

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter examines closely the preceding literature, which is relevant to the research. It expands on concepts such as orphaning, insecurity, stigmatisation, and vulnerability. Policies and statutory books with regards to children's entitlement to homeownership and inheritance of family property are also analysed.

##### **2.1.1 Orphaning**

From past and present literature it is evident that the problem of orphaning in South Africa will persist for as long as the number of adults affected by the pandemic escalates and will equally remain difficult to resolve. Whilst the 1999 survey reported an estimate of 4.2 million infected people (adults and children) in South Africa, future projections indicate an alarming increase of 8 million infected people by year 2010. In the same breath, an equally increasing number of HIV/AIDS orphans and consequently the increase in the number of child-headed households is estimated at 2 million by the same year (Loening- Voysey, 2000:104; Whitehead and Sunter, 2000:80).

Taking it further, the South African Health Review (2000:308) refers to the problem of orphaning as the most challenging one in South Africa at present, estimating the increase in the number of HIV/AIDS orphans under the age of 15 years to 1.95 million by the year 2010. Adding to this figure, Dhlomo (2001:52) points out that in South Africa alone, almost a million children in the same age group will have lost their parents to HIV/AIDS by 2005. This poses a challenge for the South African Government to seriously review its policies with regards to housing needs of HIV/AIDS orphans. Citing a pragmatic example, Khumalo (2003) reports that more than a million children will be orphaned and

forced to resume adult responsibilities over the next decade due to unavoidable deaths of their parents. This in turn challenges everyone including civil society and government to work in 'partnership' in addressing the housing needs of HIV/AIDS orphans, particularly when considering the fact that children are regarded as the 'country's future'.

In comparison with the effect of other types of diseases, being orphaned from HIV/AIDS is a unique experience. "It is a long and tedious process, which leaves many households particularly children orphaned by HIV/AIDS, with emotional scars which are difficult to heal..." (The National Adoption Information Clearance House, [www.ophanconnect.com](http://www.ophanconnect.com)). One of the reasons for the tediousness in dealing with the problems of children orphaned by HIV/AIDS is, among others, the fact that the death of the parents is preceded by a gradual physical decline and the increasing inability to perform parental roles such as protector, caregiver and guide. Other scholars reported the difficulty in distinguishing a child orphaned by HIV/AIDS from other orphans caused by the fact that lack of information and knowledge regarding the cause of death, parents' whereabouts and the inaccurate records (Loening-Voysey 2000:105; Loening-Voysey and Wilson 2001:5).

It is therefore not surprising that various scholars have come up with contrasting views regarding orphaning, particularly children orphaned by HIV/AIDS. According to the National Adoption Information Clearance House, an orphan is, "a minor child whose parents have died, have relinquished their parental rights or whose parental rights have been terminated by a court of jurisdiction". In the same breath, Whiteside and Sunter (2000:80), citing UNAIDS (1995), refer to an orphan as, "a child below the age of fifteen years who has lost either the mother or both mother and father". Both these views emphasise the death of parents as central in describing an orphaned child but exclude the fact that orphaning is a process, which starts even before the death of parents. One supporting notion is the view that orphaning does not only start after the death of parents but occurs when the adults' state of health starts to deteriorate, compelling the children to look after them and consequently abandoning school. In the words of Dhlomo (2001:53), "children are stressed before they become orphans". Elaborating on this, Dhlomo (2001:53) point out that not only are the children stressed by the parental death, but they

also experience feelings of depression, anger and resentment. Expanding on these views, Senior (2002:261) explains that, “parental illness may also result in parental relationships becoming inverted, with children increasingly perceived as sources of support...” Another notion is that, “for a child orphaned by AIDS, trauma begins long before the parent(s) dies, a condition exacerbated by the fact that often children are not even told that a parent is dying...” (Davis 2002:54).

One of the greatest losses in the orphaning process cited by Loening-Voysey (2000:105), which bears relevance for this research, is the loss of family possessions and homes. This will be further interrogated during the fieldwork interviews with children.

### **2.1.2 Insecurity and stigmatization**

According to (Dhlomo 2001:53; Pringle 1986:115), the responsibility of looking after their dying parents (especially without any external help), leave children who are orphaned by HIV/AIDS with feelings of insecurity. This is a condition which is worsened, not only by their unpreparedness for this task, but also by their lack of relevant skills. A further argument is that children need to be trained to deal with the problems that might arise when neighbours are not available. Bringing up a different perspective, Loening-Voysey (2000:105), states that even where there is another adult, children are expected to perform household chores, attend to personal care of an ill person, nurse wounds, deal with incontinence and offer rehydration.

The children’s feelings of insecurity can also be perpetuated by being blamed for the pain suffered by the sick person they are looking after. Children are also more than likely to be traumatized by this experience, which comes at a very premature stage of their lives. Enunciating this encounter, Loening-Voysey (2000:105), provides an example of a child who during a visit to a semi-rural home, was found to have taken over the household chores looking after her entire sick family which included a severely handicapped toddler. When confronted about the need for external help, her response was that, all she wanted was a chance to be able to play. This traumatic encounter affects the children’s

emotional, social and psychological well being and impacts on their future development. Feelings of insecurity could also be exacerbated by the experience of a stigma from the community as well as from their peers where the orphans are ostracized and discriminated against as a result of being associated with HIV/AIDS. In an example cited by Davis (2002:54), one of the orphaned children explained that to stay on at school meant risking being bullied and ridiculed with names such as “skinny bones” or “red ribbon”. This is not surprising when one takes into account that HIV/AIDS is also given various names in different communities where these children originate such as, “Helen Ivy Vilakazi”, meaning HIV or the three letter word (Leclerc-Madlala 2000:28-29).

Expanding on the intensity of the stigma of HIV/AIDS, Loening-Voysey (2000:105; White Paper for Social Welfare 1997:89), point out that, once it is discovered that the parent(s) have died due to an AIDS-related illness, children are driven out of the community. Though this might sound extreme, it does signify the stigmatic nature of HIV/AIDS in the community such as the event reported by the Ward Councillor during the study where children were chased out of the house after the death of their parents.

In an event where children are moved away from the parental home, feelings of insecurity could worsen because of a strange environment away from the family. Citing the effectiveness of the family in instilling and sustaining these feelings, Dhlomo (2001:53), describes a family as “a cornerstone of society...”, which make it unimaginable how children removed from their original homes [for example if placed in orphanages or institutions], would survive without family support.

Commenting on the child’s survival away from the home environment, Pringle (1986:134) explains that the more limited the understanding of verbal explanations the greater the likely bewilderment and the more the task of restoring the lost sense of security. Taking it further, Pringle (1986:134-5) states that, “children who have been deprived of a normal home experience difficulty especially during adolescence and adulthood in accounting for themselves. This adds to feelings of insecurity in personal relations and ultimately leads to lying when called upon to account”. A practical example

of this condition can be seen in an example from the Winnie Mandela Park AIDS Counsellor where she mentioned that one of the children she had removed to stay with his grandmother after the death of his parents had begun mixing with street gangs. Endorsing this view Whitehead and Sunter (1997:96) explain that, "...growing up without parents and badly supervised by relatives and Welfare Organisations, this growing pool of orphans will be at greater than average risk to engage in criminal activity".

According to Pringle (1986:134), in a case of residential care, the child's insecurity can also impede growth of self-awareness and the development of a sense of identity. If the past bears a gloomy picture, it could have negative connotations where the child carries no future aspirations except that he/she will be released from care at the age of 18 years. This links up with the motivation behind this research, which intimates that children should not lose entitlement to the parental house but that it should be retained for later use when they grow up and become independent.

### **2.1.3 Comprehensive approach to Vulnerability**

According to Loening-Voysey (2000:5) vulnerability in the context of HIV/AIDS, refers to children living in a household where the duty bearer is ill with AIDS. It also refers to children living in a household that takes in orphaned children. This is true when taking into account that the situation of economic constraint in the household and the frailty of their parents lead to children having to survive without parental care forcing them to prematurely take care of themselves or look to strangers for financial support (Pringle 1986:114).

On the other hand Chambers (1995:175), points out that vulnerability means not only lack or want but also exposure and defenselessness. Moser (1996:2), assimilates vulnerability with the insecurity of the well being of individuals, households or communities in the face of a changing environment. Drawing a parallel from these notions, it can be stated that a variety of scenarios facing HIV/AIDS orphans, such as the

frail condition and the ultimate death of parents, can expose them to various social ills. These could be, among others, rape, physical and sexual abuse as well as prostitution and drug abuse which could be a result of lack of adult supervision.

Commenting on the tragedy of such cases, Guest (2001:1) reported the case of a 13 year old Kenyan AIDS orphan who gave away her “virginity” in exchange for an “apple” and when confronted, replied that “no one had ever given her anything”. This indicates lack of parental ‘love’ and ‘compassion’, which leads to the vulnerability and helpless condition of orphaned children. Expanding on this view Loening-Voysey and Wilson (2001:14) explain that love and affection are some of the essential needs and rights of children which when deprived could culminate in, among others, vandalism, violence, delinquency and lack of concern for others. In the words of Loening-Voysey (2001:105), “being placed at an economically strained and socially fragmented society has placed HIV/AIDS orphans at risk of being abused and exploited....” A practical example is cited by Davis (2002:54) where Bheki aged 17 and his siblings who were staying with their uncle and aunt after their parents’ death were always reminded that their parents died of AIDS.

The White Paper for Social Welfare (1997:89), explains another aspect of vulnerability, namely financial vulnerability. It involves the plight of households who are directly or indirectly affected by the death of breadwinners, having to look after orphans in a situation of financial dire straights where they are forced to turn to various informal networks such as the extended family and the neighborhood for financial support. In one of the case studies conducted among household in KwaZulu Natal, one of the caregivers, apparently frustrated by lack of resources in caring for the HIV/AIDS orphans remarked that government should provide them with money to care for the children because ‘they knew best how to do it’. (Loening-Voysey 2000:106). Dhlomo (2001:54) further explains and argues that, “whilst African culture encourages support of family to be carried out within the extended family rather than dependence on neighbours, aunts and uncles should be compensated for sheltering orphans”. This poses a challenge for government to provide support to families caring for orphans.

Another aspect of vulnerability cited by Guest (2001:31) is based on observation by the NGOs that children from HIV/AIDS affected households can actually be more vulnerable to becoming infected themselves. Linking this finding to the HIV/AIDS households that were interviewed in this study, two out of five orphans are already HIV positive and in receipt of the government disability grant. On the other hand this could be related to fear of the affected families to disclose their HIV/AIDS status and the lack of education to the children about the epidemic following the parents' death. Enunciating this view Loening-Voysey (2000:105) states that children born of HIV positive mothers and who themselves sero-convert during birth or breast feeding are unlikely to live beyond the age of six years. A similar case has been the death of a child, aged 11 years, from one of the HIV/AIDS affected households in the study. This occurred in May 2002. Apparently this child was the third member to die of HIV/AIDS in this family, with her mother having been the first. For as long as the community remains *mum* about the pandemic, there will always be victims in these households, amongst whom are likely to be children.

#### **2.1.4 Children's right to housing (entitlement)**

The rights of children to housing should be regarded as part of human rights enshrined under the Bill of Rights in the Constitution of the Republic of South Africa (1996) (see also the Position Paper on Housing Rights; United Nations Center for Human Settlements (Habitat) 2000:2). Along with these rights are the rights to shelter, Section 28(1) (c) and protection from any form of neglect or abuse, Section 28 (1) (d). Both these clauses support the argument that children should by all means not lose entitlement to the parental home. The basis for this is that shelter for children particularly from the parental home provides them a safe and protected environment and instills in them a sense of security. Citing the importance of respecting the rights of children with respect to housing Bartlett et al (1999:68), points out that it is actually a stipulation of the Convention of the Rights of Children (CRC) that children be exposed to a standard of living, which supports their full development of which adequate housing is part. Emphasizing the value of home for the children, Pringle (1986:134) remarks that

however adverse a home, the child lives in familiar surroundings and is looked after however inadequately by familiar people. Implications for research are that there is value in the argument that children (where possible), be kept in a parental home not only for sentimental attachment to the house but also familiarity with the neighbourhood.

On the contrary, the National Housing Policy White Paper, (1994:21) highlights the plight of Government in taking steps and creating conditions, which will lead to an effective right of housing for all. I however argue that neither specific reference in the policy is made with regards to HIV/AIDS orphans and their housing needs nor a legal framework, which stipulates their housing rights. This situation therefore leaves a gap between policy and practice where children whose parents die from the pandemic have no legal recourse to claim any entitlement over the house in the event where they are abused, evicted or have ownership taken over by unscrupulous caregivers. For as long as this gap is not addressed, the current situation, which is reported to be common among HIV/AIDS households in Winnie Mandela Park, is likely to increase. This will also apply to the number of children removed from their parental home into foster care. Some of the implications of this are a strain on the State's resources and a contradiction on its vision to keep HIV/AIDS orphans within the community rather than in 'expensive institutions'. Due to lack of legal support mechanisms for either the children or anyone concerned to resolve such problems, this situation is likely to continue unabated (Guest 2001:86).

The same can be questioned about the allocation of the title deed in an event where the HIV/AIDS orphans are in the care of a guardian. In one instance, an official from the Department of Housing explained that where the parents had not registered the title deed in any of the spouse's names it is possible that children become victims of such fraud. He further pointed out that Government was now trying to develop an awareness programme where communities would be educated on the importance of making a will. Whilst this is highly commendable on the part of government, I argue that since cases of child eviction and abuse are already reported in Winnie Mandela Park, a 'dual' system of addressing the problem both through preventative and reactive programmes is necessary.

For as long as the housing policy does not clearly address such issues, the children, particularly those who are orphaned by HIV/AIDS will continue to be victims of exploitation and eviction where they are forced out of their parental homes into the streets. That is where they are further exploited and forced to join other street children whose lives might never return to 'normality'.

Enquiring about what happens to the subsidy when it gets approved after the death of the parents, it also appears that there was no specific policy addressing this condition. This creates another gap in policy, which challenges Government to seriously review existing policies and legislation to protect the rights of children especially related to housing. In the meantime the process pertaining to the allocation of the subsidy can only be guessed and will be further explored in the study.

It is a known fact that the National Housing Code (2000) stipulates age, income and marital status as some of the criterion of qualifying for a housing subsidy. The fact that children in this study are between the age of 10 and 18 years implies that they automatically fall outside of the subsidy net. This could therefore mean that for them, entitlement to housing will remain a distant dream. Endorsing this view, Tomlinson (2001:653), points out that in the past the beneficiary was typically regarded as the head of the household who would take ownership of serviced site/dwelling unit on behalf of the family but no provision was made for the HIV/AIDS households.

The need by Government to act is even greater now with the current situation where many of the recipients will die within a few years of receiving the housing subsidy. A resultant effect is that the title deed might pass onto unrelated persons who, by some underhand schemes, could acquire the property. It is noted and highly commendable that Government is making inroads in trying to curb this situation through, among others, the provision of alternative forms of housing services such as Community-Based Care Centres, foster care and Children's Homes. These are, however, not enough. More research on alternative forms of shelter to complement the current problem of housing for HIV/AIDS households should be explored and in particular, those which resemble a

parental home and lessen the feelings of insecurity for the children. Though not the main focus of this study, centres such as the Walter Sisulu Children's Home and others, should be further explored (through future research), in order to add on the body of knowledge regarding possible and viable options.

## **Conclusion**

The concepts examined in this chapter are crucial for consideration by all stakeholders including Government, in realizing the plight of HIV/AIDS orphans. This not only refers to their entitlement to housing, but also in dealing with their overall needs. Previous research has brought home the reality of orphan headed households in South Africa, as it is in many parts of the world, thus posing a challenge for policy decision makers and other role players to make housing for children top priority in the agenda. In the chapter that follows, research methodology, data collection methods and analysis including sampling procedures are detailed. Also discussed, is the process of entry into the research site which is preceded by a detailed profile of the key informants. The chapter ends with an outline of the ethical challenges.