

Developmental social welfare policies and children's right to social services

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The nature and scope of children's right to social services depend on what kind of social welfare system is mandated by the Constitution. The Constitutional Court's interpretations of children's rights and other socio-economic rights point to a *developmental* social welfare system.

This essay looks at three policies to determine if they give effect to this developmental social welfare system in light of children's constitutional right to social services. Practically the essay analyses whether the policies enable a shift in emphasis from protection services (traditionally known as statutory services) to prevention and early intervention services, thereby giving effect to the transformative vision of the Bill of Rights.

This essay is limited to Department of Social Development policies that describe the role of the department within the social welfare system. These policies deal with the department's general approach and are not restricted to a particular vulnerable group. Topic-specific policies, which potentially affect children's right to social services, are not analysed.

This essay:

- discusses the meaning of a developmental social welfare system;
- analyses if the 1997 White Paper for Social Welfare – the first policy dealing with the new developmental social welfare system – adheres to the developmental approach;
- investigates whether the 2004 Policy on Financial Awards to Service Providers – which guides the funding of non-profit organisations who provide services – facilitates the transformation towards a developmental social welfare system; and
- looks at whether the 2006 Service Delivery Model for Developmental Social Services – which aims to clarify roles and responsibilities and the types of services to be delivered – recognises the full scope of children's right to social services within a developmental social welfare system.

What is a developmental social welfare system?

The 'social welfare system' is the overall system put in place by the State to protect the well-being or "social welfare" of its

people through a variety of programme interventions such as housing, health care, education, social security and social services.

There are different types of social welfare systems and South Africa has adopted a developmental one. A developmental social welfare system aims to parallel economic with social development. In relation to children, this type of social welfare system focuses the majority of its human and financial resources on the prevention of social problems. Broad socio-economic entitlements and other poverty alleviation programmes mandated by the Constitution form part of that preventative strategy. These broad, socio-economic preventative interventions require a variety of government departments to work together with the common vision of a developmental state.

When prevention has not been successful, a developmental social welfare system aims to intervene through 'early intervention services' when the first signs of social problems appear. This fits in the developmental approach because, firstly, it avoids costly intervention once the problems have occurred and, secondly, because it encourages the optimum social development of the child. Social and economic development are therefore addressed holistically.

Does the 1997 White Paper for Social Welfare promote a developmental social welfare system?

The White Paper for Social Welfare (hereafter called "the White Paper") is the first overall social welfare policy under the 1996 Constitution. Its stated vision is therefore to reform the apartheid era residual social welfare system and to bring it in line with the new constitutional framework and binding international law. The White Paper is in line with the 1994 macro-economic policy, namely the Reconstruction and Development Programme (RDP), which envisaged meeting the basic needs of people and investing in human capital. Social development expert Leila Patel argued in 2003 that, in the face of deep poverty, social exclusion and an extremely tight budget, the drafters of the White Paper adopted the developmental approach to social welfare because it addresses both economic *and* social development.

DIAGRAM 4: The shift in emphasis of types of service interventions from a residual to a developmental welfare system



Source: Financing Policy Notice 463 of 1999:14. In: Dutschke M (2007) *Rights in brief: Defining children's constitutional right to social services*. Cape Town: Children's Institute, UCT.

Emphasis on prevention in an array of services

The developmental social welfare system prioritises prevention services in relation to families and children. These services give effect to children's constitutional right to family and parental care because they work with the child and the family to prevent the removal of the child to state alternative care. In the White Paper 'prevention' refers to primary, secondary and tertiary prevention. 'Primary prevention' refers to early intervention that enables households to avoid problems. It is directed at people who do not currently have problems but where the conditions in the community are likely to lead to some level of social dysfunction. Later policies use the term 'early intervention' as a service level separate from prevention, which can cause some confusion.

'Secondary prevention' aims to identify and work with people who are at risk of developing problems and 'tertiary prevention' is aimed at preventing the further development of problems in individuals who display pre-existing problems or dysfunction.

The White Paper stands in stark opposition to the pre-1996 residual social welfare system that only provided services for a small, selected group of people. It focused specifically on remedial interventions and worked on a specialised case-by-case basis, ignoring the individual's connections to broader family and community structures. The residual social welfare system therefore only kicked in once there was a need for clinical, strict social work-type interventions. The shift in emphasis of the types of social service interventions from a residual to a developmental social welfare system is illustrated in diagram 4.

Apart from prevention, the White Paper also mandates an array of other social services. 'Protection services' are not

defined but adoption is cited as an example. These services broadly speaking give effect to the right to appropriate alternative care. The White Paper also identifies a range of children who are in especially difficult circumstances and recognises that, to achieve substantive equality, certain groups of children must receive additional, specialised social services as part of mainstream service provisioning.

Even though the White Paper calls for services across the different service levels, the classifications it uses are not absolute. Services are therefore termed according to the situation they apply to, and according to the function that they fulfil in a particular situation and in relation to a particular child.

Envisages a variety of service providers

The White Paper also envisages that a range of social development workers are to be employed. It therefore moves away from the strict clinical model of social work applied during the apartheid days. 'Social development workers' in the White Paper refers to different categories of social welfare and other personnel including social workers, social auxiliary workers, community development workers, child and youth care workers and other categories that may still be defined. For details on progress in recognising a variety of social service practitioners other than social workers to date, see the essay on page 48.

Envisages inter-departmental collaboration in the delivery of prevention services

The White Paper calls for strong inter-sectoral collaboration in recognition that prevention services within a developmental social welfare system need commitment from a variety of departments and not just from the Department of Social

Development. The White Paper tasked the Department of Social Development to negotiate the promotion of such a welfare model with other departments, in particular Health and Education.

Does the 2004 Policy on Financial Awards to Service Providers facilitate the transformation towards a developmental social welfare system?

The White Paper sets the overall framework for delivery on children's rights to care and protection in a family environment within a developmental social welfare system. The purposes of the Service Delivery Model for Developmental Social Services (discussed in the next section) and the Policy on Financial Awards to Service Providers (hereafter called the "Financial Awards policy") are respectively to outline exactly what services should be delivered and how they will be funded.

The Financial Awards policy supersedes the 1999 Financing Policy. The aim of both policies is to regulate the way in which NPOs – which provide the majority of social services – can qualify for funding from government. The Financial Awards policy originated out of a context where social security spending had been expanded and fiscal restraint was being exercised through the 1996 Growth, Employment and Redistribution policy (which shifted and replaced the RDP). Patel argued in an overview of a decade of post apartheid social welfare, that this macro-economic shift was one of the factors that created an unfortunate climate for spending on social services.

Financial Awards policy's transformation criteria for NPOs

The Financial Awards policy describes the criteria that NPOs need to meet to access government funding for the social services they deliver. It in principle incorporates the developmental social welfare approach and related prevention and early intervention services. It recognises that considerable transformation is needed to make the developmental social welfare model a reality, and sets out a number of criteria to determine if transformation of the NPOs has happened. In other words, the criteria are used to assess NPOs that provide services. Hence, the ability to access funding for their services from government is linked to the extent to which NPOs have transformed according to the criteria: the more they have "transformed", the greater their chances of accessing funding. To show that they have transformed NPOs are required to:

- implement programmes aimed at early intervention and prevention;
- provide services irrespective of race, gender and service beneficiaries' ability to pay;

- keep service beneficiaries in their homes and communities; and
- redirect services to previously marginalised communities and prioritise service delivery to the most vulnerable.

NPOs cannot fund their own transformation

The Financial Awards policy drafts angered many civil society groups (such as the National Welfare, Social Service and Development Forum) who felt that they were not properly consulted in its development. It was criticised for being based on a situational analysis that was outdated and for relying on a small sample size from which sweeping generalisations were made. The National Welfare, Social Service and Development Forum, a large coalition of NPOs and other service providers, in particular made substantial submissions on the draft policy to the Department of Social Development. The key issues are summarised below:

1. NPOs recognise that prevention services are crucial in the developmental social welfare system. Their concern is about raising the necessary funds to provide such services. When funding shrinks, prevention services are the first to be scrapped because immediate, crisis situations involving vulnerable persons are prioritised. Unfortunately the department's call for a shift towards prevention was accompanied by a reduction of funding for protection services (traditionally known as statutory services), which often involve children in life or death situations. Government does not provide all the needed protection services itself and therefore critically depends on NPOs to deliver these services. NPOs cannot be asked to take their limited funding away from crisis situations to focus on primary prevention and early intervention services under these conditions. Additional funding to give effect to prevention and early intervention services is needed without drawing scarce and crucial resources away from dealing with crisis situations.
2. As the case study on the next page shows, many NPOs are small community-based organisations operating within extremely tight budgets. Unless additional funding is provided by government it is impossible for NPOs to provide services regardless of the receiver's ability to pay.
3. The requirement that NPOs must attempt to keep service recipients in their home ignores the fact that there is a lack of prevention and early intervention services within communities. NPOs like the one in the case study provide a prevention service but are struggling to get funding. Many children and other service recipients therefore need to be removed from their homes because there are no alternative options. NPOs providing protection services should therefore not be disadvantaged because they assist the removal of children from their homes when there is no other option.

4. Requiring urban-based NPOs to expand their services to rural areas is unworkable in the present conditions without retracting the much needed services in the densely populated urban areas. It is impossible for an urban-based organisation that is struggling to access funding to expand services into rural areas without the necessary support from government.

Over-reliance on non-governmental sources of funding

The Financial Awards policy states that NPOs have the capacity and infrastructure to raise funds from other sources and that they are required to continue doing so. The policy therefore continues to rely on the NPO sector to provide the majority of the social services required in the developmental social welfare system despite the fact that these are ultimately government's responsibility to provide.

For social service providers who specialise in protection services to children in crisis, the call to provide prevention and early intervention services without any financial assistance to do so is unworkable. In effect, through this approach, government is calling on these NPOs to fund their own transformation in order to access government assistance. For NPOs who provide prevention and early intervention services in under-served areas, raising funds from other sources is an impossible requirement, as the case study shows.

It is therefore unlikely that the gaps in service delivery are going to be closed by this policy. The government is called upon to accept that it bears the primary responsibility to provide social services and to fund and facilitate the constitutionally mandated transformation towards a developmental social welfare system.

The fact that there is an array of organisations and individuals who are providing a variety of services should be seen as a major resource which needs to be strengthened to enable them to function optimally.

Community-based projects providing prevention services struggle to access government funding

Despite the policy rhetoric about prevention and early intervention needing to be prioritised in government funding decisions, in reality many NPOs are struggling to access recognition and funding from government. If community projects struggle to access government funding, the prevention layer illustrated in diagram 4 is compromised. The result is more children reaching a state of crisis, requiring costly statutory or protection services.

The case study below illustrates the problem faced by NPOs in under-served areas in their attempts to access funding. Note that in this case the NPO provides a prevention service – early childhood development – and thus conforms with the transformation requirements set by the Financial Awards policy.

CASE STUDY 3: Testimony from a community-based service provider

Nomsa Manxiwa Nqeza runs an early childhood development (ECD) centre for 80 young children in Philippi, an impoverished urban area outside Cape Town. "Philippi is most populated with poverty, crime and alcoholism. Most parents are not working, and some are students. So they have no-one to look after their babies without us. So we also provide a meal for the children while the parents and the mothers are at work. Some of the children are staying with their grandmothers, because their other mummies have passed away or disappeared."

In the centre she provides ECD, Grade R and other social services for children.

"I do this because I want to give help in my community, also to protect children from the abuse. There is a high rate of abuse in this area. When they can't go to crèche, they can get abused from the people around the area and they can also have accidents because nobody looks after them when their parents go to work and to school."

Nomsa made a submission to Parliament on the Children's Bill in August 2004, describing how she struggles to

get funding to run her centre. At the time of her submission she was not receiving any funding from the Department of Social Development despite many attempts to get funding from the department. Nomsa talks about her own experience but acknowledges that other people in her community engaged in similar work have the same problem. She tries to raise funds from other organisations and through fundraising activities, but everyone in the community is affected by poverty and accessing funding is a continuous struggle.

When asked what help she needs, Nomsa replies: "I want government to recognise our work. It's like they don't recognise that our work is something important in the world. All I want is for the Department of Education and the Department of Social Development to understand what we are doing. Then they can come and make registration better, and pay the subsidies properly. They will pay us on time. They will work together so there is not always paperwork here and meetings there and everything takes too long. They will support us to educate and look after the children."

Source: Quamani Educare submission to the Portfolio Committee on Social Development in Parliament, August 2004.

Does the 2006 Service Delivery Model for Developmental Social Services recognise the full scope of children's right to social services within a developmental social welfare system?

The Service Delivery Model for Developmental Social Services (SDM) seeks to provide clarity on the nature, scope and level of services in the developmental social welfare system, but specifically excludes social security.

The SDM classifies services in two separate ways. Firstly, it sets out different *levels of service* interventions. These are:

- prevention;
- early intervention;
- statutory intervention/residential/alternative care; and
- reconstruction and aftercare services.

Secondly, the SDM classifies services in terms of the *nature of services* that are to be provided. These are:

- promotion and prevention services;
- rehabilitation services;
- protection services (traditionally known as statutory services);
- continuing care services; and
- mental health and addiction services.

Confusing classification of services

The two different classifications for services add a considerable amount of confusion in terms of identifying what services fall under which category. This confusion is particularly problematic because the Financial Awards policy allocates subsidies to NPOs on the basis of the types of services they provide.

Diluting prevention services

The primary focus on prevention services has been watered down in the SDM. The three levels of prevention services – primary, secondary and tertiary – which were articulated in the White Paper have been lost. The notion that prevention services must and should kick in at any given point has thus unfortunately been abandoned. Note also that early intervention – which under the White Paper was classified as 'primary prevention' – is distinct from prevention services under the SDM.

Losing constitutionally mandated services

A variety of services recommended by international law commentators should be included under children's right to social services. These are set out in the right to social services essay on page 23. These services give effect to children's right to family care and parental care and their right to appropriate alternative care when removed from the family environment. They also give effect to children's right to be protected from all forms of neglect and abuse regardless of whether they are being cared for by parents or family or whether they are living

in alternative state care. Only a few of these internationally recommended services are included in the SDM. The SDM therefore does not provide a comprehensive list of all the services that are constitutionally mandated in relation to children's right to social services. It is unfortunate since the White Paper included a satisfactory variety of services.

Not mainstreaming services for people with special needs

The SDM classifies services according to groups of people, namely children, families, people in trouble with the law, youth, people involved in substance abuse, women, older persons, people with disabilities, and people affected by HIV/AIDS. It is clear that one person can fall into a variety of different categories, yet no provisions are made for services cutting across these classifications. This may result in some people suffering multiple forms of discrimination. It also runs the risk of conflating the diverse service needs of people falling into a single classification.

Consider a child that has lost one or both parents to AIDS as compared to an adult who is addicted to drugs and HIV positive. These two individuals have very different service needs. The child has material needs and needs social services to deal with the trauma of losing his/her parents. The adult needs rehabilitation, medication and other forms of ongoing support very different to the support the child is likely to need. The approach adopted by the SDM of grouping all people affected by HIV/AIDS together may mean that services specific to the needs of children may be lost or left out. Programmes addressing specific vulnerabilities should therefore be integrated across key programmes for children and youth and older persons.

No mechanism for collaboration

The SDM acknowledges that there has to be collaboration between a variety of government departments and clusters. Patel has argued that the SDM does however not include any mechanisms to ensure that such collaboration will indeed happen. This is a major omission especially since, within the developmental social welfare system, prevention services are largely to be provided by other departments such as Health and Education. The Department of Social Development must be able to engage the other relevant departments to provide prevention services. The absence of inter-departmental collaboration could have devastating effects for children's right to social services, since the original idea of the developmental social welfare system was to provide basic socio-economic entitlements – which are delivered by a variety of departments – as the main form of prevention.

The case study on the next page illustrates how the Department of Water Affairs and Forestry and local municipalities have a role to play in preventing neglect – in this case of the nutritional needs – of children affected by HIV/AIDS.

CASE STUDY 4: Growing food, but no water

I'm Namhla* from KwaZulu. I am an orphan. At home I live with my older sisters. I grow the garden there. I have green fingers! But this year all the plants are not there because there was no water ...

*Not her real name.

Source: Extract from the *Dikwankwetla – Children in Action* submission on the Children's Bill to the Portfolio Committee of Social Development in Parliament, August 2004.

NPOs must deliver but funding is unclear

The SDM requires NPOs to continue providing both specialised and generic services but says nothing about changing the way in which they are funded. If NPOs are to continue to provide the majority of social services, they need to be financially supported and funded by government.

What role does the Children's Act play in the policy framework for social services?

Once the Children's Act (No 38 of 2005) as amended by the Children's Amendment Bill [B19F-2006] is put in force it will be the primary legal framework governing social services for children and it will supersede the policies described above. It is therefore necessary for the Financial Awards policy and the SDM to be revised to bring them in line with the new legislative obligations (see the Act essay on page 35) and the terminology used in the Act.

What are the conclusions?

This essay traced the provisioning of social services through three Department of Social Development policies. The White Paper was the first to lay the foundation for the developmental social welfare system. It provides strongly for preventative service delivery including primary, secondary and tertiary prevention. It also calls for collaboration between civil society and government as well as inter-departmental collaboration to give effect to the shift in the approach to social welfare.

The Policy on Financial Awards for Service Providers adheres to the developmental social welfare terminology but doesn't commit to funding the transformation towards providing all levels of services. The Financial Awards policy relies heavily on the provision of services by NPOs but only commits to funding them if they do in fact provide prevention services across the urban and rural divide. There is no commitment from the government to set up and fund these services where they do not yet exist. Hence, community-based projects that attempt to provide prevention services in under-served areas struggle to access funding.

The Service Delivery Model for Developmental Social Services does not support the developmental social welfare approach as much as the other two policies discussed. While in theory the SDM still adheres strictly to the "developmental welfare speak", it reduces the recognised prevention services. It also fails to mainstream services to vulnerable groups of people who fall into multiple categories. It also fails to ensure inter-departmental collaboration, which can have devastating effects for prevention services because these, to a large extent, have to be provided by government departments other than Social Development.

Once in effect, the provisioning, strategy, and norms and standards clauses in the new Children's Act (as amended) will supersede the policies above. The policies therefore need to be reviewed and rewritten to take into account the State's legislative commitment to be primarily responsible for the provision and funding of social services, including prevention and early intervention services.

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