

DEINSTITUTIONALISATION POLICY FOR CHILDREN IN SOUTH AFRICA

Prepared by the Southern African Policy and Development Nexus (SAPDN) for One Child One Family - Hope and Homes for Children South Africa (OCOF-HHCSA).

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ACRONYMS

AIDS - Acquired Immunodeficiency Syndrome
ANC – African National Congress
ART - Antiretroviral therapy
CSOs - Civil Society Organisations
COVID-19 – Coronavirus
CYCC - Child and Youth Care Centre
DSD – Department of Social Development
ECD – Early Childhood Development
GEAR - Growth, Employment, and Redistribution
GDP – Growth Domestic Product
GDSD - Gauteng Province Department of Social Development
HHCSA - Hope and Homes for Children South Africa
HIV - Human Immunodeficiency Virus
IMC - Inter-Ministerial Committee
M&E – Early Childhood Development
NCRC - National Children’s Rights Committee
NDP – National Development Plan
NIEP - National Institute of Economic Policy
NP - National Party
NPA - National Programme of Action
NPO – Non-Profit Organisation
PAR - Performance and Accountability Reporting
POA – Programme of Action
PMTC - Prevention of Mother to Child Transmission
RDP – Reconstruction and Development Programme
SAHRC - South African Human Rights Commission

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CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1. Policy Issue Identification

This policy document makes proposals for implementing the deinstitutionalisation of children in South Africa, in the context of alternative childcare. It seeks to provide pathways for deinstitutionalising children who are under the care of the country's formal social protection programme, by re-establishing and strengthening the roles and responsibilities of families and communities, in the provision of care for children after deinstitutionalisation. The guidelines for implementing the deinstitutionalisation of children are drawn mainly, but not exclusively, from the work that has been undertaken, thus far, by the government and civil society organisations (CSOs) and recommendations included in national policies, such as, *inter alia*, the White Paper for Social Welfare (1997), National Child Care and Protection Policy (2019), Revised White Paper on Families in South Africa (2021), and the Draft National Community Development Policy.

This policy on deinstitutionalisation seeks to provide guidelines to the wider South African society, including among others, institutions, state and non-state organisations, traditional and religious sectors, on how deinstitutionalisation is going to be implemented in the country. The philosophical keystones of this policy are anchored in the African philosophy of ubuntu and rights-based and child-based approaches, which are in consonance with the tenets of the Constitution of South Africa (No. 108 of 1996), and various pieces of legislation flowing from it, which govern the plight and well-being of children. In line with the vision of the National Development Plan (NDP) (2011), the policy takes the child as a national development imperative, whereby present and future national development efforts must be predicated on the deliberate nurturing, development, socialising and early development moulding of children, by all role players in the country, which culminate in active citizenship, among other positive attributes.

1.1.1. Definitional Anchorage and Conceptual Framework

Any policy that seeks to address a particular societal issue, challenge or problem must have conceptual clarity. In this instance, this policy is anchored in the social development approach. While focusing on the protection of children in South Africa, the issue of deinstitutionalisation will be framed from a social development perspective. This is because social development offers a comprehensive macro-perspective that focuses on communities and societies, emphasises planned intervention, promotes a dynamic change-oriented approach which is inclusive and universalistic, and above all seeks to harmonise social interventions with economic development efforts.¹ Other key concepts are unpacked hereafter.

1.1.1.1. Child

This refers to anyone who is under the age of 18 as defined by the Children's Act 2005 (No. 38) and Constitution (Act. 108 of 1996).

1.1.1.2. Child Protection

Child protection systems connect children to vital social services and fair justice systems - starting at birth. They provide care to the most vulnerable, including children uprooted by conflict, poverty, and disaster; victims of child labour or trafficking; and those who live with disabilities or in alternative care. Above all, protecting children means protecting their physical, mental, and psychosocial needs to safeguard their futures. No matter the circumstance, every child has the right to be protected from violence, exploitation, and abuse.²

According to Children's Act 2005 (No.38), Section 150, a child is in need of care and protection if, he or she:

- (a) has been abandoned or orphaned and is without any visible means of support
- (b) displays behaviour which cannot be controlled by the parent or caregiver
- (c) lives or works on the streets or begs for a living
- (d) is addicted to a dependence-producing substance and is without any support to obtain treatment for such dependency
- (e) has been exploited or lives in circumstances that expose the child to exploitation
- (f) lives in or is exposed to circumstances which may seriously harm that child's physical, mental, or social well-being
- (g) may be at risk if returned to the custody of the parent, guardian or caregiver of the child, as there is reason to believe that he or she will live in or be exposed to circumstances that may seriously harm the physical, mental or social well-being of the child
- (h) is in a state of physical or mental neglect, or
- (i) is being maltreated, abused, deliberately neglected or degraded by a parent, a caregiver, a person who has parental responsibilities and rights or a family member of the child or by a person under whose control the child is.³

1.1.1.3. Deinstitutionalisation

This is a policy-driven process of reforming a country's alternative care system, which primarily aims at decreasing reliance on institutional and residential care with a complementary increase in family and community-based care and services while preventing separation of children from their parents by providing adequate support to children, families and communities and preparing the process of leaving care, ensuring social inclusion for care leavers and a smooth transition towards independent living.⁴

1.1.1.4. Alternative Care

Alternative care is the care provided to children by caregivers who are not their biological parents. This care may take the form of informal or formal care, and includes kinship care, foster care, other forms of family-based or family-like care placements, residential care, or supervised independent living arrangements for children. It also includes temporary places of safety for emergency childcare.⁵

1.1.1.5. Ubuntu

This refers to caring for each other's well-being while guided by a spirit of mutual support. Ubuntu recognises that each individual's humanity is ideally expressed through his or her relationship with others and theirs in turn through a recognition of the individual's humanity.

Ubuntu means that people are people through other people. It also acknowledges both the rights and the responsibilities of every citizen in promoting individual and societal well-being.⁶

1.1.1.6. Institutionalisation of Children

Institutionalisation is a protection measure when children are in situations that put their physical and psychological integrity at risk, which implies the separation of their parents and family, having a placement in an institution, and being in the protection of the State. The causes of institutionalisation are multiple and the impact it causes is reflected in different areas such as the development of the child in general, such as mental, psychic structuring, health, and nutrition.⁷

1.1.1.7. Supervised Independent Living

Supervised independent living is a form of alternative care in which an unaccompanied child or a group of unaccompanied children live without being directly cared for by an adult, but receive regular supervision, guidance, mentoring and monitoring from an assigned adult mentor. It is sometimes referred to as supported independent living, with the two terms often used interchangeably.⁸

1.2. Background

Childcare in South Africa, like in all African societies is deeply rooted in the communal system of the continent's pre-colonial past, where the extended family played a prominent role in the raising and nurturing of children, while the African philosophy of ubuntu shaped and guided social interaction at the family, community, and societal levels. However, colonial rule and apartheid disrupted this way of life, as indigenous peoples were thrust into the rapidly urbanising landscape, where they were for the first time living alongside people of different cultures and races. Urbanisation was driven by new colonisers from Europe who superimposed on local systems, among others, their own political, social, and economic systems as well as values, norms, and cultures.

At a cross-roads with the new colonial establishment were the African family and children. Children were also thrown into the urban and new modern European system together with their families. Colonialism, with its attendant urbanisation, seriously disrupted African families and their children. In the case of South Africa, the industrialisation and urbanisation of the country had given birth to a corrosive migrant labour system, which placed severe strains on the African family, as it caused men to live permanently apart from their wives and children. Through the single-sex hostel system, the labour question became interlinked with the undermining of the traditional African setup and its culture and family systems, as well as its role in socialisation.⁹

Institutional care in South Africa came into existence in the colonial era, after the Dutch migrants from the Netherlands, established permanent settlements in 1652. Since then, they have been a significant part of the social fabric of this society. This is also the case for other African countries which were profoundly impacted and shaped by colonial rule. Thus, institutional care was developed as a new form of care for children and youth in difficult circumstances in colonial Africa. These young people were removed from their families and placed in institutions for various reasons, mainly as punitive measures. For instance, early attempts to deal with youth in difficult circumstances or juveniles, as the colonial authorities referred to them, were based on the colonising country's penal system. In British colonies, this

mirrored the laws of mid-18th century Britain which were harsh, punitive, and treated young people as adults when they were in conflict with the law.

However, in the 19th century, there were reforms in the British penal system which were spearheaded by that country's reform movement. Such changes would later filter down to British colonies, in the 1930s and early 1940s. For example, experts in South Africa and Nigeria promoted the adoption of similar bodies of legislation based on the 19th-century British penal reform with the idea that rehabilitation rather than punishment was a more effective way of dealing with the 'juvenile delinquent' and children in 'need'.¹⁰

There was a slight variation in the motives behind such reforms. For instance, in colonial Kenya, the impulse for reform was placed in the context of colonial discourses on eugenic urbanisation and detribalisation of young Africans, arguing that while key metropolitan principles about delinquency retained their influence on transferral to the colony, they were blended with distinctive colonial rhetoric about African psychology and capacity for development.¹¹ Therefore, the origins and development of institutionalisation broadly in Africa, and South Africa, in particular, needs to be located in the history of colonialism and apartheid.

1.2.1. The Evolution of Child Protection from the Colonial to the Apartheid Era

After the Dutch had established human settlements in South Africa, several problems emerged which negatively impacted children and adults. In response, the settler authorities placed white children and adults in need with more well-off families, who received monthly compensation from the Dutch East India Company. Thereafter, the first children's home, which catered specifically for orphans was established in the Cape Colony in 1814. Later, institutions for young offenders were founded after the introduction of the *Verbeterinrichtingen Wet* (Reform Schools Act) in 1819.¹²

In 1895, two pieces of legislation were enacted, namely, the *Wet op Verlate Vroue en Kinderbescherming* (Abandoned Women and Child Protection Act) which compelled fathers to be financially responsible for their families and the *Verwaarloosde Kinderversorging Wet* (Care of Neglected Children Act), which facilitated the placement of neglected children in apprenticeships and responded more comprehensively to children's needs. Similar legislation was passed in the other regions that later formed South Africa, such as the Orange Free State in 1893, Natal in 1901 and the Transvaal in 1903. Due to such developments, the Cape Town Children's Life Protection Society (later known as the Cape Town Child Welfare Society) was created in 1908. The following year, the Johannesburg Children's Aid Society (later known as the Johannesburg Child Welfare Society and now as Johannesburg Child Welfare) was established. These organisations were concerned with the high mortality rate of infants and the lack of shelters for deserted and neglected children.¹³

During this period, most child welfare services were directed at white children. Nevertheless, other population groups received such services even though they were inadequate. Volunteers ran preventive health, medical and dental programmes for school-going children and placed them in orphanages once they were perceived as being in need, neglected, and ill-treated. The period that followed the former initiatives, resulted in the establishment of 38 child welfare agencies around the country, leading to the formation of the South African National Council for Child Welfare in 1924, which later became known as the South African Council for Child and Family Welfare, and in 2004 Child Welfare South Africa.¹⁴

Later, a Child Welfare Congress was held in 1911 to facilitate liaison between the respective Societies and another in 1917. The *Wet ter Bescherming van Kindern* (Child Protection Act) of 1913 was the first national legislation introduced related to children in need of care, after the formation of the Union in 1910.¹⁵

From the beginning of the colonial period in South Africa, orphanages and mission stations privately accommodated some children (especially those regarded as European or Christian), who were bereaved and had no suitable family members available to care for them. It was thus religious or charitable organisations rather than the State that were responsible for placement decision-making in these cases. After the Union of 1910, the State played a more prominent role in child protection. Hence, in 1913, the Children's Protection Act was passed to, among others, regulate alternative care for children. Later, the Children's Act 31/1937 replaced the 1913 Act, after recommendations were made by the Interdepartmental Committee on Destitute, Neglected, Maladjusted and Delinquent Children and Young Persons Parliament.¹⁶

It is important to mention that during this period, there were shifts towards the formalisation of the social welfare system of the country as well as child protection. There had already been a 'scientific' investigation in 1932 into what had been defined by the settler populace as the 'poor white problem'. The said investigation was funded by the Carnegie Corporation of New York which established the Carnegie Commission to undertake such an investigation. It was thus not coincidental that after a state Department of Social Welfare was established in South Africa, for the first time, a new Childcare Care Act was also enacted.

1.2.2. Child Protection During the Apartheid Era

In 1948, racial segregation was cemented through a state ideology known as apartheid which was unashamedly based on the notion of white supremacy. This state ideology also shaped and regulated the lives of children. To effect the institutionalisation of apartheid in the country, racist policies and legislation were passed by the National Party (NP). In this regard, the Children's Act of 1960 (No.33) was passed, from this premise, to protect children and offer them alternative care, among other issues. Even though this Act made some progressive provisions for the appointment of commissioners of child welfare and children's courts; protection of infants; prevention of neglect, ill-treatment and exploitation of children; the manner in which children in need of care and certain other children would be dealt with; places of safety, places of detention, schools of industries, reform schools, children's homes, places of care, observation centres and placing of children; contribution orders; adoption of children, and for some related matters,¹⁷ it was still enacted to maintain the status quo of the apartheid State.

It is worth mentioning that the so-called 'separate development' agenda that was espoused by the apartheid State extended broadly to the country's social welfare system and in particular to the child protection arena. Not only were social welfare services residual, in that they were not comprehensive and developmental, but they were also segregated along racial lines. Furthermore, they were defined by the ethnicity of the designated beneficiaries who were mainly residing in the Homelands or Bantustans established by the apartheid State. Black, African children were the most disadvantaged young people in South Africa followed by Indians and Coloureds (people of mixed descent). The harsh and draconian political system of apartheid that targeted non-white South Africans who were fighting for their social and political rights also disrupted family life and negatively impacted children's well-being. In the same

vein, the capitalist system that was hinged on a high-profit motive, derived from the exploitation of cheap African labour, reinforced the disintegration of non-white families, especially African families.

African children, like their parents or caregivers, suffered the most from State-led violence during the apartheid era. The 1976 student uprising saw the apartheid State unleash a torrent of violence of epic proportion against children. During the State of Emergency of 1985, again children did not escape the brutality of the apartheid State. Scholars who investigated this phenomenon point out that although accurate statistics are hard to achieve, the most reliable count available in the period between 1984 and 1986, reports that 312 children were shot dead by the police, 1,000 or so were wounded, an additional 11,000 detained without trial and almost invariably tortured, 18,000 more arrested on charges arising from political activities, and 173,000 held in police cells supposedly awaiting trials. Although the notion of child extends until the age of 18, many of the South African children targeted by the police were far younger, frequently as young as 11 and even younger on occasion.¹⁸

In the 1980s, there were some efforts to change certain aspects of child protection in South Africa. This period has been referred to as the 'reforming years' of apartheid when this system was trying to reinvent itself in the face of an onslaught from the mass democratic movement, and other progressive actors, that had called for the liberation of all South Africans from tyranny and oppression. Hence, in 1983, the Child Care Act (No. 74) was passed, to among other things, provide for the establishment of children's courts and the appointment of Commissioners of Child Welfare; for the protection and welfare of certain children; for the adoption of children; for the establishment of certain institutions for the reception of children and for the treatment of children after such reception; and for contribution by certain persons towards the maintenance of certain children; and to provide for incidental matters. This Act came into effect in 1987.¹⁹

In 1991, the Child Care Amendment Act (No. 86) was passed to *inter alia*, amend the Child Care Act, 1983 (No. 74), so as to substitute certain definitions; to abolish the Child Welfare Advisory Council; to provide that a child who has a parent or guardian who cannot be traced, may be brought before a children's court, which can hold an inquiry and make an order in respect of such a child; to further regulate the powers of the children's courts; to further regulate the designation of a children's home or school of industries as a result of an order of a children's court; to further regulate the qualifications for adoption of children; to increase fines; to provide for the observation, examination and treatment of children in places of safety; to further regulate the transfer of a child from an institution or custody to the custody of his²⁰ (her) parents or guardians; to make it an offence to counsel, to induce or to aid a pupil or child to whom leave of absence was granted not to return or to prevent him (her) from returning to the institution or custody from which leave of absence was granted; to further regulate the medical treatment of children; to abolish the requirement that the race classification of a child and the person in whose custody the child is placed should be the same.²¹

1.2.3. Child Protection in Post-Apartheid South Africa

A new dispensation for children arrived in South Africa in 1994 when the country became a free and democratic society. As a starting point, children's rights were elevated to higher echelons of society and enshrined in the Constitution of 1996 (Act 106) (previously, an Interim Constitution was passed in 1993 to serve as a bridge from apartheid to the democratic order). The constitutional and legislative mandates of post-apartheid South Africa were not only

rights-based but also child-centred. The country's Constitution is a significant milestone as it specifically enshrines the rights of children in its Bill of Rights which also entrenches broadly, socio-economic rights. Particularly important, Section 28 of the Constitution, titled: "Children" unequivocally asserts that a child's best interests are of paramount importance in every matter concerning the child.

Section 28 of the Constitution states that every child has the right to a name and a nationality from birth; family care or parental care, or to appropriate alternative care when removed from the family environment; basic nutrition, shelter, basic health care services and social services; be protected from maltreatment, neglect, abuse or degradation; be protected from exploitative labour practices not 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; not be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35.²²

Furthermore, the child may be detained only for the shortest appropriate period of time, has the right to be kept separately from detained persons over the age of 18 years; and is treated in a manner, and kept in conditions, that take account of the child's age; 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 not be used directly in armed conflict, and to be protected in times of armed conflict.²³

After South Africa was readmitted to the body politic of the global community, the country signed the United Nations Convention on the Rights of the Child (of 1989) in 1993. Later, the country ratified the Convention on 16 June 1995. The first black and democratically elected president of South Africa, Nelson Mandela, was passionate about children's well-being and an ardent advocate of children's rights both in South Africa and worldwide.

On 16 June 1994, at Orlando Stadium in Soweto, President Mandela was presented with an outline of the country's new National Programme of Action (NPA). At this ceremony, Mandela promised to not only put children first but enjoined his newly elected government to prioritise children's rights at the highest level. He established a Cabinet Inter-Ministerial Committee (IMC) on the rights of the child to oversee the development of government led NPA process. The IMC's Steering Committee comprised of Director-Generals from the departments of health, justice, education, welfare, water affairs and forestry, the National Children's Rights Committee (NCRC) and the United Nations Children's Fund (UNICEF).²⁴

Later, the Youth Commission, the South African Human Rights Commission (SAHRC), representatives from the nine provinces, the departments of finance and foreign affairs and the Office of the President were incorporated into IMC and tasked with developing and ensuring the implementation of the NPA Framework. At a macro level, the Reconstruction and Development Programme (RDP) Office, which was headed by the Minister without Portfolio, focussed on promoting growth and addressing the poverty and inequalities of apartheid. The NCRC seconded a child rights officer to work in the RDP office to ensure that children's issues were part of the RDP.²⁵

The RDP Office commissioned the National Institute of Economic Policy (NIEP) to undertake a second situation analysis of children in South Africa. The NIEP/RDP report, "Children, Poverty and Disparity Reduction: Towards Fulfilling the Rights of South Africa's Children"

was published in 1996. The report apart from being a comprehensive look at children and poverty in terms of the effects of apartheid on access to health services, education, housing, water, food security, land etc., also highlighted the lack of empirical data on children.²⁶

In line with the new constitutional precepts, policies and programmes governing the well-being of children, became child-centred in their foci and approach. For instance, a new Child Support Grant (CSG) was introduced in 1998 which focussed on the child and not the parent or caregiver as it was previously. Inadvertently, the CSG has become the government's crucial anti-poverty vehicle 25 years later. Later, the Social Assistance Act 2004 (No. 13) was specifically passed to provide benefits to children among other beneficiaries.

In 2008 the president of the country at the time, Thabo Mbeki, announced during his State of the Nation address that Early Childhood Development (ECD) would be included in his government's Programme of Action (POA) as an Apex Priority. This stance was also in line with the governing African National Congress (ANC) resolutions of its 52nd General Conference, which was held in Polokwane, Limpopo, 16-20 December 2007.

Despite concerted efforts to place the child at the centre of the country's development efforts, as well as protect children through a raft of child-based and progressive policies, and legislation, the country encountered an unforeseeable enemy in the name of HIV (human immunodeficiency virus) and AIDS (acquired immunodeficiency syndrome) pandemic which decimated South African families and communities. Due to HIV/AIDS, there was an exponential rise in orphans, child-headed households and child poverty.

1.3. Policy Context and Environment and Links to Other Policies

The broad policy context of South Africa must be located in the country's political economy as well as the transformation agenda that has been spearheaded by the government in the post-apartheid era if the plight of children, especially vulnerable children in the country is to be appreciated. South Africa is quite a stable constitutional democracy with predictable economic and political outcomes, based on robust and transparent rules as well as instruments. Succession of power in the political space is predictable and guaranteed through credible elections every five years. Democratic institutions, such as an independent judiciary, are functioning quite well and remain unfettered by any overt political or other influences.

Since 1994, the country has developed policies and legislation that aimed at erasing the remaining traces of colonialism and apartheid on the one hand and raising the quality of life of all South Africans, on the other. Immediately after the democratic elections of 1994, the Reconstruction and Development Programme (RDP) was developed and adopted as the country's main macro socio-economic and development policy. The RDP was presented as a policy framework for integrated and coherent socio-economic progress. It sought to mobilise all the people and country's resources towards the final eradication of the results of apartheid. Its goal was to build a democratic, non-racial, and non-sexist future for the country, and it represented a vision for the fundamental transformation of South Africa by:

- developing strong and stable democratic institutions
- ensuring representivity and participation
- ensuring that the country became a fully democratic, non-racial and non-sexist society
- creating a sustainable and environmentally friendly growth and development path.²⁷

The interdependence between growth, reconstruction and development was recognised in the RDP policy as a crucial concept. It also enjoined the government to redistribute resources in order to address the country's inherited inequalities and poverty.

South Africa became a member of the international community when there were major upheavals and transformations across the world, such as the fall of the communist countries and the Union of Soviet Socialist Republics (USSR), the rise of globalisation that heightened poverty and inequalities between and within countries, while favouring mostly developed Western nations' accumulation of wealth, increased civil wars and genocide, with the former specifically being in Rwanda and Bosnia, and increased refugee and migrant flows, among others. All these external forces shaped local conditions, directly or indirectly. South Africa found it quite difficult to navigate these international spaces and intricacies after being isolated by the international community for decades. South Africa inherited a sluggish and uncompetitive economy, a fragmented governance structure, a myriad of social ills, and so forth, and thus it could not grow its economy quickly enough, to redistribute resources to the rest of the society, especially the vulnerable and marginalised. Due to this, the country decided to have policy re-think.

In 1996, a new macroeconomic policy for South Africa was unveiled. The Growth, Employment, and Redistribution (GEAR) strategy. GEAR advocated for sustained growth in the country that required a transformation towards a competitive outward-oriented economy. In this regard, it called for:

- accelerated growth of non-gold exports
- a brisk expansion in private sector capital formation
- an acceleration in public sector investment
- an improvement in the employment intensity of investment and output growth; and
- an increase in infrastructural development and service delivery making intensive use of labour-based techniques.²⁸

Suffice it to say, GEAR, did not live up to its expectations. It was critiqued by many pundits and regarded as a 'neo-liberal' economic policy that was primarily concerned about the interests of big business and not the plight of the poor and marginalised.

In 2011, South Africa finalised and adopted its first development plan in the democratic dispensation. This was deemed by many stakeholders in the country as a 'watershed moment'. The National Development Plan (NDP) aims to eliminate poverty and reduce inequality by 2030, by drawing on the energies of its people, growing an inclusive economy, building capabilities, enhancing the capacity of the State, and promoting leadership and partnerships throughout society. While calling for an active citizenry, the NDP focusses on three priority areas:

- Raising employment through faster economic growth
- Improving the quality of education, skills development and innovation
- Building the capability of the State to play a developmental, transformative role.²⁹

In the last 29 years of democracy, South Africa has demonstrated substantial commitment - in both word and deed - to prioritising expenditure on children, particularly in the fields of education and social protection. South Africa's social grant system, which includes millions of child beneficiaries, is lauded internationally. The country has a transparent and pragmatic approach to budget allocation, while a strong and active civil society has demonstrably

influenced and guided public policy and expenditure in this area. Unfortunately, this has not always translated into improved outcomes for children of a comparable magnitude. Systemic inefficiencies and poor accountability structures hold child-wellbeing outcomes to ransom, resulting in multiple lost opportunities to improve.³⁰

South Africa's economy has struggled to perform at an optimum level for almost a decade. After the onset of the Coronavirus (COVID-19) pandemic, it spiralled to low-performance levels, due to among others, the shedding of many jobs and cessation of economic activities, triggered by COVID-19. However, it seems to have recovered according to the latest data from Statistics South Africa (Stats SA) (2023). After contracting by a revised 1.1% in the fourth quarter of 2022, real gross domestic product (GDP) edged higher in the first quarter of 2023 (January - March), expanding by an estimated 0.4%. The manufacturing and finance industries were the major drivers of growth on the supply side of the economy.³¹

Nevertheless, crippling power cuts, volatile commodity prices and a challenging external environment have contributed to the country's weak growth performance. Also, the country's elevated public debt level - one of the highest among emerging markets - limits the government's ability to respond to shocks and meet growing social and development needs. Like elsewhere, persistently high food and energy prices have pushed up inflation and raised inflation expectations according to the International Monetary Fund (IMF) (2023).³²

South Africa continues to face high levels of poverty, inequality, and unemployment. In 2014/2015 approximately 55.5% (30.3 million people) of the population were living in poverty at the national upper poverty line (ZAR 992) while a total of 13.8 million people (25%) were experiencing food poverty. Similarly, poverty measured at the international poverty lines of US\$1.90 and US\$ 3.20 per person per day (2011 PPP) was estimated at 18.9% and 37.6%, up from 16.6% and 35.9% in 2010/11, respectively.³³

South Africa remains a dual economy with one of the highest and most persistent inequality rates in the world, with a consumption expenditure Gini coefficient of 0.67 in 2018. High inequality is perpetuated by a legacy of exclusion and the nature of economic growth, which is not pro-poor and does not generate sufficient jobs. Inequality in wealth is even higher, and intergenerational mobility is low, meaning inequalities are passed down from generation to generation with little change over time.³⁴

The country's unemployment rate in the first quarter of 2023 was recorded at 32.9 % and is among the highest in the world. This is an increase of 0.2 of a percentage point compared to the fourth quarter of 2022. While the unemployment rate may be high, there is also an increase in time-related underemployment. Time-related underemployment refers to all persons in employment who (i) wanted to work additional hours, (ii) had worked less than a specified hours threshold (working time in all jobs), and (iii) were available to work additional hours given an opportunity for more work.³⁵

Particularly troublesome is the high youth unemployment rate. The youth remain vulnerable in the labour market, with the first quarter of 2023 results showing that the total number of unemployed youth (15-34 years) increased by 241,000 to 4.9 million while there was an increase of 28,000 in the number of employed youths to 5,6 million during the same period. This resulted in an increase in the youth unemployment rate by 1.1 percentage points to 46.5% in Q1 2023.³⁶

South African children find themselves growing up in a society that is encumbered by a plethora of societal ills such as high levels of violent crime, child and other forms of abuse, gender-based violence and femicide, varying violent protest actions which invariably result in the loss of life and destruction of property; xenophobic attacks, racism, bullying, drug abuse and gangsterism, and so forth. They find themselves living in an atmosphere of siege where there is a flagrant violation of human rights at various levels of society, corruption and a general malaise of the service delivery mechanism, and a lack of accountability across the government bureaucratic spectrum.

When proposing deinstitutionalisation, there must be steps taken by organs of the State and civil society to reduce or eradicate the aforementioned challenges and social ills in the country. Whether it be labour market-related policies, economic policies, or other public policies, they all have a bearing on the well-being of children in South Africa. Since children do not and cannot control the cited wider societal forces, which are mainly engendered by adults, there is still more work needed to be done by all role players, to safeguard the lives of children in South Africa. Children are a cross-cutting policy issue and require a multiplicity of foci and interventions so that they flourish in society.

1.4. Overview of the Policy Process

This is the first draft policy on deinstitutionalisation in South Africa. Presently, there are many conflicting views and perspectives on this issue, with many sections of South Africa expressing disquiet that this will lead to the closure of residential homes for children. This draft policy seeks to clarify this matter by soliciting comments from a wide array of stakeholders across the country, to add their voices to this agenda. It is important to note that South Africa's child protection system is heavily tilted towards institutionalisation and not the converse. This, despite all key policy documents that have a bearing on children, families and communities, implicitly stating so. It thus becomes crucial that the country and the child protection sector are mobilised to begin to have crucial and meaningful conversations around the deinstitutionalisation of South Africa's children. These will entail, among others, engaging in dialogues with key stakeholders, consultations, workshops, roadshows, *izimbizo*, policy dialogues and academic debates.

1.5. Conclusion

This chapter introduced the proposed policy on the deinstitutionalisation of children in South Africa and its envisaged thrust. It identified policy issues linked to this new proposed pathway by focusing on the contextual realities of present-day South Africa, which have a strong bearing on the country's history and its role in disrupting family life in the country, and current efforts to socialise, nurture or protect children. The context also has significant implications for the country's formal social protection programme, which is heavily influenced by among others, societal ills, and the government's fiscal space. The next chapter discusses the policy intent of the policy.

CHAPTER TWO

PROBLEM STATEMENT

In the context of child protection, institutional care has historically been the first response, but it is not a panacea for the social ills and challenges a child may face in the absence of parental, and family care. Despite its prevalence, institutional care often fails to address the comprehensive needs of children and should not be relied upon as the primary solution for child well-being. Although many South African children face significant challenges, such as abuse, violence, and neglect, that may seem to warrant removal from their families and placement in institutional care, deinstitutionalisation must be a viable option coupled with the necessary psychosocial support. Priority should be given to alternatives such as family reunification, foster care, kinship care, and adoption, which can better support the well-being of South Africa's children. However, deinstitutionalisation cannot be effectively implemented in isolation; it operates within the nexus of family, community, and other social environments that significantly influence children's well-being.

South Africa's child protection system is mainly predicated on institutional care and efforts, over the years, have not been made to decongest the system on the one hand and revitalise the roles and responsibilities of families and communities in raising children. In calling for institutionalisation in South Africa, the African proverb which states that it “takes a village to raise a child” holds true in this case. In this regard, deinstitutionalisation fits well with the notions of ubuntu, and the social development approach discussed earlier.

The Children's Act 2005 (No. 38) aims to keep families together and to make sure that children are raised by families, caregivers or alternative carers. This message is echoed in some policy documents of the government, specifically, the White Paper for Social Welfare (1997) and the Revised White Paper on Families in South Africa (2021)

Internationally, the United Nations endorsed the deinstitutionalisation of children, first in its Guidelines for Alternative Care Resolution of 2010.³⁷ Second, On 18 December 2019, the United Nations General Assembly adopted a Resolution on the Promotion and Protection of the Rights of Children, which focuses specifically on children without parental care. It emphasises, among other things, the importance of growing up in a family environment and the right of the child to a family. Also, it highlights the rights of children with disabilities with respect to family life, opposes the unnecessary separation of children from their families and the unlawful or arbitrary deprivation of liberty of children, encourages efforts to reunify families where in the best interests of the child, and stresses that children should not be separated from their families solely due to poverty or lack of access to resources.³⁸

Furthermore, the Resolution urges States to strengthen child welfare and child protection systems and improve care reform efforts and expresses concern regarding the large and growing number of migrant children, particularly those who are unaccompanied or separated from their parents or primary caregivers. It calls upon States to provide support to families and to prevent the unnecessary separation of children from their parents and urges States to provide a range of alternative care options and to protect all children without parental care, among other recommendations.³⁹

Closer to home, the Kigali Declaration on Child Care and Protection Reform of 2022 augmented the United Resolution by recognising, among others, the importance of providing a range of quality alternative care options, including, *inter alia*, family and community-based care and, where relevant, redirecting resources to family and community-based care services, with adequate training and support for caregivers and robust screening and oversight mechanisms, and progressively replacing institutionalisation accordingly.⁴⁰

2.1. Underlying Policy Statement

Deinstitutionalisation of children is implied in key government documents and remains not clearly spelt out. In this sense, there has not been a clear mandate for deinstitutionalisation from the government which should among other things, be gleaned from recommendations from government policies and legislation, for example strengthening families or keeping families together. This policy document intends to unpack this issue and provide guidelines on how it can be implemented.

2.2. Nature of the Problem

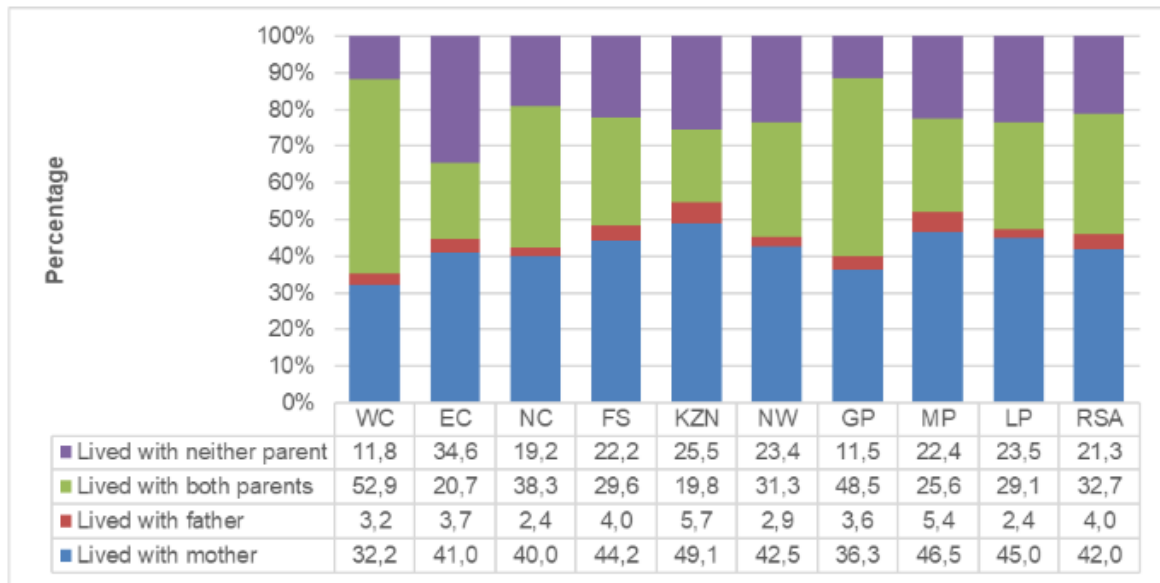
Deinstitutionalisation cannot be implemented if the extent of the problem has not been established. In this case, the problem relates to the situation of children in South Africa especially those who are in the formal child protection system.

2.2.1. The Situation of Children in South Africa: An Analysis

In mid-2018, there were 20 million children under the age of 18, who constituted 34% of the total population of South Africa, which was estimated at 60 million people, at the time.⁴¹ According to Statistics South Africa (Stats SA, 2019) families and households are profoundly important to the developmental, emotional, and cognitive growth of children and parents can play a central role in this development. The value of living with biological parents, however, depends on the quality of care they can provide, and children are often left in the care of other relatives such as grandparents.⁴²

Figure 1 below, shows that about one-fifth (21.3%) of all children did not live with their parents. By comparison, one-third (32.7%) lived with both parents. Most children, however, lived only with their mothers (42.0%) while a much smaller percentage (4.0%) of children lived only with their fathers. Not living with either parent was most common in Eastern Cape (34.6%), KwaZulu-Natal (25.5%) and Limpopo (23.5%) and least common in Western Cape (11.8%) and Gauteng (11.5%). Living with both biological parents was most common in Western Cape (52.9%) and Gauteng (48.5%).⁴³

Figure 1: Percentage of Children by Living Arrangements and Province 2019



Source: Statistic South Africa (Stats SA) (2019)

The information above that provides the status of children in South Africa clearly shows that family life does not exist in the way it is envisaged in government policy documents.

South African children are just emerging out of the COVID-19 pandemic. It is safe to say that children and other vulnerable populations such as the elderly and people with disabilities were the most negatively affected by COVID-19. By 30 November 2022, 102,464 people had died from COVID-19 and in turn, over 95,000 children had lost parents and guardians due to the outbreak, and this being the highest number of COVID-19 orphans on the continent. Also, due to climate change, a total of 13,790 houses were either totally or partially destroyed and 6,210 were left homeless including 443 deaths and 57 school-aged children in KwaZulu Natal and parts of the Eastern Cape province in April 2022 - at a time when KwaZulu Natal was still recovering from the COVID-19 and July 2021.⁴⁴ In 2019, the number of orphans in South Africa was already on the increase as illustrated in the Figure below.

Figure 1: Percentage of Children by Orphanhood Status and Province 2019



Source: Statistic South Africa (Stats SA) (2019)

South African children continue to suffer from multidimensional poverty. More than six out of ten children (62.1%) are identified as multidimensionally poor in South Africa. Furthermore, child poverty in South Africa is multi-sectoral, with a significant number of children (0-17 years) suffering from multiple deprivations simultaneously. Black African children (68.3%) show the highest percentage of multidimensional poverty as compared to their peers from other population groups. Multidimensional poverty is highly prevalent amongst double orphans (77.3%) and paternal orphans (75.0%) as opposed to non-orphans and maternal orphans. Twice as many children living in rural areas (88.4%) face multidimensional poverty compared to children in urban areas (41.3%).⁴⁵

While COVID-19 was raging, children were still being impacted negatively by HIV/AIDS. UNAIDS cited in UNICEF estimated in 2019 that there were 500,000 children living with AIDS in South Africa.⁴⁶ Nevertheless, before the onset of the pandemic there seems to have been a decline in paediatric HIV cases and deaths. A model developed by the researcher established that by mid-2018, 75.2% (95% CI: 73.9–76.8%) of HIV-positive children were diagnosed, substantially lower than the corresponding estimates in HIV-positive adults (91.0%). Antiretroviral therapy (ART) coverage in children in 2018 (51.2%, 95% CI: 49.4–52.7%) was also lower than that in adults (62.0%). In 2017–18, the numbers of new cases of mother-to-child transmission and paediatric AIDS deaths were reduced by 84% and 94% respectively, relative to what would have been expected in the absence of interventions, but reductions in mortality were driven largely by Prevention of Mother to Child Transmission (PMTCT).⁴⁷

Other disturbing trends point to a high prevalence of teenage pregnancy in the country which is on an upward trajectory, child neglect and abandonment, exploitation, domestic abuse and violence. There are also problems associated with maladaptive behaviour, sexual exploitation, substance abuse, bullying and school drop-out.

2.3. History and Scope of the Problem

2.3.1 Deinstitutionalisation in Post-Apartheid South Africa

Since 1994, there have been concerted efforts aimed at making children grow up in a family setting. Despite the different interpretations and classifications of the family in South Africa, there seems to be a significant recognition across the country, from most role players, that children must be raised and nurtured in a family environment. However, this policy intent has never been expressly linked to the deinstitutionalisation of children or clearly spelt out. In this regard, the desire to have families effectively play their roles and responsibilities in regard to childcare assumes that there must not be an overreliance on the institutionalisation of children. An important policy document that charts a path forward for families and children is the White Paper for Social Welfare (1997).

2.3.1.1 The White Paper for Social Welfare (1997)

The White Paper for Social Welfare (1997) arrived at specific priorities aimed at promoting family life (and which should have inadvertently prevented the institutionalisation of children). The Table below highlights the priority programmes proposed by the White Paper to promote family life in South Africa.

Table 1: Priority Programmes in Promoting Family Life

Priority	Actions and Activities
Priority Number 1	The Department of Welfare will negotiate with the Department of Education about the implementation of social support and development services including life-skills training programmes which could be run throughout the school-going years and could be incorporated into the curriculum. This training should include personal relationship skills, education regarding sexuality and substance abuse, and other appropriate programmes. It should be aimed at teaching interpersonal skills, the development of self-esteem, and decision-making and problem-solving skills.
Priority Number 2	Preparation for marriage and remarriage, family life enrichment, strengthening the relationship between partners, family life skills, and parenting programmes are critical to promoting the well-being of families. Other appropriate programmes will be identified in consultation with stakeholders.

Priority Number 3	The business sector will be encouraged to create environments which are supportive of family life, for example, through granting leave at times of family crises.
Priority Number 4	A network of trained community members will be developed to assist troubled families, to enhance networking between families and within the community, and to support each other and promote family life. Capacity building programmes will be provided for the various helping professions and for religious and community leaders, to enable them to deal more effectively with families in need. Public education programmes will be embarked upon, and the role of the media will be explored in providing information and education.
Priority Number 5	The Department of Welfare will liaise with the Departments of Housing and Public Works and with local authorities regarding the needs of destitute/homeless individuals and families living on the streets. The Department of Welfare will advocate the establishment of an intersectoral task group to make recommendations about future social programmes.
Priority Number 6	Programmes will be developed to address the needs of families affected by domestic violence. Refer to section on women for strategies on violence.

Source: Ministry of Welfare & Population Development (1997)

In the same breadth the White Paper had advanced certain proposals relating to residential care. These are presented in Table 2 below.

Table 2: Proposals related to Residential Care

Proposal	Actions and Activities
Proposal Number 1	Where the placement of children through family and community-based programmes is not an option, children will be placed in residential facilities, but only as a last resort. The needs of mentally handicapped ⁴⁸ children in this regard are especially acknowledged.

Proposal Number 2	Residential facilities will be multi-purpose, more flexible and less formal. The approach to children in residential care and to families will be focused on the individual in the context of his or her social environment.
Proposal Number 3	Greater use of adoption and foster care as alternatives will be explored as part of permanency planning for children in residential care. It is essential that children and parents be involved in decision-making in such processes.
Proposal Number 4	Joint responsibility is needed between the Department of Welfare and the Department of Education for schools of industry. Responsibilities need to be defined. The Department of Welfare also needs to be actively involved in the functioning of reform schools, especially for children under 18 years.
Proposal Number 5	Residential care models which are cost-effective will be explored. A diversity of approaches to residential care will be promoted. Pilot programmes will be developed to test these alternatives.
Proposal Number 6	The training and retraining of child-care and youth-care workers in residential facilities will be provided. Such training programmes will aim at improving the capacity of these workers to render both preventative and protective services in co-operation with social workers. Appropriate non-formal education programmes will be provided for children in residential placements which will promote social competence and integration into community life.
Proposal Number 7	Existing facilities must be utilized more effectively, and multi-purpose programmes will be promoted.
Proposal Number 8	Appropriate strategies are needed to support young adults over 18 years of age who have been discharged from children's homes.

Source: White Paper for Social Welfare (1997)

2.3.1.2. The Revised White Paper on Families (2021)

According to the White Paper on Families (2021), Social and economic policies should be aimed at strengthening and promoting family well-being. Policies, strategies, and social and economic programmes across government departments need to be aligned with the diversity of

families in South Africa and actively promote their well-being and their ability to fulfil their roles and responsibilities in society.⁴⁹

The Revised White Paper on Families (2021) sets out several strategic priorities for promoting the importance of the family as a core unit of society and to foster family well-being which are captured in Table 3 below.

Table 3: Strategic Priorities for Families

Strategic Priority	Responses for Families
<i>Strategic Priority 1: Promote Family Well-being</i>	The first strategic priority focuses on the promotive work that needs to be done to ensure family well-being. The work of this strategic priority places emphasis on the basic resources and assets that families need to be able to access in order to function well and fulfil their roles and responsibilities in society. Crucially, this strategic priority emphasises the importance of economic empowerment of families. It therefore focuses primarily on the macro-level.
<i>Strategic Priority 2: Family Relationship Strengthening</i>	The second strategic priority focuses on the prevention and strengthening work that needs to be done to preserve and nourish the large block of families whose quality of life is helping to prevent and reduce problems associated with family disintegration, and to strengthen families through efforts to prevent the breakdown of family life by promoting positive attitudes and values about the importance of strong families and communities that support families.
<i>Strategic Priority 3: Treatment and Support for Vulnerable Families</i>	<p>Although investments in strategic priorities 1 and 2 should reduce the need for interventions under strategic priority 3, there will always be families and times in all families that are characterised by negative and ongoing cycles of conflict and dysfunction. Where this situation is the case, treatment and support are required. Under this strategic priority, prevention, early intervention, treatment, and statutory interventions are required. Here the focus is on the individual and meso-level.</p> <ul style="list-style-type: none"> • Early detection and intervention - Services delivered at this level make use of mechanisms to detect at-risk families and intervene with developmental and therapeutic

	<p>programmes to ensure that the negative consequences of dysfunction are limited and that families are supported to manage the challenges that they are facing in ways that promote the well-being of all family members.</p> <ul style="list-style-type: none"> • Treatment - Services at this level are intended to provide treatment to family members that require this intervention such as those dealing with substance abuse and mental health disorders that affect their ability to engage positively in relationships. • Statutory intervention - The statutory process is about a particular level of intervention and a period during which families are waiting for the outcome of a legal/court procedure as well as services and support required following court proceedings. • Reunification and aftercare - Aftercare services refer to family preservation services delivered to the family of origin to: (1) address the risk factors that necessitate the removal of the family member/s, and (2) to assist the family in the transitional period after the removal for the family to stabilise and enter a reunification process after a period of separation. Services delivered at this level are aimed at integration and support services to enhance self-reliance and promote well-functioning families. The goal is to preserve and reunify families where this is desirable and to provide services at the prevention and early intervention level to promote better family functioning.
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Source: The Revised White Paper on Families (2021)

2.3.1.3. The Children’s Act 2005 (No. 38)

According to the Act, its objects are to give effect to promote the strengthening of families, the protection of constitutional rights, the well-being of children in terms of international instruments, the promotion of structures for the development of the child, strengthen

community structures, protection the child from abuse, discrimination, provide care and protection and recognition of special needs and care of children with disabilities.

2.4. Comparative Analysis

In undertaking a comparative analysis of the deinstitutionalisation of children across the world, it was discovered that there a substantial discussions and work around this area. A study which focussed on Bulgaria and Ukraine and findings drawn from interviews confirmed there were variances and similarities in deinstitutionalisation efforts reflected in both processes and achievements of each country. The findings of primary research validated the analysis that Bulgaria had attained a greater degree of deinstitutionalisation achievements than Ukraine by reducing the rates of children living in large residential institutions and working towards the total closure of such facilities.⁵⁰

Interestingly, there is much evidence to suggest that the ideology of state paternalism and autocracy experienced during the period of the USSR has continued to impact on child protection and childcare reforms since Bulgaria and Ukraine gained independence from the Soviet Union.⁵¹

Another study focussing on countries in the European Union (EU) (Finland, Germany, Italy, Lithuania, and Spain), which was undertaken within the context of global deinstitutionalisation efforts, and also aimed at understanding factors that hindered or enhanced the transformation of residential care, findings revealed that despite a global policy push toward the advancement of family and community-based care, residential care for children and youth remained a relevant and highly utilised out-of-home care option in many countries, fulfilling functions of care and accommodation as well as education and treatment.⁵²

Another study aimed to increase knowledge on the possible issue of de-institutionalisation in developing countries and how it could be addressed, the general objective was to “conduct research on the possible issue of institutionalisation in six South and Central American, Asian and African countries in order to strengthen the knowledge of the European Commission on the nature, the extent and scope of institutionalisation and feasibility of de-institutionalisation (alternative care for children).” Some of the findings of this study show that many countries – especially in Africa, but also in Asia – have seen a vertiginous rise in the number of residential facilities operating, particularly during the 1990s and early years of the present century. An alarmingly high proportion of residential facilities in many countries operate without registration, approval, and monitoring. The study discovered that children were placed in care due to poverty, education, orphanhood, HIV/AIDS, migration, discrimination, abuse, neglect, and exploitation, as well as active recruitment of children into residential care and disability. These children were being placed in informal and formal family-based care settings and residential care.⁵³

Also, the above study revealed that residential care options predominated in all countries of all regions for children deemed to need formal alternative care. In the countries studied, direct State provision of residential care was the exception – it was left in the hands of the non-state sector. The Uganda country study, for example, recorded just three State-run facilities out of over 600 (or, according to some estimates, over 800). In Indonesia, more than 90% were run by private organisations, including religious or civil society organisations, although a significant proportion received government subsidies.⁵⁴

In South Africa, the deinstitutionalisation debate seems to perceive this process as more of a threat than an opportunity, to safeguard the well-being of children and bolster the socialising and nurturing responsibilities of families and communities:

While an end to long-term institutional care is both a global priority that the South African government has endorsed - and an ethical imperative - important questions need to be asked about who will care for these children when institutions are gone. How will we devolve quality care away from organisations but still ensure that there is proper recruiting, vetting, training, and monitoring of their replacement carers? How will we ensure that a professional foster care and temporary safe care system is not equally destructive, as has been experienced in other parts of the globe?⁵⁵

The above reservations pertaining to deinstitutionalisation (although not representing the whole country, hold sway across significant sections of South Africa) seem to be more focused on the short-term imperatives of child care and have not looked at long-term implications while plotting such a desired outcome for the future:

Although the UN resolution emphasises permanency, how will we provide permanency for vulnerable children in a country with a statistically verifiable problem with anonymous abandonment; more than half a million double orphans; the ongoing challenge of violence, neglect and abuse; an anti-adoption stance; an overburdened foster care system and too few social workers? As the deinstitutionalisation plan is executed, many CYCCs (child and youth care centres) will be forced to close their doors and dismiss their caregivers. Others will pivot and reinvent themselves in a desperate attempt to continue receiving government subsidies. It is the children and their best interests that should be of primary concern.⁵⁶

The foregoing warnings and views are valid and need to be considered when implementing the deinstitutionalisation of children in South Africa. However, deinstitutionalisation should not be seen outside the purviews of building the capacities of families and communities as well as fostering active citizenship, by the government and organs of civil society, so that they can raise children in safe and fulfilling environments. Such capacitation should not only be based on psycho-social support but it must be driven by strong economic empowerment programmes, as articulated in some government policies and the NDP. When such a strong family-community-based agenda is implemented across the country, many of the cited social ills above would have been nipped in the bud, as the building of families and communities would also be anchored in a preventative approach, where societal challenges are anticipated and addressed before they blossom.

2.5. Analysis and Policy Implications

It can be deduced from key policies and legislation pertaining to families and children that South Africa has been yearning for a dispensation that allows children to grow up in a family environment, whichever form it may be. The main issue here is that there has been a recognition from the government and civil society that children need to be socialised and nurtured by families, for them to grow into independent and productive members of society one day. It is this wish that keeps on being reaffirmed in policies and legislation and which resonates with deinstitutionalisation, even though this has been explicitly stated in the policy documents and

legislation. However, this is an ideal situation and for a country such as South Africa, with a tortuous past and whose hallmark was the destruction of the African family, it would not be easy to move the needle from institutionalisation to deinstitutionalisation. Also, new threats emerged in the post-apartheid era, especially HIV/AIDS, which laid waste to families and communities and turned millions of children into orphans.

It is thus imperative for this policy to tease out linkages between government policies and legislation and the quest for deinstitutionalisation and then explain why and how deinstitutionalisation advances the strategic thrusts of government policies and legislation, especially the abovementioned. Presently, the child protection sector has not shifted much towards a developmental pathway and probably this has been one stumbling block impeding deinstitutionalisation. After the White Paper for Social Welfare (1997) was adopted as the country's social welfare policy, some services and programmes in the social development arena were not transformed to reflect the new thinking, ideas and innovations associated with the social development approach. Child protection seemed to be stuck in the old statutory mode.

Some scholars and analysts identified this deficit and argued that the government and welfare agencies in this sector were prone to move from the premise of the *Child Protection discourse* and not the *Developmental Social Welfare discourse*. In the Child Protection discourse subjects tend to be individualised and blamed for the situations in which they find themselves. The Child Protection discourse, with its emphasis on statutory interventions, further allows for the continued scrutiny of families involved with the system. The Child Protection discourse also emphasises the role of the social worker as an expert as opposed to the construction of the social worker as facilitator and enabler in the Developmental Social Welfare discourse.⁵⁷

The developmental approach to child protection has not been fully implemented over the years in South Africa, or even adhered to in the post-apartheid era. This seems to be one of the main drawbacks to deinstitutionalisation. A developmental approach to child protection would enable children to be either reunited with their families after appropriate interventions have taken place or prevented from entering the formal system of residential care in the first place. Crucially, it is proposed in this policy that institutionalisation forms part of the child protection continuum, whereby it is not simply an additional process, but it is intertwined with the policies and legislation that call on families to effectively play their roles and responsibilities in raising the country's children.

2.6. Contemporary Child Protection Trends

A research study that was undertaken by some scholars in 2019, which focussed on the structure, functioning and resourcing of child protection services in post-apartheid South Africa discovered that there was no over-arching strategy for child protection services, while there was a dysfunctional relationship between government and the non-profit sector, and inadequate resourcing. It also identified many gaps in the co-ordination and integration of services which contributed to inequalities in service delivery to children, families, and communities. The study further notes that despite early positive indicators and subsequent legislative and policy developments in the post-apartheid era, changes in child protection practice have been slow.⁵⁸ The foregoing point is also underscored in an earlier study which observed that in spite of the good intentions of the new government, these changes were mostly incremental and uncoordinated as well as lacking adequate resources to implement better programmes as envisaged. Consequently, the child and family welfare service system did not present a coherent, comprehensive, and integrated system.⁵⁹

The 2019 research study which is mentioned above also observes that child protection services provided by Non-Profit Organisations (NPOs) were underfunded by the government and insufficient attention had been given to the role of local government in child protection services. Among others, the 2019 study recommends a clear overarching strategy and structure for the child protection system, which would take into account specific needs and constraints in South Africa and contain elements enabling a continuum of care and developmental child protection service provision inclusive of prevention, early intervention, response and reintegration services, must be developed.⁶⁰

2.6.1. Evidence-Based Decision-Making

The Gauteng Province Department of Social Development (GDSD) has been implementing deinstitutionalisation, which is supported by Hope and Homes for Children South Africa (HHCSA). HHCSA provides the technical framework, training, support, and monitoring and evaluation. It is envisaged that HHCSA will expand work to five additional provinces of South Africa while working to create enabling conditions for change. An evaluation study was embarked upon in 2023 to *inter alia*, measure and evaluate outcomes for children and families transitioned out of institutional care and back into family and community-based care options in Gauteng. What can be gleaned from the preliminary findings of this evaluative study is that there is no policy document that could guide role players and service providers in the child protection sphere to implement deinstitutionalisation.

Hence, the drafting of this policy document is informed by data that was provided by key stakeholders in the child protection sector in Gauteng and some provinces. These early findings of the cited evaluation study already show that deinstitutionalisation has critical implications for child protection policies, legislation, programmes and practice, as well as the development and capacitation of human resources in this sector, families and communities. The evaluation study is ongoing. However, the development of a policy for deinstitutionalisation has been identified as something that needs to be undertaken parallel to the evaluation study. It is envisaged that GDSD and HHCSA will together advocate for national implementation of care reform to realise a deinstitutionalised child protection system in South Africa.

2.7. Conclusion

This chapter presented the problem statement of the policy and discussed matters related to the foregoing. It traced the identified problem and proposed a new avenue in the child protection sector which hinges on deinstitutionalisation. In making this proposal, cognisance was taken of historical and contemporary factors which not only have a bearing on the country's child protection sector but continue to shape and define it. Some of these variables were highlighted in this section. The next section focuses on the vision and goals of the policy and other related issues.

CHAPTER THREE

POLICY VISION AND OBJECTIVES

3.1. Vision

Children in South Africa are transitioned from institutions to families and community care systems.

3.2. Mission

To engender a government-wide and civil society approach that capacitates and strengthens the roles of families and communities to raise, socialise and nurture children once they have been deinstitutionalised.

3.3. Rationale

Even though institutionalisation or residential care is important, it should not be an option of last resort. This policy calls for the deinstitutionalisation of children so that they can grow in families and community set-ups as expressed in government policies and legislation. This is also in line with international conventions such as the United Nations 2019 Resolution on the Promotion and Protection of the Rights of Children and the 2022 Kigali Declaration on Child Care and Protection Reform.

Accordingly, the process of deinstitutionalisation is not an end goal in itself but a means for achieving what is best for every individual child. It is a process of replacement of institutional care with family or family-based care and it is not limited to closing institutions.⁶¹

Crucially, the rationale for developing a deinstitutionalisation policy for South Africa's children is informed by scientific evidence which points to the fact that a child's human development and other outcomes are best attained in a family setting or something akin to the former, for instance, community caring systems. Several observational studies have compared institutionalised children to non-institutionalised children. These studies tell a compelling story of the effects of institutional care; most studies find that institutionalised children have significant developmental deficits across virtually every domain that was examined.⁶²

Institutionalisation does not augur well for a country, such as South Africa, which wants its citizens to be self-reliant and active in shaping their lives, in line with government policies and legislation. Also, it becomes unsustainable for a country to be heavily reliant on institutional and residential childcare because in the long run, socially inept citizens will be a burden to the whole society.

3.4. Guiding Principles

3.4.1. *Rights-Based Approach*

The approach pays particular attention to those who are extremely marginalised, excluded or discriminated against in society. It also makes sure that social services are tilted in the direction of vulnerable and marginalised groups in society.

3.4.2. *Child-First Approach*

This approach recognises that children should have a voice in all processes or solutions that focus on them. Children should be placed at the centre of social service delivery.

3.4.3. *Ubuntu*

This is an African philosophy that is underwritten by the notion of human solidarity, mutual obligation and reciprocity. It sees people's humanity as being expressed in others.

3.4.4. *Democracy*

Children have a right to participate in matters that affect them and add their voice to national processes aimed at their well-being. They are competent citizens who should know what is best for their well-being.

3.5. Theory of Change, Policy Objectives and Expected Outcomes

A theory of change is a method that explains how a given intervention, or set of interventions, is expected to lead to a specific development change. Drawing on a causal analysis based on available evidence helps guide the development of sound and evidence-based programme strategies, with assumptions and risks clearly analysed and spelt out.⁶³

3.6. Logical Framework for Deinstitutionalisation of Children in South Africa

This logical framework puts forward a holistic and phased-in approach to implementing the deinstitutionalisation of children in South Africa. It is defined by several stages where specific actions should be undertaken to deinstitutionalise children in South Africa.

3.7. Overall Objective

To deinstitutionalise children in South Africa through a phased-in policy implementation process.

3.7.1. Outcomes

At the end of the implementation process, children would have been deinstitutionalised and placed in families and communities, after appropriate capacitation and strengthening of families and communities, by government and civil society interventions.

3.7.2. Outputs and Stages

Table 4: Outputs and Stages of the Deinstitutionalisation Process

Stages	Outputs
<i>Stage 1: Initial preparations and laying the foundation for deinstitutionalisation</i>	Identification of all role players in the child protection service arena such as government and civil society actors, as well as traditional, religious and bodies. Advocate for deinstitutionalisation lobby key actors and seek support for deinstitutionalisation.
<i>Stage 2: Establishing policy and legislative mechanisms for institutionalisation</i>	Creating the requisite infrastructure to implement the draft deinstitutionalisation policy and creating linkages with other national policies. The lead actor here should be the National Department of Social Development (NDSD).
<i>Stage 3: Developing and designing deinstitutionalisation infrastructure</i>	Creating systems and mechanisms to implement deinstitutionalisation. Establishing administrative systems and identifying and deploying capacities and human resources for deinstitutionalisation.
<i>Stage 4: Piloting the implementation of the policy</i>	Mobilising the Social Development and Child Protection Sector for the new policy entailing consultations, roadshows, workshops, <i>izimbizo</i> , etc.
<i>Stage 5: Monitoring and Evaluation of Policy</i>	Monitoring and evaluating the implementation of the policy and scaling it up.

3.8. Conclusion

This section presented the vision and mission of the policy while highlighting its underpinning principles. The theory of change, policy objectives and expected outcomes in the light of deinstitutionalisation were discussed as a way of proposing an alternative pathway in the child protection sector in South Africa.

CHAPTER FOUR

IMPLEMENTATION AND GOVERNANCE

4.1. Policy Focus Area

The deinstitutionalisation of children in South Africa is the main focus area of this policy. This will be implemented with a view to transitioning children from institutions to families and communities. Implementing the deinstitutionalisation of children in South Africa cannot take place without a common understanding of this process, its intention and why it should transpire in South Africa, given the high levels of vulnerability and fragility among children in the country. Implementing the deinstitutionalisation of children, as stated earlier, should be part of the child protection services continuum.

Implementation cannot be undertaken by one department or section of government as children are a cross-cutting policy issue as stated in other sections of this document.

The Department of Social Development (DSD) is the lead department responsible for child protection and other key departments are the Department of Justice, National Prosecution Authorities, the Department of Health, the Department of Education and the South African Police Service (SAPS). The levels of inter-departmental collaboration both horizontally and vertically amongst these departments are problematic with communication being the greatest challenge. National, Provincial and Local Child Protection Committees have been established to facilitate coordination between government departments and between government and civil society organisations.⁶⁴

To implement the deinstitutionalisation of children in South Africa, there must be strong oversight and coordination provided by the government, and in this case, DSD. All stakeholders in the child protection arena need to come on board and play their roles in deinstitutionalisation. For this policy, its implementation must be based on a clear step-by-step approach which should inform all role players on what to do when it comes to deinstitutionalisation. The framework below is proposed by this policy.

4.1.1. Implementation Framework For Deinstitutionalisation in South Africa

Table 5: Planning for Change: Implementation Framework For Deinstitutionalisation in South Africa Adapted from Jones & UNICEF (2019) ⁶⁵

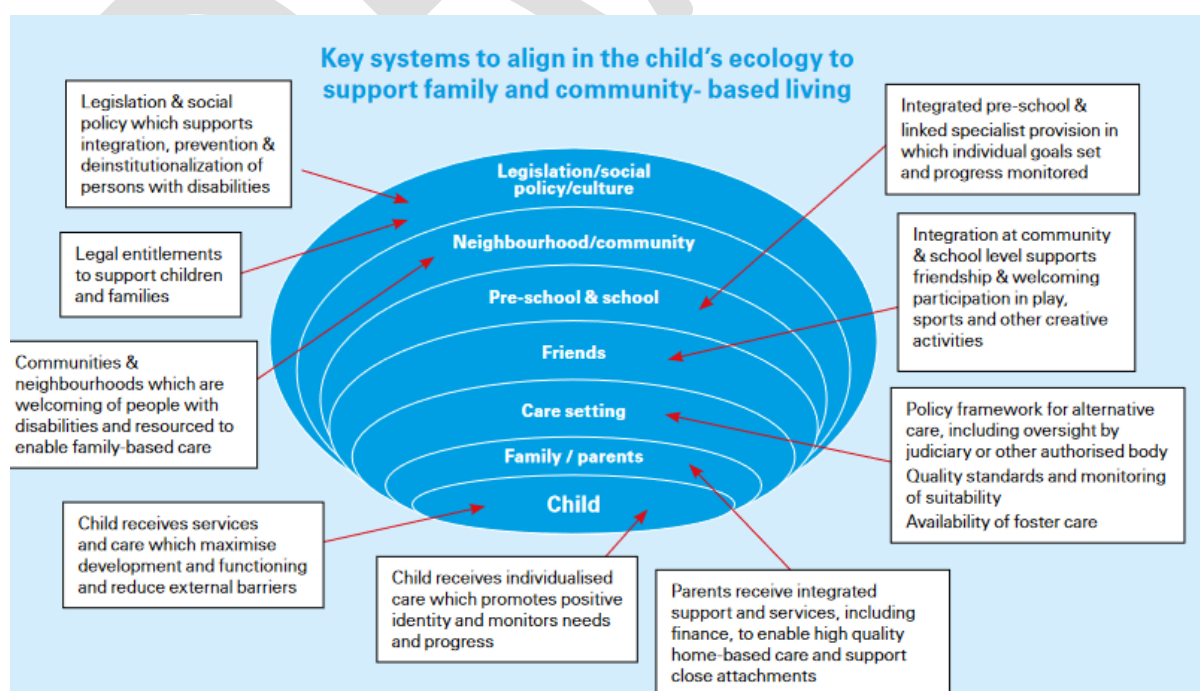
Strategic Area	Activities
<i>Identifying the children and priorities</i>	<p>Appropriate information on children in residential and institutional care, including statistical and research data, must be collected for the government to formulate and implement policies.</p> <p>Collecting information on the reasons for admission, the situation of the child and family status, whereabouts of siblings and</p>

	<p>whether relatives have been contacted with regard to providing care. This information will be useful for planning re-integration but will also help in planning services to prevent separation.</p>
<p><i>Understanding and identifying needs, costs and outcomes</i></p>	<p>Data is particularly important for deciding on priorities in a context of scarce resources and questions as to where investment could have the greatest impact.</p> <p>Understanding the nature of the difficulties and levels of functioning of the children in institutions will help determine priorities for support services in the community for parents and families and for identifying the balance of provision between small group homes and family foster care as well as the necessary transition periods for the children.</p> <p>Being able to cost children's placements accurately facilitates comparisons between the relative value of different types of care and makes it easier to estimate the potential benefits of introducing a range of different services for enabling children to stay with birth and/or extended families and for new settings such as foster care. For example, questions are to be posed whether there is a long- term benefit to the child and the country's finances in providing early help or not? How can this be calculated?</p> <p>Undertaking a comparative analysis of countries that have implemented the deinstitutionalisation of children. For example, work has been done in the UK to develop a simple 'bottom up' costing model called a Cost Calculator for Children's Services which identifies different types of placements, costs for individual children and costs for groups of children according to needs, gender, age, placement type or provider using local data and enabling 'what if scenarios. This is particularly important when seeking government and financial support for major reforms. The tool and underpinning conceptual framework have been found to have applicability beyond the English child welfare system.</p>

	<p>In addition, work has been done on an approach to economic modelling that can be used in a number of ways to inform decision-making, advocacy, research and practice development. The Chidonomics approach is based on cost-consequence analysis (CCA) and incorporates elements of social return on investment methods including service user perspectives in the analysis of return on investment. CCA presents costs and outcomes side by side in a disaggregated manner; it is a form of cost effectiveness analysis which presents the range of benefits identified alongside costs incurred without aggregating them in a single metric (e.g., a cost-effectiveness ratio), leaving the users of the methodology to incorporate their own considerations when judging the merits of an intervention or programme.</p>
<p><i>Designing the system</i></p>	<p>Having identified the context for reforms in a particular country, the next phase is to assess the elements of the system which need to be developed in order to deliver them.</p>

The diagram below uses Bronfenbrenner’s model to show the core elements of the system that need to be in place to support deinstitutionalisation and provide effective community-based support for children and families (UNICEF, 2019, p. 37).

Figure 2: Key Systems to Align in the Child’s Ecology to Support Family and Community-Based Living



Source: Adapted from Jones & UNICEF (2019)

4.2. Target Beneficiaries and Stakeholders

The envisaged target beneficiaries are vulnerable children who will be leaving institutions and placed in family and community caring settings.

4.3. Resource Allocations-Human, Financial, Equipment, Systems

The government will take the lead in this area as it has the overall mandate to protect South Africa's children. Other role players will work in tandem with the government as it deinstitutionalises children, in line with its policies and legislation, and the tabified international conventions.

4.4. Roles and Responsibilities

These would need to be defined and decided upon by the government in consultation with the key stakeholders

4.5. Communication

Communication of the deinstitutionalisation policy will be through different media platforms and various government and civil society channels.

4.6. Performance Reporting and Accountability

Performance and accountability reporting (PAR) is the process of compiling and documenting factors that quantify an organisation's achievements, efficiency, and adherence to budget, comparing actual results against previously articulated goals. The PAR process is usually carried out once per fiscal year, although in some cases it is done more often. A comprehensive PAR document provides an overview of an organisation's mission, planning process internal structure and the strategies implemented to achieve desired goals. For each of these strategies, the document also assesses the degree of success the organization had in meeting its targets. In addition, the report details how performance and financial information are handled to ensure accuracy and completeness.⁶⁶

This type of high-level compliance will need to be overseen by the lead actor in the child protection arena, the Department of Social Development.

4.7. Risk Assessment and Mitigation Strategy

In this process, contingencies will be made to reduce risks when implementing the deinstitutionalisation policy. As a new policy, there has to be buy-in from the country and all stakeholders. Thus, there must be concerted efforts made to disseminate information across the country and the child protection sector. Other risks pertain to political will which also translates into budgetary allocations. If there is no political will to implement the deinstitutionalisation of children, then this issue will remain a mere wish in government policies and legislation. Again, to mitigate this risk, there has to be information sharing between the government, all stakeholders in the child protection arena and especially the drivers of the deinstitutionalisation

agenda in South Africa. There is already resistance against deinstitutionalisation from several sections of South Africa and this reality must not be overlooked when implementing the deinstitutionalisation policy. This risk exists and it is not merely a potential. More consultations, engagements and rapport between the lead policy driver and the identified segments that are resisting efforts aimed at deinstitutionalising children must be undertaken.

4.8. Conclusion

This section was mainly focussed on the implementation of the proposed policy on the deinstitutionalisation of children and how this could be achieved. It was also concerned with governance matters related to deinstitutionalisation. Furthermore, it showed how risks would be anticipated and reduced through certain actions by the policy developers. The chapter also demonstrated how the implementation of the policy must be evidence-based.

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CHAPTER FIVE

POLICY MONITORING, EVALUATION AND REVIEW

Monitoring and Evaluation (M&E) is an essential part of the policy cycle and thus it must always be factored into the policy development process. Monitoring and Evaluation (M&E) allows policymakers and programme managers to assess how an intervention evolves over time (monitoring); how effectively a programme was implemented whether there are gaps between the planned and achieved results (evaluation); and whether the changes in well-being are due to the programme and to the programme alone (impact evaluation).⁶⁷ M&E enables policymakers to make informed decisions based on evidence. Thus, M&E is essential for evidence-based policy decision-making.

In addition, government-wide monitoring and evaluation requires detailed knowledge both across and within sectors, and interactions between planning, budgeting, and implementation. The picture is complicated even further when the machinery of government is decentralised, with powers and functions being distributed across three spheres of government. It is precisely this complicated intergovernmental structure with diffused powers and functions that requires strong M&E systems to promote coordination and prevent fragmentation.⁶⁸

5.1. Programme Performance Measurement Indicators

This policy recognises that deinstitutionalisation in South Africa should be a holistic and multi-sectoral approach. Also, it should be informed by a multiplicity of indicators and variables. This policy is informed by the government’s M&E framework whose essential elements are illustrated in the table below:

Table 6: Key Elements of M&E

Inputs	Activities	Outputs	Outcomes	Impacts
All the resources that contribute to the production of service delivery outputs. Inputs are “what we use to do the work”. They include finances, personnel, equipment and buildings.	The processes or actions that use a range of inputs to produce the desired outputs and ultimately outcomes. In essence, activities describe “what we do”.	The final products, goods and services produced for delivery. Outputs may be defined as “what we produce or deliver”.	The medium-term results for specific beneficiaries which are the consequence of achieving specific outputs. Outcomes should relate clearly to an institution’s strategic goals and objectives set out in its plans. Outcomes are “what we wish to achieve”.	The results of achieving specific outcomes, such as reducing poverty and creating jobs. Impacts are “how we have actually influenced communities and target groups”.

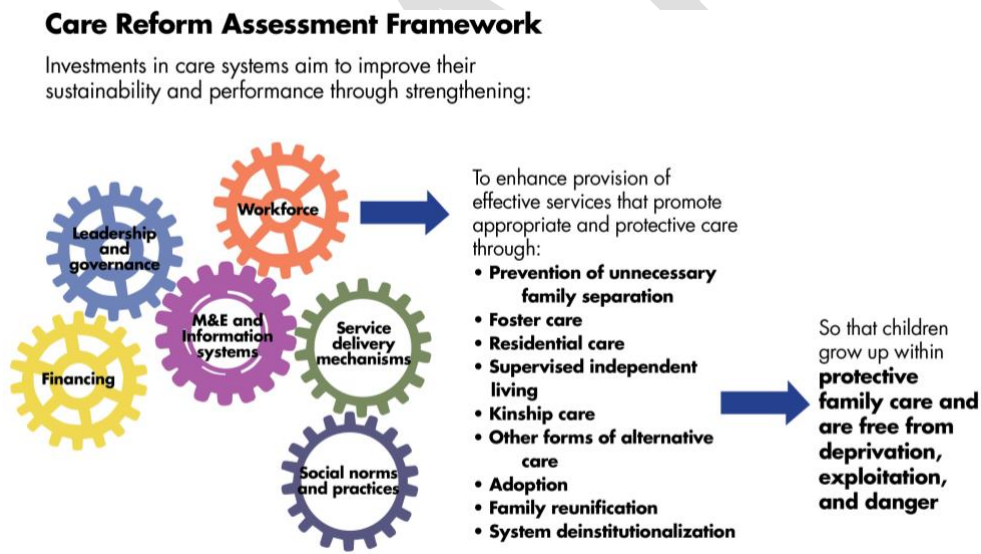
			Outcomes are often further categorised into immediate/direct outcomes and intermediate outcomes.	
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Source: The Presidency (2007)

5.2. Monitoring and Evaluating Care Reform

Even though there are many different frameworks of M&E, it is important to pick one that is closer to an issue that is being examined. In this case, care reform is aligned to deinstitutionalisation. The Figure below is instructive to the proposed monitoring and evaluation of deinstitutionalisation.

Figure 3: Care Reform Assessment Framework



Source: Adapted from United States Agency for International Development (USAID)/ Displaced Children and Orphans Fund (DCOF) (2019)

The above tool applies the United Nations (UN) Guidelines for the Alternative Care of Children. The structure of the tool follows a framework that covers key areas of caring for children outside of family care: foster care, residential care, supervised independent living, kinship care, other forms of informal care, adoption, family reunification and system deinstitutionalisation. This tool also has questions related to preventing unnecessary child-family separation, which is a critical component of keeping children in family-based care. The tool applies a system-strengthening framework.⁶⁹

5.3. Monitoring and Evaluation of the Policy

The Department of Social Development (DSD) will have to lead the M&E of the deinstitutionalisation policy together with other government departments responsible for child protection, namely:

- Department of Justice,
- National Prosecution Authorities,
- Department of Health,
- Department of Education and
- the South African Police Service (SAPS) and NPOs.

The abovementioned should also work closely with non-state actors such as NPOs and the traditional and faith-based sectors.

5.4. Conclusion

This section discussed the M&E process and how it is going to be applied to the deinstitutionalisation policy. Several actors were identified as being central to the M&E process, with the Department of Social Development taking the lead.

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