

1. INTRODUCTION AND BACKGROUND

Namibia ranks as one of the five countries in the world most affected by HIV and AIDS, with an overall weighted HIV prevalence rate of 23%¹ among sexually active adults. AIDS has already caused life expectancy at birth in Namibia to fall from 60 years in 1990 to 43 years in 2001.² The costs of the epidemic are staggering. They include the increasing expense of medical care and the loss of workers, parents and children.

The number of reported deaths in the age group 15-49 years continues to increase. By 2000, this group accounted for more than 50% of all deaths in hospitals. Young people (10 to 24 years) are estimated to account for up to 60% of all new HIV infections.³ Women and girls are particularly vulnerable.

It is evident from the latest statistics that HIV infections and deaths are increasing in the economically active age group of 15-49 years. HIV and AIDS will continue to impact both the education system and human development in Namibia.

In Namibia, orphans and other vulnerable children are defined as “children under the age of 18 whose mother, father or both parents or primary caregiver has died, and/or is need of care and protection”.⁴

The 2001 National Census revealed that there were 156 165 orphans between the ages of 0 and 19 in Namibia.⁵ As the numbers of adults dying of AIDS rises over the next decade, increasing numbers of orphans will grow up without parental love and care, and be deprived of their basic rights to shelter, health, food and education. It is estimated that by 2021 there will be 251 054 orphans in Namibia, of which over three-quarters will be children orphaned by AIDS.⁶

Moreover, the capacity of the traditional extended family structure to care for orphans and other family members is already straining under the growing burden of caring for increasing numbers of orphans. This is particularly so in light of the fact that older people are increasingly bearing the responsibility of caring for orphans.

2. LEGAL AND POLICY FRAMEWORK

In terms of Article 15 of the Namibian Constitution, children have the right to a name from birth, the right to acquire a nationality and the right, as far as possible, to know and be cared for by their parents.⁷ They are also entitled to be protected from economic exploitation.⁸ Article 20 provides that all persons shall have the right to education⁹ and that the State shall provide reasonable facilities for compulsory, free primary education.¹⁰

Namibia has also ratified the United Nations Convention on the Rights of the Child. Thus, in addition to the rights and freedoms guaranteed to children in terms of the Constitution, children in Namibia are also guaranteed the rights set out in the Convention on the Rights of the Child (CRC). The four general principles of the CRC, non-discrimination (Article 2), the best interests of the child (Article 3), the right to survival, life and development (Article 6) and the right to express views and have them taken into account (Article 12) should govern all actions in the national response to orphans and other vulnerable children.

The CRC requires states (countries) to develop National Programmes of Action (NPA) for children through which government and development partners, such as the UN and NGOs, bring together human and material resources on national, district and community levels to respond to the needs of children. Namibia was among the first countries to adopt an NPA for children in 1991.

The NPA has been incorporated in government planning and the first and second National Development Plans (NDP-1 and 2) reflect the goals and provisions of the NPA, namely the halving of malnutrition rates among children, the provision of access to safe drinking water and proper sanitation for all, the provision

of access to basic education and primary education for 80% of primary school age children, and the provision of protection for children in especially difficult circumstances.

The impact of HIV and AIDS on orphans and other vulnerable children is compounded by many factors, including:

- unemployment;
- poverty and food insecurity;
- all forms of violence and abuse;
- stresses placed on extended family structures and NGO/CBO service providers which become over extended as the number of OVC requiring care and support increases;
- information gaps in the management of OVC that lead to a lack of awareness of services and opportunities for OVC and their caregivers;
- shortage of capacity, particularly in the form of lay counsellors, social workers to qualify children for state assistance and other programmes, and magistrates to administer child law and to appoint legal guardians;
- logistical difficulties in accessing health care in the rural areas where the majority of orphans and other vulnerable children live as a result of the geographically scattered nature of rural populations.

In June 2001, Namibia ratified the Declaration of Commitment on HIV/AIDS issued at the United Nations General Assembly Special Session on HIV/AIDS in terms of which it committed itself to:

“By 2003, develop and by 2005, implement national policies and strategies to build and strengthen governmental, family and community

capacities to provide a supportive environment for orphans and girls and boys infected and affected by HIV and/or AIDS, including by providing appropriate counselling and psychosocial support, ensuring their enrolment in school and access to shelter; good nutrition and health and social services on an equal basis with other children; and protect orphans and vulnerable children from all forms of abuse, violence exploitation, discrimination, trafficking and loss of inheritance.”¹¹

The Ministry of Women Affairs and Child Welfare is charged with ensuring the legal care and protection of children. It is further committed to ensuring the provision of adequate care and protection for all orphans and other vulnerable children and to providing leadership for the implementation of this policy on orphans and other vulnerable children. Government is committed to minimising the number of children orphaned by AIDS as well as the impact of HIV and AIDS on orphans and other vulnerable children in Namibia and to reducing the vulnerability of orphans and other vulnerable children to HIV infection.

Issues relating to orphans and other vulnerable children are cross-cutting and in order to be successfully addressed, require coordination and collaboration between all Ministries, non-governmental organisations, community-based organisations, faith-based organisations and elements of the private sector involved in the national response to orphans and vulnerable children. In order to facilitate such coordination and collaboration between the various stakeholders involved in the national response to orphans and other vulnerable children, government has by way of a Cabinet Directive, established a multi-sectoral Permanent Task Force (PTF) on

Orphans and Other Vulnerable Children. The PTF is responsible for directing and facilitating the national response to orphans and other vulnerable children.

In keeping with international treaties and standards, the Constitution of Namibia, national laws, the National Strategic Plan on HIV/AIDS (Medium Term Plan II), the National Development Plans I and II, and the best interests of the child, the following shall constitute the national policy on orphans and other vulnerable children:

3. OBJECTIVES

The objectives of this policy are:

- 3.1 to create a framework for protecting and promoting the well-being of all orphans and other vulnerable children;
- 3.2 to reduce the vulnerability of orphans and other vulnerable children to HIV, to improve the provision of treatment, care and support for orphans and other vulnerable children living with HIV or AIDS and to mitigate the impact of HIV and AIDS on orphans and other vulnerable children and their families;
- 3.3 to ensure that orphans and other vulnerable children have adequate access to skills for sustainable development (education, knowledge and life skills), preventive and curative health services, psychosocial care and support, clothing, shelter, and good nutrition), and legal care and protection;
- 3.4 to alleviate child poverty;
- 3.5 to improve access by rural and marginalised communities to services for orphans and other vulnerable children and their caregivers;
- 3.6 to adopt an action learning approach to applied research to effectively assess intervention effectiveness and modify programmes and responses accordingly; and
- 3.7 to strengthen the multi-sectoral and multi-disciplinary institutional framework to coordinate and monitor the provision of services and programmes to orphans and other vulnerable children and their caregivers.

4. GUIDING PRINCIPLES

This policy shall be guided by the Lusaka Principles and the goals set out in the UNGASS Declaration on HIV/AIDS and shall be based on and governed by the following principles:

4.1 Best interests of the child

The best interests of the child are the overriding consideration in the national response to orphans and other vulnerable children.

4.2 Political leadership and commitment

Strong political leadership and commitment at all levels is essential for a sustained and effective response to orphans and other vulnerable children in Namibia.

4.3 Multi-sectoral approach and partnerships

An effective response to orphans and other vulnerable children requires the active involvement of all sectors of society. Thus, a multi-sectoral approach is required that includes partnerships, consultations and coordination with all stakeholders including non-governmental organisations, community-based organisations, faith-based organisations and, in particular, orphans and other vulnerable children, in the design, implementation, review, monitoring and evaluation of the national response to orphans and other vulnerable children.

4.4 Promotion and protection of human rights

International human rights law and the Constitution of Namibia guarantee the right to equal protection before the law and freedom from discrimination.

Discrimination is not only wrong itself but also creates and sustains conditions leading to vulnerability of orphans and other vulnerable children, including to HIV infection and to receiving adequate treatment, care and support if infected.

An effective response to orphans and other vulnerable children requires that the rights to equality before the law and freedom from discrimination are respected, protected and fulfilled; in particular in gender relations between women and men and girls and boys.

Programmes and strategies aimed at orphans and other vulnerable children should not single out children orphaned by AIDS, since targeting specific categories of children can result in increased stigmatising and discrimination. However, in the design and implementation of such programmes, recognition must be given to the fact that children orphaned by AIDS are more likely to be stigmatised and to suffer discrimination than other orphans.

4.5 The right to survival, life and development

Children and adolescents have the right not to have their life arbitrarily taken as well as to benefit from economic and social policies that allow them to survive into adulthood and to develop, in the broadest sense of the word. A critical factor in the survival and healthy development of children is that their parents remain alive and with them to the extent possible. Thus factors that hinder equal access of parents and family members to HIV treatment, care and support must be addressed to reduce the number of children orphaned and rendered vulnerable as a result of HIV and AIDS.

4.6 The right to express views and have them taken into account

Orphans and other vulnerable children should be at the centre of the response to orphans and other vulnerable children in

Namibia and have a right to participate, in accordance with their evolving maturity in assessing needs and defining strategies. They must therefore be supported to effectively participate in the planning and implementation of such strategies, policies and programmes.

4.7 HIV prevention, treatment, care, support and impact mitigation

Prevention, treatment, care and support and impact mitigation are mutually reinforcing elements of a continuum of an effective response to HIV and AIDS and the associated increasing number of orphans and other vulnerable children.

4.8 Good governance, transparency and accountability

An effective national response to the needs of orphans and other vulnerable children requires government to provide leadership in effectively mobilising resources, including but not limited to financial resources as well as prudent management of resources at all levels, and in all sectors and good governance, transparency and accountability.

4.9 The best solutions for orphans and other vulnerable children are close to home

Successful programmes for orphans and other vulnerable children are those that are child-centred, family- and community-focused, and respect and protect the rights of the child. Orphans should, to the extent possible, be cared for by appropriate adults in family units through extended family networks, foster families or adoption. At the very least siblings should not be separated and children should remain in, or close to, their communities. To serve as part of the solution, extended families require support from government, the private sector and the surrounding community.

5. POLICY PROVISIONS

5.1 Strengthen and support the capacity of families, social networks, neighbourhoods and communities to protect and care for orphans and other vulnerable children

The extended family and social network is the best and most sustainable care provider for orphans and other vulnerable children. The safety and well being of orphans and other vulnerable children being cared for within extended family networks and in particular by older people is dependent largely on the ability of the extended family members and surrounding communities to protect and care for them. In many instances orphans are cared for by older persons in remote areas with little or no access to health and other social services. In order to strengthen the capacity of extended families and surrounding communities to render care and support to orphans and other vulnerable children, government, working in partnership with non-governmental organisations and community-based organisations shall ensure that extended families, social networks, neighbourhoods and communities are provided with the following support:

- 5.1.1 sustainable interventions to respond to household economic needs as necessary, including agricultural assistance for increased food production, the building of basic infrastructure to support the productive base of communities, improved access to employment and markets, income generation, micro-enterprise and micro-finance programmes;
- 5.1.2 provision of assistance to cover school-related and health care expenses and the provision of food aid and welfare assistance;

- 5.1.3 information, education and training on optimal nutrition, first aid and health care, HIV prevention, care, support and treatment and psychosocial care giving;
- 5.1.4 assistance to establish community-based early childhood development facilities;
- 5.1.5 information and training of community volunteers and outreach workers on home-based care and psychological support of orphans and other vulnerable children and their caregivers as an integral part of existing community- and school-based efforts to promote the health and psychosocial well-being and social integration of children.

5.2 Stimulating and strengthening community-based responses

The community is the second safety net for orphans and other vulnerable children. Community groups can help orphans and other vulnerable children directly or assist families caring for orphans and other vulnerable children to provide for the childrens' needs. In addition, organised communities are best able to determine which children and households are the most vulnerable, and to channel local or outside resources to those most in need.

- 5.2.1 Government, donors, non-governmental, faith-based and community-based organisations shall recognise that families, communities and children themselves are at the forefront of the national response to orphans and other vulnerable children and that community ownership of interventions is vital for their effectiveness.
- 5.2.2 They shall accordingly ensure that outside assistance focuses on engagement in long-term partnerships with communities through existing community

structures to support, strengthen and sustain ongoing grass roots initiatives through training and technical assistance, organisational development and sustained financial and material support.

5.3 Ensuring that government protects and provides essential services to the most vulnerable children

Orphans and other vulnerable children are at greater risk of exploitation, physical, emotional and sexual abuse, which increases their vulnerable status.

Government has the ultimate responsibility for the protection and provision of essential services to orphans and other vulnerable children. Government shall thus ensure that:

- 5.3.1 the existing policy and legal framework for the protection of children and young people is adequately strengthened;
- 5.3.2 government agencies tasked with child protection are provided with adequate and appropriate information, training and human and other resources to enable them to effectively and efficiently carry out this mandate;
- 5.3.3 laws and policies governing the granting and administration of social assistance grants for orphans and other vulnerable children and their caregivers as well as laws and policies governing the placement of children in need of protection are revised and amended to ensure efficient and speedy access by orphans and other vulnerable children and their caregivers to such assistance;
- 5.3.4 delivery of education, health and other essential services, including emergency food supplies, to orphans and other vulnerable children and their caregivers is strengthened to

ensure access to such essential services by all who need them, in particular those orphans and other vulnerable children who are not able to be cared for and protected by their extended families or communities; and

- 5.3.5 an appropriate system for the identification of orphans and other vulnerable children requiring assistance and access to essential services is designed and implemented in order to facilitate the access of orphans and other vulnerable children to such assistance and services.

5.4 Strengthening the capacity of children and young people to meet their own needs

- 5.4.1 Keeping orphans and other vulnerable children in school is central to strengthening their capacity to meet their own needs.

Government shall thus ensure that:

- all heads of government education institutions, parents and caregivers shall be provided with information about allowable exemptions for the payment of contributions to school development funds and hostel fees by learners who are unable to pay such fees;
- no learner shall be excluded from a government school only as a result of their inability to pay a contribution to the school development fund or to afford a school uniform. No learner shall be excluded from examinations conducted at a government school as result of their inability to pay examination fees;
- all education sector employees and school board members should be sensitised about the special needs of learners and

students who are orphans or vulnerable children, including those orphaned or affected by HIV and/or AIDS. Heads of educational institutions, in partnership with non-governmental organisations, churches and community-based organisations should facilitate the access of such learners and students to support and counselling services, including rehabilitation and treatment services for children with serious behavioural problems and children in conflict with the law as well as after-school programmes and holiday activities and, where necessary, to school feeding schemes;

- heads of educational institutions should ensure effective inter-school referral systems to minimize disruption and to provide support to learners when they have to be transferred after a parent or caregiver dies;
- heads of educational institutions should be sensitive to the special needs and the peculiar situation of orphans and other vulnerable children;
- heads of educational institutions and heads of hostels should ensure that allocation of accommodation in hostels should favour the most vulnerable learners and students. Hostel staff should be sensitised on the special needs of learners and students who are orphans or vulnerable children, including those orphaned or affected by HIV and/or AIDS. In areas where there are limited or no hostel facilities, heads should facilitate

community-boarding alternatives for learners and students who are orphans or vulnerable children;

- in consultation with the institution's HIV/AIDS Advisory Committee, heads of educational institutions should work to develop networks of support for orphans and other vulnerable children at each educational institution. Such networks should use available resources both in the institution and outside it. Support provided should respond to the wide range of needs that exist; and
- orphans and other vulnerable children shall, to the extent possible, be assisted by government to pursue tertiary education.

5.4.2 The effective participation of children and young people in the design and implementation of interventions aimed at addressing the needs of orphans and other vulnerable children is crucial to the success of such interventions. Government, non-governmental organisations and other partners in the response to orphans and other vulnerable children shall thus ensure that:

- children and young people are afforded the opportunity to participate in the design and implementation of interventions aimed at addressing the needs of orphans and vulnerable children; and
- children and young people are provided with the support necessary to effectively participate in such design and implementation.

5.5 Creating an enabling environment for affected children and families

Increasing awareness among policymakers, community leaders, law enforcement officials, health care workers, social and community outreach workers and communities about the impact of HIV and AIDS on children and families and about the special needs of orphans and other vulnerable children helps to generate a broadly shared sense of responsibility for action.

Government, working in partnership with non-governmental, faith-based and community-based organisations and the private sector shall thus:

- 5.5.1 promote and strengthen programmes aimed at raising awareness about the impacts of HIV and AIDS on children and families and about the special needs of orphans and other vulnerable children;
- 5.5.2 promote and strengthen programmes aimed at effectively addressing stigma and discrimination on the basis of HIV and AIDS and childrens' and young peoples' status as orphans;
- 5.5.3 ensure that orphans and other vulnerable children are not discriminated against on any basis, including HIV status, in access to health care, education or in access to be fostering, adoption or placement in institutions;
- 5.5.4 ensure that mechanisms are put in place for the registration of births and deaths at a local level, to facilitate and inform the monitoring of and planning for the orphans and other vulnerable children;
- 5.5.5 promote and support interventions aimed at raising awareness about the need for parents to provide for their children after their death by way of wills and to ensure that mechanisms are put in place to ensure the protection of the inherited property of orphans until they attain the age of majority;
- 5.5.6 provide accessible and appropriate avenues for remedies for orphans and other vulnerable children who have suffered stigma or discrimination on the basis of their HIV status or their status as orphans such as therapeutic programmes and services, counselling facilities and places of safety and legal advice services;
- 5.5.7 promote and strengthen a multi-sectoral response to orphans and other vulnerable children at municipal, district and regional levels that caters, to the fullest extent possible, for the needs of and for the protection and well being of orphans and other vulnerable children; and
- 5.5.8 support organisational responses to orphans and other vulnerable children by recognising and responding to on the impacts of HIV and AIDS on organisations providing a care and support service for orphans and other vulnerable children.

6. RESOURCE AND FINANCIAL IMPLICATIONS

- 6.1 Government has, by way of a Cabinet directive, ordered the establishment of a trust fund to be known as the Orphans and Other Vulnerable Children Trust Fund in order to supplement State grants currently made available to orphans and other vulnerable children and their caregivers. This trust fund shall be established in the form of an autonomous trust and funds from the trust shall be utilised to supplement State grants currently made available to orphans and other vulnerable children and their caregivers.
- 6.2 In order to ensure the sustainability of interventions aimed at orphans and other vulnerable children, all ministries and other institutions shall ensure that appropriate budgetary allocations are made to cover the costs of such interventions.
- 6.3 Collaboration with donors, United Nations agencies, international organisations and the private sector will be required to raise the additional resources that will be needed to provide services to the escalating numbers of orphans and other vulnerable children.

7. INSTITUTIONAL ARRANGEMENTS

For interventions aimed at orphans and other vulnerable children to be sustainable, close networking between State programming and the affected and care giving communities, in a framework in which local community approaches and initiatives are strengthened is required. Government shall thus ensure that:

- 7.1 all structures established to facilitate an effective response to orphans and other vulnerable children shall be decentralised to regional, district and community levels; and
- 7.2 orphans and other vulnerable children shall be at the centre of the response and shall be supported to effectively participate through such structures in the planning and implementation of the response to orphans and other vulnerable children at all levels.

8. MONITORING AND EVALUATION

Monitoring and evaluation of the national response to orphans and other vulnerable children is crucial to ensuring an effective response. Government shall ensure that appropriate monitoring and evaluation systems are put in place and implemented.

Indicators should include:

- OVC policy and strategy.
- Orphan school attendance ratio.
- Access to health care.
- Malnutrition ratio.
- Proportion of OVC that receive appropriate psychosocial support.
- Basic personal needs and material well-being.
- Households receiving free basic external support.
- Government expenditure on OVC.
- Birth registration.
- Children outside family care.

9. REVIEW OF POLICY

The policy will be reviewed on a regular basis at intervals of no longer than five years to ensure that it takes account of experience gained and developments in the response to orphans and other vulnerable children.

END NOTES

¹ *MoHSS HIV sero-survey report, 2002.*

² *National Planning Commission, National Development Plan 2 (2001-2006), Chapter 8.*

³ *Epidemiological Report on HIV/AIDS for the Year 2000.*

⁴ *Adopted at the Second National Conference on Orphans and Other Vulnerable Children, June 2002.*

⁵ *National Census 2001, Table 11.33.*

⁶ *A Situation Analysis of Orphan Children in Namibia, SIAPAC / MoHSS, April 2002. The figures are in fact higher as these are based on children under the age of 15 only.*

⁷ *Article 15(1).*

⁸ *Article 15(2).*

⁹ *Article 20(1).*

¹⁰ *Article 20(2).*

¹¹ *Declaration of Commitment, paragraph 65.*