRWC is grounded in the same principles as the UNCRC and guarantees the same rights as the UNCRC. It prioritises and requires states to take measures that addresses the opportunities and risks unique to children on the African continent. Notably, it emphasises the central role of the family and the community in advancing the rights and development of children. It places an emphasis on the collective responsibilities of all adults in the child's family, community, in facilities and government to work together to create a developmentally supportive and protective environment for the child. It also emphasises that children not only have rights but responsibilities to each other, their families and their communities.

International Labour Organization (ILO) Convention on the Elimination of the Worst Forms of Child Labour (adopted on 17 June 1973): The Convention requires state parties to take measures to abolish worst forms of child labour through a combination of promotive, preventative and responsive interventions, including education, family and parental support, the removal of children from work environments, and the provision of rehabilitation and social integration services.

International Convention on Cybercrime (signed on 23 November 2001): The Convention requires the adoption of comprehensive preventative, prosecutory and international cooperation measures to protect children from abuse and exploitation through electronic media.

Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption (concluded 29 May 1993): The Convention recognises intercountry adoption as a legitimate and valuable family structure that can provide the care and protection children need to develop to their full potential. However, it recognises that, in the absence of appropriate regulation, children could be exposed to abuse and frustration of their rights. The Convention requires states to recognise intercountry adoptions as a viable permanent alternative where a suitable family cannot be found in the child's country of origin, and to ensure all related procedures safeguard the best interests of the child.

Hague Convention on Civil Aspects of International Abduction (01 October 1997): The Convention aims to protect children from wrongful removal or retention by non-custodial parents and requires the adoption of procedures ensuring immediate return to their home state in cases of removal.

United Nations Guidelines for the Alternative Care of Children (24 February 2010): The Guidelines intend to enhance the implementation of the UNCRC and relevant provisions of other international instruments regarding the protection and well-being of children who are deprived of family care or who are at risk of being so. The Guidelines explain the necessity to make arrangements for children and to seek permanent solutions where the return of the child to the family is not in the best interests of the child.

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000): The Protocol is to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among states parties.

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (ratified on 30 June 2003): The Protocol prohibits the sale of children, child prostitution and child pornography. It places an emphasis on the provision of support and protective services throughout the legal system, as well as the need to respect the views and participation of affected children in proceedings where their personal interests are affected; the child victim's identity is to be protected.

Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (adopted on 3 December 1986): The Protocol gives effect to the rights of children to parental care. It recognises parents as the primary duty-bearers and parental care as the first and preferable choice, and stresses the need to secure and maintain the child-parent relationship. It requires that alternative care arrangements, notably foster care and adoptions, be considered as suitable alternatives only where parental care is inappropriate or not available, and where all measures to maintain the relationship have failed.

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (adopted 25 May 2005): prohibits the conscription into the military of children under the age of 18; seeks to ensure that military recruits are no younger than 16; it prevents recruits aged 16 or 17 from taking a direct part in hostilities. The treaty also forbids non state armed groups from recruiting anyone under the age of 18 for any purpose.

Constitution of the Republic of South Africa (Act 108 of 1996): The Constitution guarantees the full suite of children's rights set out above. It not only recognises, protects and promotes but requires the prioritisation of public measures to realise children's rights. The Constitution guarantees the following rights for all children, the realisation of which are not, as in the case of the general socio-economic rights in the Bill of Rights, subject to progressive realisation:

1. A name and a nationality from birth;
2. Family care or parental care, or appropriate alternative care when removed from the family environment;
3. Basic nutrition, shelter, basic health care services and social services;
4. Protection from maltreatment, neglect, abuse or degradation;
5. Protection from exploitative labour practices;
6. Not to be required or permitted to perform work or provide services that –
    - Are inappropriate for a person of that child's age; or
    - Place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
7. Not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be –
    - Kept separately from detained persons over the age of 18 years; and
    - Treated in a manner, and kept in conditions, that take account of the child's age;
8. To have a legal practitioner assigned to the child by the state, and at state expense in civil proceedings affecting the child, if substantial injustice would otherwise result, and
9. Not to be used directly in armed conflict, and to be protected in times of armed conflict.

Furthermore, the Constitution guarantees every child the right to basic education and requires that a child's best interests are of paramount importance in every matter concerning the child.

ANNEXURE B:

International, Regional and National Development Initiatives and Instruments Obligating a Developmental Child Care and Protection System

Sustainable Development Goals (21 October 2015): The SDGs were adopted by the UN General Assembly and chart a path for the achievement of sustainable economic, social and environmental development. South Africa has committed to the realisation of the 17 goals and 169 targets by 2030. These encompass a series of indivisible rights-based and system strengthening outcomes, all of which are recognised as essential to building and sustaining human development – the foundation of sustainable development. They include the following goals and targets which require and depend on the development of children, especially the equalisation of de-velopmental opportunities amongst the most vulnerable and marginalised. As such, they depend on the adoption of a developmental child care and protection policy and system:

SDG 1: End Poverty in all its Forms. By 2030:

- Reduce by half the proportion of men, women and children living in poverty in all its dimensions.
- Implement and achieve substantial coverage of social protection systems for the poor and vulnerable, including children.
- Build the resilience of the poor and vulnerable to reduce their exposure to vulnerability.
- Create social policy frameworks based on pro-poor development strategies to support accelerated investment in poverty eradication.

SDG 2: End Hunger, Achieve Food Security and Improved Nutrition and Promote Sustainable Agriculture. By 2030:

- End hunger and ensure access by all, especially the poor and vulnerable, including infants to safe, nutritious and sufficient food.
- End all forms of malnutrition, including stunting and wasting in children under five and address the nutritional needs of adolescent girls, pregnant and lactating women.

SDG 3: Ensure Healthy Lives and Promote Well-Being at all Ages. This includes Mental and Physical Health Focusing on Prevention and Well-Being – which in turn depends on, not just Child Survival, but Physical and Mental Well-Being. By 2030:

- End preventable deaths of new-borns and children under 5 years of age.
- Reduce by one-third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being.
- Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol.
- Ensure universal access to sexual and reproductive health-care services, including for family planning, information and education – with the aim, inter alia, of reducing adolescent pregnancies and promoting healthy pregnancies which are the foundation of optimal early development.
- Achieve universal health coverage for all.

SDG 4: Ensure Inclusive and Equitable Quality Education and Promote Lifelong Learning Opportunities for All. By 2030:

- Provide inclusive and equitable quality education at all levels – early childhood, primary, secondary, tertiary, technical and vocational training.
- Ensure that all girls and boys have access to quality early childhood development and care so that they are ready for primary education.

SDG 6: Ensure Availability and Sustainable Management of Water and Sanitation for All. By 2030:

- Achieve universal and equitable access to safe and affordable drinking water for all.
- Achieve access to adequate and equitable sanitation and hygiene for all, paying special attention to the needs of women and girls and those in vulnerable situations.

SDG 10: Reduce Inequality Within and Among Countries. By 2030:

- Empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status.
- Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.

- Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality.

SDG 11: Make Cities and Human Settlements Inclusive, Safe, Resilient and Sustainable. By 2030:

- Ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums.
- Provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons.
- Provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities.

SDG 16: Promote Peaceful and Inclusive Societies for Sustainable Development, provide Access to Justice for all and Build Effective, Accountable and Inclusive Institutions at all Levels. By 2030:

- Significantly reduce all forms of violence and related death rates everywhere.
- End abuse, exploitation, trafficking and all forms of violence against and torture of children, including physical punishment and/or psychological aggression by caregivers.
- Ensure inclusive, participatory and representative decision-making at all levels.
- Provide a legal identity for all, including birth registration.
- Strengthen national institutions to prevent violence and combat terrorism and crime.
- Promote and enforce non-discriminatory laws and policies for sustainable development.

The African Union's Agenda 2063:

Agenda 2063 is a long-term development vision shared by all member states, including South Africa. Its vision is an Africa whose development is people-drive, relying on the potential of African people, especially its women and youth and caring for children. Agenda 2063 places the care and protection of children to secure their optimal development at the centre of its development vision in its recognition that 'future progress, peaceful coexistence and welfare lies in their hands. In order to allow them to take charge of Africa's future, their full potential has to be unlocked by fully protecting and realising their rights'.

Africa's Agenda for Children 2040:

Fostering an Africa fit for Children: Africa's Agenda for Children was adopted by the Committee of Experts on the Rights and Welfare of the Child. It seeks to advance the realisation of Africa's Agenda 2063 through the development, by member states, of children's policies that advance their development through the realisation of the rights protected in the ACRWC.

SADC Minimum Package of Services for Orphans and Other Vulnerable Children (2011):

South Africa is a member of the Southern African Development Community (SADC) that is made of Member States (MS) committed to working collaboratively to advance the economic development and integration of the region through the development of human capital and strengthening political stability, peace and security in the region. SADC MS, including South Africa, recognise the fundamental link between children's development and regional development. To this end, they adopted the Minimum Package of Services, which is developmentally promotive rather than deficit-based in its focus. It recognises that all children have the right to develop to their full potential and that the realisation of this potential requires a package of care and protection that maximises their opportunities and addresses the social, economic and security risks faced by children in the region.

MS have committed to developing child care and protection frameworks that provide a minimum yet comprehensive package of care and support services recognised as key to their development. MS, including South Africa, are committed to provide the following package of services in appropriate combinations at appropriate stages in the life cycle of the child to support their development to their full potential:

- Education, including early childhood development services;
- Health care and sanitation;
- Food security and nutrition;
- Protection and safety;
- Psychosocial services; and
- Social protection, which includes financial and social assistance.

The National Development Plan 2030: Our Future – Make It Work:

The NDP domesticates the global and regional sustainable development agenda. It aims to eliminate poverty and reduce inequality by 2030. The foundational strategy of the NDP is to achieve and sustain social and economic development through the development of the country's human capital through collective action by all role-players that advances national development priorities.

Building human capital so as to eliminate poverty and reduce inequality is fundamentally dependent on the provision of a universal, rights-based social protection floor for all. Critically, the NDP recognises that the social floor must guarantee systematic social inclusion through universal access to services that unlock and optimise the potential of all, starting in the earliest years with children and giving priority to the most vulnerable and marginalised. The envisaged floor includes the universal provision of early childhood development services, education, basic services and adequate nutrition, as well as safe and inclusive communities and families.

The NDP recognises that significant progress has been made in providing a social floor, especially for children. However, nearly two decades after the transition to democracy, social exclusion and inequality levels remain high. The structural legacy of apartheid keeps vulnerable families and children trapped in an intergenerational cycle of poverty and sustains the deeply divisive patterns of inequality.

The NDP stresses that achieving and sustaining the country's development goals depends on equalising the life-opportunities of the most vulnerable and marginalised children through their systematic social, economic and political inclusion. The equalisation of their development opportunities depends on the provision of services, support and systems that respond to well-documented child-poverty traps and ensure the interruption of the negative intergenerational cycle that impedes development. Notable poverty traps prioritised by the NDP include poor health and nutrition, poor quality education, social exclusion, exposure to violence, abuse and exploitation, inaccessible and poor-quality infrastructure, and political exclusion and disempowerment of the most vulnerable and marginalised.

The NDP charts a path for the transformation of society and the economic landscape under the stewardship of a developmental state. It defines a developmental state as one that tackles the root causes of poverty and inequality at source through collective action by all, including parents, government, civil society and business.

Using the NDP's own stated criteria, a developmental state must be built upon developmental child care and protection policy and services that address the root causes of poverty and inequality, starting with the youngest children, through:

- The provision of a universal social floor of services required to ensure the optimal development of the capabilities of all children;
- Additional targeted measures to overcome the poverty traps that keep vulnerable children and their families, socially, economically and politically excluded;
- Recognition and accountability by all responsible role-players for fulfilment of their collective duty of care and protection by; and
- Evidence-based and responsive child care and protection policies, programmes, budgets and services that are developed, delivered and monitored through inclusive and participatory political and governance processes which involve children and their families, including the most vulnerable and marginalised.

Critically, the NPD identifies inclusive and participatory, as well as a capable government as core features of a developmental state. The NDP stresses that it is not enough to just have developmental policies but that these must be translated into effective programmes which ensure a package of developmental services, inclusive societies and economies, and participation, and which can sustain the collaborative partnerships upon which the realisation of children's rights depend.

The NDP thus requires strong and effective systems and institutions to support implementation of the developmental child care and protection policy to ensure all children, especially the most vulnerable, survive, are protected and develop to their full potential. Moreover, it requires a collective assumption and fulfilment of responsibilities of all role-players in the country, not just government, to advance achievement of the country's developmental priorities. As such, it implicitly requires countrywide collective commitment to, and delivery of, a network of services and support for children.

ANNEXURE C:

Policies and Strategies Adopted Advancing the Care and Protection Responsibilities and Rights in South Africa

Constitution of the Republic of South Africa:

The Constitution recognises and guarantees the rights of all children to support and services to ensure their well-being – their survival, protection from abuse, neglect and exploitation, and to develop to their full potential.

White Paper on Social Welfare (1997):

One of the first steps taken by the newly democratically elected government was to adopt the White Paper. It rejected the former fragmented, rehabilitative-focused social welfare policy in favour of a transformative and holistic developmental social welfare policy. It sought to shift the national response from a welfare-based model to a rights-based social development model.

National Plan of Action for Children (NPAC) in South Africa 2012-2017:

It provides a holistic framework for the integration of all policies and plans developed by government departments and civil society to promote the well-being of children. It calls for coordinated, rights-based measures that ensure the development of all children to their full potential, as well as their protection, and outlines the country's goals, objectives and the responsibilities of different role-players.

White Paper on the Rights of Persons with Disabilities Implementation Matrix 2015-2030:

It commits government to taking concrete measures, including programming, strategic, resourcing and monitoring steps, to give effect to the responsibilities set out in the White Paper.

Framework and Strategy for Disability and Rehabilitation Services in South Africa 2015-2020:

The Framework, developed by the Department of Health, recognises that all people in South Africa, including children, have a right to develop to their full potential and to equal enjoyment of all their rights. It further recognises that an increasing number of children are at risk of avoidable and preventable development delays and disabilities because of improved mortality rates and their exposure to multiple and intersecting factors – social, economic and service delivery challenges and failures in the health sector. The Framework commits to the development and implementation of an integrated, comprehensive and appropriate suite of disability and rehabilitation services through the public health system that promote health development, prevent disabilities and delays, and ensure access to quality curative, rehabilitative and palliative care measures across the life cycle of the individual.

National Integrated Early Childhood Development Policy (2015):

The National Integrated Early Childhood Development Policy recognises that development, especially in the earliest years of a child's life, is key to the equalisation of children's opportunities to develop to their full potential and to the attainment of the country's national development goals. It mandates and prioritises the public provision of a comprehensive continuum of care and protection services for young children, especially in their first 1000 days when risks are the greatest and investments yield the highest developmental returns.

The policy specifically requires the universalisation of essential developmentally promotive services and adoption of special measures to ensure access by the most vulnerable and marginalised. The essential developmental package to be provided includes:

- Health care and nutrition programmes;
- Social protection programmes;
- Parent support programmes;
- Opportunities for learning; and
- Public communications programmes.

Integrated Plan of Action on Violence Against Women and Children:

The Plan is a multisectoral initiative developed with the objective of eliminating all forms of violence against women and children. It rests on three pillars: prevention and protection; response; and care and support.

Departments of Basic and Higher Education

- Education Laws Amendment (Act No. 31 of 2007): This law, as it pertains to the protection of children, makes provision for support measures and/or structures for counselling a learner involved in disciplinary proceedings. It also gives effect to random search and seizure and drug testing at schools.

- Education White Paper 6: Special Needs Education Building and inclusive education and training system (2001): The White Paper recognises and gives effect to the constitutionally protected right of all children to education, notably those with disabilities, who are excluded from the right because of the inability of the education system to accommodate their learning needs. It provides a guide for the transformation of the education system to become an inclusive, legally compliant institution that recognises, respects and protects the rights of all children to quality education.

- Employment of Educators (Act No. 76 of 1998) as amended: This Act applies specifically to educators, making provision for the dismissal of any educator who is found guilty of sexually molesting a learner.

- National School Safety Framework: The DBE has developed the Framework with the aim of creating safe, violence and threat-free supportive learning environments for learners, educators, principals and school governing bodies. It is a tool for school managers to create supportive and safe learning environments.

- South African Schools (Act No. 84 of 1996): The Act gives effect to the right of all children to basic education, which is essential to the development of children and the country as a whole. It makes provision for special measures for the inclusion of vulnerable children, such as those living in poverty, and further makes provision for the protection of children from violence, abuse and exploitation within the education system.

Department of Communications and Digital Technologies

- Broadcasting Act (Act 4 of 1999); The Act aims to establish a strong and committed public broadcasting service which will service the needs of all South African society; ensure plurality of news, views and information and provide a wide range of entertainment and education programmes; cater for a broad range of services and specifically for the programming needs in respect of children, women, the youth and the disabled.

- Electronic Communications and Transactions Act (Act 25 of 2002); The Act seeks to enable and facilitate electronic communications and transactions in the public interest, and for the purpose to, among other things, promote universal access primarily in underserviced areas; remove and promote barriers to electronic communications and transactions in the Republic; develop a safe, secure and effective environment for the consumer, business and government to conduct and use electronic transactions; promote the development of electronic transactions services which are responsive to the needs of users and consumers and ensure that, in relation to the provision of electronic transactions services, the special needs of particular communities and, areas and the disabled are duly taken into account.

- Electronic Communications Act (Act 36 of 2005); The primary object of this Act is to provide for the regulation of electronic communications in the Republic in the public interest and for that purpose to, among others, promote the empowerment of historically disadvantaged persons, including Black people, with particular attention to the needs of women, opportunities for youth and challenges for people with disabilities; ensure that broadcasting services and electronic communications services, viewed collectively, are provided by persons or groups of persons from a diverse range of communities in the Republic; promote the interests of consumers with regard to the price, quality and the variety of electronic communications services; ensure that broadcasting services, viewed collectively— (i) promote the provision and development of a diverse range of sound and television broadcasting services on a national, regional and local level, that cater for all language and cultural groups and provide entertainment, education and information; (ii) provide for regular— (aa) news services; (bb) actuality programmes on matters of public interest; (cc) programmes on political issues of public interest; and (dd) programmes on matters of international, national, regional and local significance; (iii) cater for a broad range of services and specifically for the programming needs of children, women, the youth and the disabled.

- Independent Communications Authority of South Africa Act (Act 13 of 2000); the object of this Act is to establish an independent Authority which is to regulate broadcasting in the public interest and to ensure fairness and a diversity of views broadly representing South African society, as required by section 192 of the Constitution; regulate electronic Communications in the public interest; regulate postal matters in the public interest in terms of the Postal Services Act, and regulate electronic Communications in the public interest.

- Films and Publications (Act No. 65 of 1996): This Act prohibits the production, possession, import, and distribution of pornographic material that depict children (below 18 years of age).

- Guidelines for the Prevention of, and Response to Child Exploitation (2013): The Guidelines regulate the provision of services to foreign exploited children who require care and protection and the provision of assistance for asylum application as victims of trafficking, labour, commercial sexual exploitation and cybercrime.

- ICT Strategy: The Strategy provides for the overall care and protective of children when engaging in online activities.

Department of Correctional Services

- Child Offender Policy: The Policy seeks to facilitate transformation and guide the distribution of resources, services and programmes to ensure the fair and humane treatment of child offenders.

- Correctional Service (Act No. 111 of 1998): This Act make provision for the care and protection services for children in detention, as well as children born to incarcerated parents. More widely, it makes provision for the enforcement of sentences of the courts, safe custody, promotion of social responsibility and development of all offenders and persons subject to community corrections. This provision does not discriminate against children in detention.

- Correctional Services Amendment (Act No. 25 of 2008): The Act provides for babies of incarcerated mothers to stay with them until they reach the age of 2 years old and a suitable placement can be found outside.

- Mothers and Babies Policy: The Policy informs and guides operations with regard to the treatment and management of incarcerated mothers who are with their babies, taking into account their unique and special needs.

- White Paper on Correctional Services in South Africa (2005): The White Paper identifies incarcerated children as a special category of offenders who require age appropriate treatment to advance their rights and development as protected in the Constitution. The White Paper declares that children should not be in correctional centres and should as far as possible be diverted from the criminal justice system. Where this is not an option, they should be accommodated in secure care facilities designed for children.

Department of Defence

The Department of Defence should give effect to the The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict by

- Prohibiting the conscription into the military of children under the age of 18;

- Preventing recruits aged 16 or 17 from taking a direct part in hostilities; and

- Forbidding non state armed groups from recruiting anyone under the age of 18 for any purpose.

Department of Employment and Labour

- Basic Conditions of Employment Act (No. 75 of 1997): The Act protects children against child labour and hazardous employment. It prohibits the employment of children under the age of 15 years and the employment of any child in work that places the child's well-being and development at risk. It further protects the rights of parents (mothers and fathers & adoptive parents) to maternity and paternity leave, and protects the rights of breastfeeding women to breastfeeding breaks.

- Unemployment Insurance Fund (UIF): The Fund makes provision for contributory maternity social security benefits.

Department of Health

- Choice on Termination of Pregnancy (Act No. 92 of 1996): The Act gives effect to the constitutional protection of the right to reproductive health care services, including family planning and contraception. This Act recognises the state's responsibility to provide reproductive health to all, including the right of every woman to choose an early, safe and legal termination of pregnancy according to her individual beliefs.

- Maternal, Newborn, Child and Women's Health and Nutrition Strategic Plan (2012): The Plan recognises universal access to quality health and nutrition services by women and children as essential to their development and well-being. It seeks to improve coverage, quality and equitable access to a package of core developmentally promotive services through strategies that address social determinants of health, strengthen community-based delivery, and strengthen the human resource capacity for delivering services under the Plan.

- National Health (Act No. 61 of 2003): The objects of the Act are, inter alia, to protect, respect and fulfil the rights of children to basic nutrition and basic health care services as contemplated in section 28(1)(c) of the Constitution. The Act further provides for the conditions under which vulnerable groups such as women, children, older persons and persons with disabilities may be eligible for free health services.

Department of Home Affairs

- Births and Deaths Registration (Act No. 52 of 1992): The Act gives effect to the fundamental right of all children to an identity and a nationality. It requires the registration of all births for children born of South African citizens, permanent residents and refugees, non-South African citizens, including infants who are abandoned and orphaned. While the Act and accompanying regulations provide for free registration, late registration of births (after 30 days of the birth) is penalised and a service fee is applicable.

- Immigration (Act No. 19 of 2004): The Act regulates the entry and exit of persons, including children under the age of 16 years, into and from South Africa.

- Marriages (Act 1961) and the Recognition of Customary Marriages Act (Act 120 of 1998): These laws regulate the age of marriage and make provision for the protection of children against forced and early marriages.

- Refugees (Act No. 130 of 1998): This Act makes provision for the equal protection of refugee children under the law. It entitles them to receive the same care and protection services as any other child in South Africa. It also deals with applications for asylum.

Department of Justice

- Child Justice (Act No. 75 of 2008): The Act establishes a criminal justice system for children in conflict with the law to ensure their protection and development as required by the Constitution and the international obligations of the Republic. It provides, inter alia, for a minimum age of criminal capacity of children; mechanism for dealing with children who lack criminal capacity; and the diversion of children from the criminal justice system; and prescribes standards and practices for the protection and development of children at all stages of their engagement with the system, from their entry or arrest, through to attendance at court, and release, detention and placement in alterative care settings.

  The Act requires, inter alia, the assessment of children; the holding of a preliminary inquiry and to incorporate, as a central feature, the possibility of diverting matters from the formal criminal justice system in appropriate circumstances. It regulates judicial proceedings for children that are not diverted, their sentencing and placement options, and entrenches the notion of restorative justice in the criminal justice system.

- Criminal Law (Sexual Offences and Related Matters) Amendment (Act No. 32 of 2007): The Act seeks to afford victims of sexual offences the maximum protection and to minimise the experience of trauma within formal protection processes. The Act places all law relating to sexual offences under one piece of legislation, criminalises all forms of sexual abuse and exploitation, and expands certain definitions of sexual offences, introducing gender-neutrality across definitions. The Act explicitly aims to protect victims and their families from secondary victimisation and trauma, and recognises the vulnerability of children, women and persons with disabilities. It also makes provision for the rendering of certain support services to victims, such as post-exposure prophylaxis, and establishes a National Register for Sex Offenders.

- Domestic Violence (Act No. 116 of 1998): The Act makes provision for protection through the courts of all people, including children, to be afforded against acts of domestic violence. In terms of the Act, domestic violence covers physical, social and emotional abuse.

- Maintenance (Act No. 99 of 1998): The Act gives effect to the responsibilities of both parents to provide the care their children need. It creates a system for enforcing the duty through an application for a court order compelling the payment of maintenance by defaulting parents.

- Mediation in Certain Divorce Matters (Act No. 24 of 1987): The Act created the Office of the Family Advocate. It establishes procedures and mandates the Family Advocate to consider the views of children, protect them and ensure that their best interests remain paramount in divorce and related family law proceedings.

- Prevention and Combating of Trafficking in Persons (Act No. 7 of 2013): The Act seeks to give effect to the Republic's obligations concerning the trafficking of persons in terms of international agreements. It thus provides for an offence of trafficking in persons and other offences associated with trafficking in persons; penalties that may be imposed in respect of the offences; measures to protect and assist victims of trafficking in persons; coordinated implementation, application and administration of this Act; and prevention and combat of the trafficking in persons within or across the borders of the Republic.

- Protection from Harassment (Act No. 17 of 2011): The Act provides for the issuing of protection orders against harassment, effects consequential amendments to the Fire arms Control Act, and provides for matters connected therewith.

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Children's (Act No. 38 of 2005): The Act is a comprehensive law developed through an extensive nationwide review of the apartheid-era Child Care Act and system. It represents a radical shift from the past legislation protecting children. The Act reflects a holistic and developmental approach to care and protection of children, and seeks to give effect to South Africa's responsibilities to children under the UNCRC and ACRWC. It recognises parents and families as the primary care and protection duty-bearers. It further recognises that they need support to fulfil these duties, and that in certain cases, children will be deprived of parental or family care and require additional, higher levels of support. It recognises the multiplicity of care arrangements that exist in South Africa and mandates and regulates the provision of a continuum of support to parents and families, as well as children in alternative care settings, to ensure their well-being, optimal development and protection. In addition to these holistic national comprehensive, multisectoral policies and strategies, a host of policies and programmes have been developed by specific departments to recognise, protect and promote the realisation of children's rights.

- Probation Services (Act No. 116 of 1991): The Act provides for the establishment of programmes aimed at combating crime and to render assistance to and treatment of persons involved in crime, including children. It makes provision for programmes aimed at the prevention and combating of crime and the mandatory assessment of, and provision of support for, arrested children.

- Social Assistance (Act No. 13 of 2004): The Act provides for qualifying children from impoverished families and those with severe disabilities to receive a Child Support, Foster Child and Care Dependency Grant, respectively. The Act gives effect to the constitutionally protected rights of families and children to social security.

- Social Services Profession (Act No. 110 of 1978): The Act seeks to strengthen the quality of services by providing for the regulation of all social service professions. It provides for the establishment of the South African Council for Social Services Professions and professional bodies for social service professions, sets out of a Code of conduct for social service and related professionals, and sets standards for their training and education.

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