

## CHAPTER FOUR

### FINDINGS

#### 4.1 Introduction

This chapter specifically addresses the results of the study and excludes any interpretations by the researcher. It is based on the following common themes:

##### 4.1.1 Living with the extended family

When parents die, relatives or members of the extended family take over the care of the house and children. In that respect, property is left within the remaining family. Apparently, this is not without problems as highlighted in the following excerpt:

*“Some of the families end up hoarding property from the children, even when they are grown up and qualified to take over responsibility of the house” (HIV/AIDS Counsellor: 2003/07/03)*

In one instance, where the children interviewed were removed from the family home, and placed in the care of their maternal aunt, their uncle moved in and took occupation and ownership of the original house unofficially. The interview established that whilst these children were staying with their uncle and his wife, they were traumatized from being treated differently from the rest of the other children as noted in the following comment:

*“My uncle used to return home drunk and he and aunt ‘K’ would wake me and my brothers up whilst the other children were sleeping to buy him cigarettes or even beer at places far away from home” (Respondent no. 2:2003/07/30)*

Seemingly, this experience is not new in the field of fosterage. For example, Madhavan (2002:11) reported similar findings in her study on fosterage patterns in the age of AIDS. She found that orphans who were cared for by the extended families complained not only of being made to work harder than the indigenous children, but also, among others, of not being given enough food or being able to attend school regularly.

Confirming the above finding, the HIV/AIDS Counsellor commented thus:

*“When we decided to remove the boys from their uncle’s custody in Winnie Mandela Park, it was when the eldest Toloki, had started playing truant from school and had joined a street gang in the neighbourhood”*

Whilst the above responses paint a grim picture about the role played by the extended family in sheltering the orphans some of the comments indicated otherwise:

*“...My aunt and uncle buy us clothes, food and pay for us at school. They also bought bicycles for my brother and me” (Respondent no. 2:2003/07/30).*

*“I grew up in this family. I like it here...” (Respondent no.3:2003/10/03).*

*“Though I stay with my grandmother I do miss my father because he sometimes buys me Christmas clothes...” (Respondent no. 1: 2003/10/03).*

The acknowledgement of positive experiences of the extended family cited in the above responses is an indication that there is a significant role that they play as a support network especially in the current climate of an increase in the number of HIV/AIDS orphans who would otherwise be cut off from family life and perhaps even fall victim to various social ills and loss of access to simple amenities (Padarath 2000:31; Guest 2001:89).

#### 4.1.2 Experience of loss by the orphans

In the event where parents were divorced, results showed that in most households, children predominantly followed their mothers thus leaving the house in the care of their fathers or grandparents. In such cases, where the parent who was the main custodian died, children experienced a double-trauma in that they became not only “parentless”, but also homeless (Walker et al. 2004:58).

This condition was exacerbated even further in cases where, following a divorce, no contact was maintained between the children and the parent who forfeited custody. This was evident in an interview where one of the children who was asked if she would consider returning to the original home responded negatively as indicated in the following excerpt:

*“Since my parents divorced, there has never been any contact between our father, grandmother and us. In any case, all my siblings have run away from Lesotho and have now settled in Johannesburg. I will never go back there again” (Respondent no. 5:2003/10/03).*

Endorsing this view, another child respondent whose parents were also divorced reported a similar experience where his father who remained in their original home in Nelspruit had never maintained any contact with him and his siblings since parting with their mother.

*“When my parents divorced, my brothers and I left with our mother to stay with our grandmother in Winnie Mandela Park and our father remained in the house in Nelspruit. Since then, he has never contacted us” (Respondent no. 2:2003/07/30).*

In the event where grown up children wanted to claim entitlement to the house, the likelihood was that their efforts would prove futile. Evidently, when their mothers died these children were also pushed into the main stream of “orphanhood” and

“homelessness”. This applied even in instances where they still had an existing parent and a home that they would be able to retain as family property when they grew up and wanted to become independent.

Adding another dimension to these findings Duggan (2002:10), in his study of the characteristics of AIDS-affected youth, found that, where single mothers were heads of families, their lack of contact with the extended family could further narrow the support network available to their children during times of crisis.

#### **4.1.3 Failure of documentation**

One of the daunting challenges facing children when their parent(s) die is proof of paternity. According to Ekurhuleni Housing Manager (pers comm., 2004/01/29), this requires them to produce documentation such as, among others, their birth certificates, their parent(s)’ death certificates and proof of residence, which is mostly in the form of a title deed. The latter serves as an official proof of registration of the house in their parents’ name. In the event where parents die intestate, the house is normally transferred to the children when they reach the qualifying age of 18 years. If below this age, the children are placed in the care of an officially appointed (by Court Order) custodian, who normally is a relative of the family until they reach the age of 18 years. At that time, they are legally entitled to have the title deed transferred back to their name. (Ekurhuleni Regional Housing Manager pers comm., 2004/01/29)

Much as this procedure was well known to the Housing Officials it did seem that the procedure was not equally understood by key informants. This was clearly demonstrated in one of the interviews where a child respondent aged 15 years, made the following comment:

*“I am not sure if my sisters did apply for a transfer of the ‘house papers’. What I know of is that when mother died, they took the death certificates to the housing office. When they*

*returned they said they were asked by the officers to produce birth certificates of our parents, which they did not have. I don't know what happened since then."*

When probing this matter further with older siblings at the time of the interview, it appeared that birth certificates were required as proof of relationship to the deceased. Since they did not have such documentation, they were turned back and did not know what else to do as they had never registered birth before. Since the researcher was with the HIV/AIDS Counsellor during the interview, the matter was referred to her for a further follow up.

An additional example of this lack of clarity emerged in another interview during which the researcher made a similar observation. In this case four children aged 10 years, 6 years, 2 years and two weeks were left in the custody of their 47year old grandmother. Apparently her daughter had left her stand and a shack that was registered in her name, with her boyfriend who was a father to her eldest child, when they separated. When asked about the title deed of the stand, the grandmother explained that after the death of her daughter, her boyfriend approached her and asked for all the documents for the stand, which she handed over to him. When asked why she handed him the documents, she explained thus:

*"He said he wanted to use them to apply for the electricity connection and since then he has never brought them back".*

In such cases, even if any of the children wished to apply for entitlement to their mother's stand, they are likely to experience difficulties due to the absence of the title deed which would serve as proof of the their mother's ownership of the stand.

Apparently problems caused by lack of access to documentation have been reported by other researchers such as Walker et al (2004:58), who found that with the absence of documentation such as birth certificates and death certificates, child-headed households

were not able to access child support grants and consequently fell through the welfare safety net.

#### **4.1.4 Perceptions of property ownership**

##### **(Private vs. Family)**

Generally, the title deed did not seem to be an important issue for all the children who were interviewed or their family members. This might, among others, have been due to ignorance about the housing policy as well as the children's rights to housing. Apparently once the extended family members had moved in to stay with the children or took over their care, the process of transferring the title deed was ignored and no one bothered to enquire any further about the procedure. For example in an interview with one of the child respondents the researcher enquired if the family had already applied for a transfer of the title deed and the response was:

*"I don't know..."*

When she tried to enquire from one of her siblings, a similar response was elicited. Such ignorance could, amongst others, be exacerbated by the reluctance of many people to take out wills which would clearly indicate all terms and conditions regarding the division of estate. As stated in the conference report on consensus building on HIV/AIDS and housing (Msunduzi AIDS Partnership 2003:3-4), "...this happens even when people are fortunate enough to understand housing consumer rights and responsibilities. The general perception is that, a will implies wealth and can cause jealousy, and in the extreme, a motive for murder". The unfortunate part about this belief is that children often become victims of exploitation where their ownership rights to family property are never recognized.

Another reason why families in the study did not perceive property ownership by children as being much of an issue might be, amongst others, a belief in the African culture which in the words of Kalako-Williams cited by Bown (2005) are that, "your child is my child..." In the same breath, other scholars also regard it as "shameful and

undignified to have children turn to strangers for help...” (Centre for Policy Studies 2001:54). Therefore, where members of the extended family had assumed the role of caring and nurturing for the orphans, in the absence of any officially appointed guardians or beneficiaries, they automatically assumed ownership of the property. Citing a similar experience one of the key informants in the interview commented thus:

*“In the two years I’ve spent working in Winnie Mandela Park, I’ve only received a single report of a family where an uncle had moved in to care for the children who were orphaned and later chased them out of the house and were allegedly taken over by neighbours” (Ekurhuleni Housing Manager, 2004/01/29).*

A remarkable observation was that, whilst the housing officials whom the researcher interviewed, understood the housing policy, it was not equally understood by the research community. For example, there were instances where some members from the extended families in the research study took over the custody of the children unofficially without going through the formal procedures of fostercare placement (Child Welfare Social Worker pers comm., 2004/10/23). This finding indicated a communication gap and poor interaction between the Local Authority and the community.

#### **4.1.5 Children’s Dreams about the journey back home**

‘The journey back home’ refers to children’s aspirations to return home. When the children who had been removed from their original homes were asked about their future aspiration of returning home when they grow up, the majority indicated that they wished to go back to Winnie Mandela Park where they grew up. A specific example is a response by one of the child respondents as indicated in the following excerpt:

*“Yes, I do wish to go back to my grandmother’s house in Winnie Mandela Park when I’m older and married. I will also take my younger brother with. But this would only be if my uncle and his family move out of the house”.*

An exception was another respondent who did not want to return to her original home in Lesotho.

*“No, I do not want to return to Lesotho. My mother and all my siblings have now moved to Johannesburg. My father got married to another woman after parting with my mother and he has never contacted us”.*

Generally, all children in the study commonly missed their familiar surroundings, friends and parents. This demonstrated the importance of a familiar neighbourhood in children’s future development. Endorsing this view, Pringle (1986:35) asserts that, where the child has experienced a balanced relationship with his/her parent(s) and with a wider circle of other people, this becomes the basis of all later relationships, not only with the family, but also with friends.

A strong sense of “longing for family” also prevailed, where most of the children expressed a desire to re-unite with members of the nuclear family namely, parents, next of kin and their siblings from whom they had been separated. One of the child respondents commented thus:

*“Even though she is deceased, I sometimes miss my mother and my father”.*

When asked what they particularly missed about family, others cited reasons such as, good food and/or new clothes, as indicated in the response below:

*“What I miss most about my mother is the good food she used to cook for us and my father who used to buy me new clothes for Christmas”.*

Notably, children who had not been removed from their homes when their parents died demonstrated similar strong ties with their families as those who had been removed. When the researcher asked the children who had remained in the original home, if they would consider moving out of the house, when given a choice, most of them responded



negatively, demonstrating an element of resistance and a sense of attachment to the family home (HIV/AIDS Counsellor, pers comm., 2003/09/16) . One particular response was:

*“No way, I will never leave my home. This is where I grew up and I have a lot of friends around here most of whom I attend the same school with”.*

Generally all children in the study demonstrated that their best interest was in remaining with their families of origin, as indicated in the Bill of Rights of the South African Constitution, 1996: Sec 28 (1) (c) and (2), which echoes among others, “the child’s right to family, parental or alternative care...and the paramount importance of the child’s best interest in all matters pertaining to the child”.

Commenting on the above, one of the officials explained that early intervention in families where parents are reported to be weakened by the pandemic is aimed at retaining children within the family by timeously appointing foster parents who will care for them within their home. (Child Welfare Social Worker pers comm..., 2004/09/23).

#### **4.1.6 Children’s safety nets - Extended family vs. Nuclear family**

Irrespective of whether children had been removed or remained with their original families, there was a high degree of acceptance by members of the extended families. This was important in instilling children with confidence and a sense of security. The added benefit was also that children felt appreciated and loved especially after the trauma of losing the loved ones who meant the ‘world’ to them. To endorse this view, when one of the children who had been removed from his original home was asked why he preferred to remain in his aunt’s custody rather than return to his original home, he responded thus,

*“Here they buy us new clothes, food and pay for us at school. They also bought bicycles for my younger brother and me.”*

In another interview, a child respondent who was staying with his grandmother and his siblings explained that he would consider returning to his family of origin i.e. in his father's custody, only under certain conditions as indicated in the caption below:

*"I can only go back to stay with my father only if he were to allow me to bring all my siblings with me."*

These responses brought about the important roles played by both the extended family and original families in children's future development. Commenting on the role played by these institutions in shaping children's development, Mukoyogo and Williams (1991:24) point out that, "...despite its shortcomings, the extended family 'safety net' is still by far the most effective community response to the AIDS crisis. On the other hand, bringing in the role played by the family, Pringle (1996:60), explains that the family which is able and equipped to carry out its parental task consistently and successfully gives a sense of security of companionship and belonging to each of its members.

Contrary to the findings, which revealed a high degree of acceptance of the extended family by most of the children in the interview, there was one child respondent aged 15 years who expressed extreme resentment towards the owner of the property where she and her family stayed as tenants.

*"I don't like this man who gave us this shack. I also hate the fact that my mother forces us to call him uncle because he is only her friend".*

Apparently the property owner was not related to the family. He was a 'stranger' whom their mother 'claimed' to have known from Lesotho where her family originated. Her mother met this man when they were evicted from the previous accommodation, which they were renting in Ivory Park and were homeless. He then offered them a place to build a shack on his stand. Some of the conditions for staying with him were that he would offer her family free accommodation and pay for municipal charges. In return for this

generous offer, the agreement was that the respondent and her elder sister were to cook for him but this arrangement seemed unacceptable to all the children as indicated in the respondent's response:

*"I also hate cooking for him".*

According to the respondent's mother who was gravely ailing from HIV/AIDS related illness and was bed-ridden at the time of the interview, she had known this man from Lesotho and had met him in 2002 when she was ill and had lost her job and had been evicted from the room where she was staying with her children.

When probing further how the child respondent felt about her mother's deteriorating health condition and where she would prefer to stay, should her mother die, she stated with tears in her eyes, that she would stay anywhere else as long as it was not in the current accommodation. She further expressed agony over the fact that her mother was dying and did not have a place of her own, as illustrated in the following excerpt,

*"If she had a stand, we could at least build ourselves a house and have our own home."*

This statement relates to the main questions addressed in the research, namely the paramount importance of ownership of family property (house and land) in the event where parents die of HIV/AIDS or related illnesses. This scenario meant that there is a threat that these children were susceptible to being deprived of their constitutional right to shelter [Section 28 (1) (c)].

This case confirmed some of the findings in previous research by, among others, Walker et al. (2004:58), which states that “in situations where the deceased person is a single parent, many orphans suffer a double loss because they are unable to remain in the care of a family member”. In other words, even if these children were to have desired to return to the parental home, they had no place to turn to when they grow up. Their future was already grim.

Notwithstanding the above scenario, the predominating acceptance of orphans in the study by the extended families, becomes even more remarkable as it happens against popular belief that such family structures, which were regarded as traditional models were gradually collapsing (Giese and Meintjies 2003:42).

According to Walker et al. (2004:58), some of the reasons cited for the collapse of these structures are, amongst others, the high rate of unemployment and substantial financial burden on grandparents who become prime caregivers of the children. Endorsing this view, Ntshingila et al. in Sunday Times (February 6 2005:8), further emphasises that 60% of the orphans in South Africa are being cared for by their grandparents.

#### **4.1.7 Emotional Trauma**

What also prevailed, as a challenge during the interview was that children, whilst in their early stages of development, had to cope with the trauma of being separated from other siblings. Commenting on the impact of this separation, the Policy on the Gauteng Department of Housing’s response to HIV/AIDS, Policy and Evaluation (2002:16), stipulates that, “many orphans will grow up as homeless street children or will form child headed households to avoid being separated from their siblings. This seemed hard for them, as they also had to cope, not only with this separation, but also with the catastrophic death in their families, the extended emotional trauma as well as the accompanying social strains”. According to the Impact of HIV/AIDS on Planning Issues in Kwa-Zulu Natal, (2001:12), these children are at greater risk of developing anti-social behaviour and being less productive members of society”. This was demonstrated in the

case of the two respondents in the study one of whom was arrested for shoplifting at the age of 19 years. (See pg 31).

In other words, no matter how hard the extended family tried to make the children comfortable, their adjustment would always be plagued by the trauma of an 'unfulfilled wish' to get their families (siblings) back together again. This view was also echoed in the Department of Social Development and the Nelson Mandela Children's Fund conference report (June 2002:9), where a call to keep children together with their siblings was hailed. This was from a perspective that, "children have suffered loss of their parents and keeping them together would at least give them the security of having each other".

#### **4.1.8 Psychological Trauma**

Some of the children, in the study, also demonstrated signs of psychological trauma. These were manifested through anti-social behavior, such as playing truant from school and disappearing from home for days. In one interview where the foster mother was caring for 3 of her sister's children, a child respondent aged 14 years reported that his elder brother had a tendency of staying away from home and from school for days. When asked why he was not attending school, the response was:

*"He goes to night school, but sometimes disappears with his friends for a long time and only comes back when he feels like."*

According to the HIV/AIDS Counsellor, this child started such delinquent behaviour even before they were removed from their original home and this was after their mother had been removed to the care of her sister in Thokoza and were left in the custody of their uncle where they were allegedly abused.

In another interview, a similar experience was reported where one of the siblings (19), who were being cared for, by other siblings, got arrested and had to leave school. When probing reasons for the arrest, the respondent gave the following response:

*“She was found with stolen goods”.*

From these examples, it is evident that children and youth affected by HIV/AIDS act out the trauma in various ways. Endorsing this view, Duggan (2002:12) citing Draimin et al. (1992), in a study of older teens affected by HIV/AIDS, found that they acted out in very self-destructive ways such as, among others, suspension from school, arrest or probation and defiance of parental rule setting. According to Mukuyogo and Williams (1991:16), such children have an even greater need for love and affection. Without special emotional and psychological support, they engage in anti-social or delinquent behaviour. Linking these examples to the central theme of this study, one would argue that if, after their parents' death, the orphans were given the entitlement to ownership of their parental homes, they would at least have a sense of belonging and integrity. Enunciating this view, Lim (2003:12) in the U-N Habitat Debate states that “secure tenure can enable children to look after themselves and empower them within their extended families”.

#### **4.1.9 Financial Impact**

Another observation from this study was that generally children seemed to experience financial difficulties. This was evident in the ‘ragged’ clothes that were worn by most of them. Others even mentioned problems in paying school fees. In the case of Mapule aged 15 years, when asked who pays her brother's school fees as well as hers, her response was:

*“Sometimes my 21 year old sister's boyfriend pays for us, but even then, I still owe a lot of school fees.”*

In another interview, it appeared that all 5 children who were in the care of their older siblings had their school fees paid out of the HIV/AIDS grant and money generated from selling African beer by one of the older siblings. The former links up with the comment by Ntshingila et al. in the Sunday Times (February 6, 2005:8) that “...82% of the

Granny-headed HIV/AIDS households in the Eastern Cape, use pensions as the main source of income”.

A further comment on the financial vulnerability of households affected by HIV/AIDS, posted in the white paper for social welfare, (1997:89) reveals that HIV/AIDS creates additional costs, which may place households under immense financial strain. Endorsing this view, Whiteside (1998:20) adds that at the household level the effects of HIV/AIDS center around medical costs. He further espouses that if the person affected is an adult, production and income of the household will be affected. This was evident in another interview when the researcher asked how the family survived, one of the respondents said:

*“The clinic supplies us with soup from the soup kitchen. There is a group of women from a local Anglican church that supplies us with food parcels and second hand clothes”.*

General anecdotal evidence from these findings was the financial burden experienced by the affected households and the complex ways in which the members tried to survive. Echoing these sentiments, the Joint United Nations Aids Project, UNAIDS (2002:11), comments thus “...to expect households to cope without support from the broader society, is unrealistic.”

The study also established that in all households where the interviews were conducted the difficulty was not only around the payment of the fees for the children but also affected other areas where finances were required. These were among others, arrears with the payment of rates and taxes which for Winnie Mandela included water bills and electricity where installation of the meters had already been completed. Reporting on this dilemma one respondent commented thus:

*“We have never paid any Municipality charges because we do not have money”.*

When asked how the arrears on rates and taxes particularly in respect of HIV/AIDS affected and children headed households were dealt with, intervention by Municipality was explained as follows:

*“Where such families are unable to pay Municipality uses its discretion to write off the debt. Where the custodian is an elderly person indigent policies are implemented. However where minimal payment is possible, rebates are considered on the basis of the Social Worker’s written report and the accompanying recommendations” (Regional Housing Manager, pers comm., 2004/01/29).*

Commenting on the implication of the financial hardship experienced by these families, Tomlinson (2001:655) points out that “Local Government will have to play a direct role in providing housing and services and will have to do so without being able to charge for the housing and for services”.

#### **4.1.10 Overcrowding**

The general finding was that overcrowding was a reality in most of the households in the study. The average number of family members in a single room of approximately 12 square meters was 8. To maintain privacy, some of the families made use of cloth partitions to divide the rooms.

Illustrating the negative impact of overcrowding and lack of privacy, on school children, when asked what happened when she wanted to study or do her homework, one of the child respondents gave the following response:

*“I do all my homework and studying at school.”*

When further questioned on how all four of them slept in a single room which had no partition, she responded thus:



*“My brother and I sleep on the bed with my mother and my eldest sister sleeps on the floor. We are all used to it.”*

The question that could be asked in this situation, is what will happen to this boy when he outgrows the age of sharing the bed with his mother?

In a visit to one of the families during the study the researcher found out that in a single room shack that was partitioned with a torn curtain, 11 people were accommodated in it. Three adults who were both male and female siblings slept together on the kitchen floor with their children. The rest of the children shared the other part of the room with the grandmother including a 10 day- old infant. Asked how they coped with overcrowding especially when making preparations for the day, one of them explained thus:

*“When we wake up we give each other turns by waiting outside whilst others take a bath. We also create space by making fire outside and cook from there. The only problem is when it rains.”*

Whilst overcrowding seemed to be accepted as a ‘norm’ in these households, it also renders the children vulnerable to a variety of social ills such as rape, premature experimentation with sex and many others. (Chambers 1995:157; Whiteside and Sunter 2000:94) Taken in context, this could further render them susceptible to HIV/AIDS infection, as is the case in Zimbabwe where 10% of sexually abused children are orphans (Stine 2001:383).

#### **4.1.11 Illegal disposition of houses**

The majority of the respondents confirmed the existence of cases of illegal sale and renting of houses belonging to HIV/AIDS affected households in the community. However all reports seemed to indicate that very few of such cases had been reported or brought to the attention of the officials as cited in the excerpt below from an interview with a housing official from the Ward Council Office in Winnie Mandela Park:

*“The only time when we hear of such cases is when we attend street committee meetings where residents discuss general issues affecting them in their neighbourhood.”*

From previous research it has been established that HIV/AIDS orphans might find it difficult if not impossible to maintain the household and might therefore fall victim to displacement by lucrative enterprises such as selling the house illegally at a price much below the market value (Bartlett 1999:44).

When taking into account individual reports from the respondents regarding their experience of the illegal sale of housing, one can deduce an element of underreporting of such cases and also miscommunication between the officials and the community. Among other, factors that could account for this are the stigma caused by fear of dealing with matters pertaining to HIV/AIDS and denial by both parties.

Reporting on his experience of the illegal disposition of houses belonging to HIV/AIDS orphans the Regional Housing Manager made reference to once in a while cases that had been brought to his attention as follows:

*“There is only one case which was reported from one of the schools in Tembisa where children who were residing in Winnie Mandela Park were thrown out of the house by relatives with an intention to take over the house (Regional Housing Manager, per comm., 2004/01/29).*

When the researcher further probed policy implications in such cases, the response was:

*“There is currently no specific policy to address this problem. What we do at present is to refer such cases to the Social Workers who then make the necessary investigations and follow up”.*

There was also a contradiction on the reporting of the illegal sale and renting of houses belonging to HIV/AIDS households. For example one of the respondents mentioned that where houses had been illegally sold or rented out, children had been removed to foster families. However a further contradiction to this view was evident in the comment below:

*“The illegal renting of houses cannot be possible because families or relatives who are caring for the orphaned children are mostly relatives and were not expected to pay rent. The only problem occurred when they did not bother to officially register as legal custodians” (HIV/AIDS Counsellor, pers comm., 2003/07/03).*

If the above statement is viewed in the light of Kalako-Williams’ concept of an orphan in African culture (referred to on pg 33), one would therefore state that a complication to this perception might be caused by a situation where relatives who move in to care for the children feel entitled to taking over the house. Clearly in such cases what is being exploited is as Bartlett (1999:44) puts it, “the vulnerability of children due to their immaturity, defenselessness and their inability to bargain”. In that regard one could add that children consequently fear to challenge their caregivers regarding their right to ownership and transfer of the house into their name.

#### **4.1.12 Measures taken to protect housing for HIV/AIDS orphans and their entitlement to the family home.**

The responses commonly indicated that various mechanisms were implemented to protect the housing rights of HIV/AIDS orphans. One of the Housing officials confirmed that children orphaned by the HIV/AIDS pandemic were given entitlement to the house after the death of their parents. The following quote highlights what the official said:

*“When the parent(s) die, the process followed is that the family of the deceased is invited by the Housing Official and then briefed on the procedure. Thereafter they are referred to the conveyancers for a confirmation and transfer of the title deed. At that stage a suitable member of the family who is a close relative is appointed through the Court to*

*take over the custody, safekeeping and general maintenance of the house and the children. The title deed is kept in the deceased's name until the children reach the age of contractual maturity, which is 18 years. (See also the Bill of Rights in the Constitution of the Republic of South Africa 1996:28 [3]). With regards to the title deed, where the parent(s) had not drawn up a will the house devolves intestate and transfer is deferred and left in the deceased's name until the children are grown up to take over the ownership of the house" (Regional Housing Manager pers comm., 2004/01/29).*

Much as the procedure was well articulated by the Housing Official, a view from another respondent was that:

*"Where an extended family member or a relative moves in to care for the children no one comes forward to register that person. Only when disputes ensue over ownership of family property do families come forward and report such cases and this makes it very difficult to intervene".*

The entitlement of children to family property is also legally endorsed by the Intestate Succession Act 81 of 1987 which stipulates that "if after the commencement of this Act, a person dies intestate...and is survived by a descendant, but not by a spouse, such descendants shall inherit the intestate estate".

While all these policies and legislative structures are in place, a question that remains is how well are they communicated to the community? For as long as there is no filtering down of information to the community, such violations will remain the order of the day where the community will continue to act out of ignorance.

#### **4.1.13 Administrative challenges for dealing with HIV/AIDS**

A similar pattern of responses relating to the administering of cases pertaining to HIV/AIDS in Winnie Mandela Park by Housing officials indicated that when reported,

such cases were mostly dealt with on a referral basis to other organizations for a further investigation and follow up. These were mainly the Tembisa Child and Family Welfare organization, Ekurhuleni Municipality Social Development Department, the Local Health Care centres and the Non Governmental Organisation (NGO) such as the Ward AIDS Forum. While not much was probed on the specific function of the latter, they were apparently very actively involved in support programmes for HIV/AIDS in Tembisa Township and the neighbourhood area such as Winnie Mandela Park. Demonstrating the low level of involvement in dealing with such cases, when interviewed the Ward Councillor (pers comm., 2003/10/27), explained thus:

*“I do realize the need to follow up on the few cases reported to us and consider this a challenge for my office to work closely with community based structures that are involved in HIV/AIDS development programmes in the area including the Ward and Street committees”.*

A response from the Metro Municipality Housing Manager (pers comm., 2004/01/29) was not far off when he commented thus:

*“Although there are no direct cases that are reported to my office as yet, a few that were informally brought to our attention and subsequently referred to the Department of Social Welfare or the Child and Family Welfare for further attention still need to be followed up”.*

Expressing her concerns about the lack of administrative capacity when dealing with HIV/AIDS households in Winnie Mandela Park, the HIV/AIDS Counsellor commented thus:

*“There are times when I have to bury a member of the family all alone with a few members from staff and from my family because the household cannot afford the burial costs or the person has no relatives in the community”.*

Another view of the Ward Councillor was that:

*“For as long as the community was afraid to come forward and report cases pertaining to HIV/AIDS, any form of assistance to affected families would be difficult to render”.*

From these findings it remained unclear how many of HIV/AIDS cases, that were directly or indirectly brought to the attention of the Housing Officials, were followed up. It was also unclear how they were monitored in terms of progress so as to, among others, review gaps in the housing policy and, where necessary make provisions to ensure the development of adequate infrastructure to deal with such destitute cases.

#### **4.1.14 Debt on property and arrears on rates and taxes**

The findings revealed that most households in the area were allocated free stands and no infrastructure (house). However none of these households had as yet been issued title deeds and were still awaiting a response from the Municipality. The majority of them had built informal structures mainly in the form of shacks. Water, electricity and sewer connections had been connected in certain parts but not fully functional as indicated by one of the respondents during the interview:

*“In our area the meters have already been installed but not yet connected so how do we pay? At night the streets are dark and there is a lot of crime in this area”.*

Another comment was:

*“We get water from a common tap up there (pointing towards the direction of the tap). How then are we supposed to pay?”*

An observation by the researcher during the study was that most of the households made use of candles for lighting. For cooking and heating they used gas, paraffin or wood as remarked by one of the respondents below:

*“To create more space inside the shack, we cook from the fire outside except when it rains. When it is cold, we make fire out of the brazier which we first prepare outside and then bring inside the shack when it is ready”.*

According to one of the Ward Council Housing Officials in the area (pers comm., 2003/05/15), most of these households were due for relocation, some to permanent stands within Winnie Mandela Park and others to a new State subsidized housing development in Esselen Park just outside of Winnie Mandela Park which was due for development by August 2003. Relocation was to be done in phases. Existing charges were so far for sanitation, water and electricity. Predominantly default payments were for the latter. On the issue of title deeds not yet allocated he commented thus:

*“There has been a delay in the issuing of the title deeds due to some technical problems experienced by Municipality”.*

He further confirmed that residents in the area were to be charged rates according to consumption of the services such as water, electricity and waste removal but since the infrastructure was not fully developed, the billing system was still problematic. Though not fully operational, the pre-paid electricity was to be paid directly to Eskom as the main supplier.

From the researcher's observation, it appeared that even though Winnie Mandela Park was a sites and services area most of the infrastructure was not fully developed and this included roads which were mainly gravel and not easy to travel by car except for the main road which was already tarred. Alluding to this observation the Housing Official commented thus:

*“Most of the households use shared facilities such as water and sanitation and in some parts pit latrines were still used”.*

#### **4.1.15 Housing subsidies and the challenge for orphan-headed households**

In an interview with one of Ekurhuleni Metro Municipality Housing officials (pers comm., 2004/02/10), the researcher established that free stands which were formally allocated to qualifying residents of Winnie Mandela Park were based on the R5000 subsidy which was a portion of a full housing subsidy of R12500. The balance of R7500 which was a top up fee was to be paid by the residents themselves. The task of recouping those funds from the residents was left at the discretion of the Project Managers.

In consultation with the community, various options were explored and micro lending was identified as a suitable option that would enable residents to loan the money for the payment of the top up subsidy. Evidently, this was not without problems as explained in the excerpt below:

*“Families who qualified for the subsidy had already been relocated and had taken occupation of the stands. Most people in the area who had qualified for the subsidy and were bread winners were unemployed (70% unemployment rate); others had applied for the subsidy when they were still gainfully employed and by the time the subsidy was approved, a person had been retrenched; there were also those who were unemployed at the time of application and qualified for a full subsidy and by the time the subsidy was approved they were fully employed”.* (Ekurhuleni Metro Regional Housing Manager, 2004/02/10)

Apparently, no submissions or follow through of these initiatives was done.

When the researcher further probed how outstanding debts were dealt with by Municipality the response indicated that these cases were referred to the Social Workers



for further investigation. Based on the results thereof, Council then took a decision either to write the debt off or compel those residents to pay.

With the prevalence of children who are already heads of households, one cannot shy away from the challenges which they encounter with regards to the transfer of housing subsidies, family property and title deeds particularly where parents die before approval or allocation thereof. The researcher enquired how such cases were dealt with in respect of child headed households and what the provisions of the housing policy were in that regard. The responses revealed that there was no policy pertaining to the transfer of subsidies to children especially in view of the stringent criteria for one to qualify for the housing subsidy which required the applicant to be above the age of 21 years and have dependants.

Apparently such cases were dealt with in consultation with the Social Workers where the subsidy was temporarily registered in the name of the appointed custodian of the children until they reached the qualifying age of 21 years. Judging from some of the cases that were shared with the researcher during the study, where some of the children who were orphans had been thrown out of the house by their caregivers, it would be a fallacy to believe that such processes were practical in real life scenarios.

One of the cases equally affected by the housing subsidy problem which the researcher observed during the study was where a frail and bedridden woman, aged 50 years, who was a single parent and a sole breadwinner for her children, could not qualify for a housing subsidy because she was not a South African citizen and was originally from Lesotho. When sharing her aspirations with the researcher she commented thus:

*“I wish to get an ID [Identity Document] so that I can at least apply for a subsidy for my children to get a house. I have asked the HIV/AIDS Counsellor to help me”.*

Apparently this problem also caused a delay in the application for her accommodation in a hospice where she was to be transferred because of her frail condition. In the words of an HIV/AIDS Counsellor:

*“We have been waiting for almost six months for the approval of her accommodation at the Boksburg Hospice and have not yet received any response”.*

In view of the above, it is evident that a big challenge lies ahead particularly for government to review its policies such that in the event where the ravages of HIV/AIDS and related illnesses claims the lives of parents and heads of households, children are not left destitute, discriminated against and usurped of their rights stipulated in the Bill of Rights of the Constitution of the Republic of South Africa [1996 Section 28 (1):13]

#### **4.1.5 Conclusion**

Though not in any logical order, some of the main themes highlighted in this chapter were: living with the extended family, perceptions of home ownership, children's dreams of returning home when they grow up, safety nets available to the orphans with special reference to the roles of the extended family and nuclear family, emotional trauma, psychological trauma, the illegal disposition of houses and the challenges faced by children headed households such as entitlement to family property, transfer of housing subsidies and the title deed after the death of their parents from HIV/AIDS related diseases and the existing policies and legislation which protect the rights of children to housing. To endorse these themes verbatim statements by some of the respondents as well as relevant literature has been used.

Various interviews and sources considered have demonstrated a growing concern with regards to the plight of children affected by HIV/AIDS in Winnie Mandela Park. In line with previous research, responses have generally indicated devastating effects of the

pandemic not only on children but also on affected households and the extended families that provide care and support to the orphaned children. Further discussion of the results and integration with what was found in literature and under various themes is presented in the next chapter.