

CHAPTER SIX

GENERAL CONCLUSION AND RECOMMENDATIONS

6.1 General conclusions

The main question asked by this study is what happens to the entitlement of orphans to family property in the event where parents die of HIV/AIDS related diseases or are weakened by the pandemic?

Various sources tapped during the study such as interviews with key and secondary informants and the analysis of literature and previous research, have in many ways revealed many challenges. These are amongst others, the fact that, with the devastating effects of the HIV/AIDS pandemic which continues to wreak havoc on the young and economically active members of society, the children who are left behind will, as heads of households, continue to experience a variety of problems. To name but a few, these are centred on education, finance, psychological and emotional trauma and being deprived of proper development into adulthood. Included among these will be a tragic experience of exploitation of their rights to home ownership or to have the house or the housing subsidy transferred to their names.

The enormity of the impact of HIV/AIDS particularly in housing has clearly revealed that there is no single solution to this problem and that a multidisciplinary approach is necessary where all the stakeholders including government should hold hands in the fight against all challenges caused by the pandemic.

The aim of this study is more broadly to outline these challenges and to identify gaps in order to encourage various stakeholders including government to identify areas that require intervention particularly in relation to housing and HIV/AIDS with specific reference to minor children who are orphaned by the pandemic. On this basis, I have made the following recommendations:

6.2 General Recommendations

The study has established that there are various organisations committed to working with HIV/AIDS households in Winnie Mandela Park. Each of them seemed to operate in isolation with very minimal or no consultation with one another. This poses a challenge for government to identify and facilitate the merging of these structures such that various resources or programmes are pulled together in the same basket for the holistic benefit of the children and the affected households. In other words, all the structures that are involved in service delivery towards HIV/AIDS affected households in Winnie Mandela Park need to work in concert so as to be able to engage more meaningfully with the affected children and the community. This would ensure that children are protected and shielded from, among others, being deprived of their rights to family property or assets by the unscrupulous caregivers. All development programmes carried out should aim towards the meaningful transfer of skills to the community. Dhlomo in Policy Studies (2001:50) emphasizes that “for any programme to work and be sustainable, it must have community participation”.

Since most of the children were found to be cared for by the extended family members who were also struggling financially, there is a challenge to support the families that are caring for the orphans. Even though the local clinic had a food supply programme for HIV/AIDS affected households this seemed insufficient because of the large families and also the fact that most commonly they were unemployed and dependent on the State grant. To meet this challenge, Government should consider expanding their capacity financially or by providing better housing to combat problems of overcrowding and lack of privacy.

The low numbers of reported cases of HIV/AIDS in Winnie Mandela Park, particularly by some of the housing officials, should be viewed in a serious light by Government and other role players who are involved in development in this area. For example, Government could drive partnership programmes or campaigns aimed at promoting

awareness in the community, focusing not only on HIV/AIDS but also on other areas of development such as poverty eradication, job creation, and housing entitlement for children especially those orphaned as a result of parents having died of HIV/AIDS related illnesses.

Other initiatives should be aimed at educating the community about the housing policy particularly with respect to housing and HIV/AIDS. This would enable them to have a clear understanding of their rights, duties and responsibilities in respect of housing. Included in these programmes could also be, amongst others, the importance of drawing up a will and the advantages or benefits thereof. This would go a long way in reducing, among others, the problems of transfer or inheritance of property if parents die intestate.

“Although a written will does not necessarily prevent unscrupulous persons from taking advantage of the orphans, the absence of a will to guide ownership and transfers serves to weaken the genuine survivors’ claim” (Department of Housing 2003:10).

To make this process user friendly for beneficiaries, government should consider including information on title deed, will making and housing subsidy and other pertinent details relating to housing and HIV/AIDS in a single form to be included with the housing subsidy application. This would enable the community to start absorbing all the processes and requirements for subsidy application and home ownership and to make informed decisions timeously.

The family reunification programme proposed by scholars such as Dhlomo in Policy Studies (2001:50) which involves cultural, educational, medical and other components should also be considered. Government could initially take a leading role in co-ordinating, facilitating, as well as evaluating and monitoring it to ensure sustainability. This is very crucial especially when taking into account that the issue of AIDS occurs in a context of different cultural practices, societal norms and belief systems which have been mentioned in the previous chapters.

With the increase in the number of children orphaned from the HIV/AIDS pandemic, there is no doubt that unscrupulous caregivers will also continue to feed on the vulnerability and destitution of the children and rob them of their rights of property ownership or asset possession. As a measure of protection, government should among others, consider holding the house or the title deed in trust for the children until they reach the qualifying age and are able to run the household themselves. This is particularly important when taking into account that some of the children in the study did express a desire to in future return to their original homes when they grow up. With regards asset protection, government should consider working in partnership with the Department of Social Development, the Department of Justice and other relevant stakeholders.

In addressing the battles of homeownership faced by orphans of HIV/AIDS, Government has a responsibility to ensure that it adopts a broader and inclusive strategy to ensure that they are in line with community based initiatives that remain the most favoured approach in terms of addressing the impact of HIV/AIDS. As much as possible, these strategies should be stretched beyond the scenarios of HIV/AIDS and should focus on the broader needs of society. For example, by formulating an overall strategy for child headed households or orphans irrespective of whether their circumstances were related to HIV/AIDS or not. (Department of housing 2003:8).

To address the problem of property ownership and transfer of property to children orphaned by the pandemic, Government needs to formulate preventative medium to long term solutions such as, among others, investigating the possibility of financial support to families that accommodate orphaned children. For example use the capital subsidy for the construction of additional rooms and basic infrastructure or refurbishing existing structures to match those of home based care centres to ensure provision of secure tenure for the orphans.

To sustain its efforts of combating the exploitation of the housing rights of children to property ownership, Government should continuously investigate cases of intrinsic vulnerabilities and develop counteracting mechanisms to address these problems. Whilst doing so the Government should also consider building sufficient capacity and infrastructure to deal with the magnitude of these problems facing children and the HIV/AIDS affected households. For example remuneration of caregivers (whether kin or non-kin) could serve as an incentive for more caregivers to volunteer their services and assist government in coping with the increasing rate of children orphaned from the pandemic. Support for community-based structures is even more important since the research established that some of the orphans were catered for by some of the community members who volunteered as caregivers to children who were evicted from their homes.

The main targets of this study were children between the age of 10 and 18 years. With the current restrictions of the capital subsidy, e.g. the age of 21 years being one of the criterion to qualify for the subsidy, it is evident that these children were left outside the net irrespective of any desperate call for protection against the exploitation of their rights of entitlement to family property or ownership thereof. To this end, Government should investigate the possible mechanisms of making the subsidy accessible to children who in terms of the National Housing Code (2000:174) have to wait until they reach the age of 21 years before they can qualify.

In preventing the problem of the illegal sale of housing reported during the study, Government is challenged to continuously review the impact of its current strategies. One of these is the pre-emptive clause which was introduced in 2000 to put a cap on the sale of housing to the public(except to Government) prior to the beneficiaries completing 8 years of occupation of the house. There is a need to establish additional stringent and clearly defined policy and legislation to mitigate in favour of full ownership rights of children.

Legislation to help families to access child care grants should be beefed up by government. Though some mechanisms have been put in place, they seem to be underutilized due to complexities involved in the application process. Effective legislation should be put in place to prevent the rampant property grabbing from the hands of the orphans by the unscrupulous caregivers.

There needs to be a continuous drive by government and civil society in the community aimed at dispelling a prevailing myth that AIDS is a fatal disease and to instill a belief that given good health people can still continue living with the disease for a long time. This will help to reduce stigma. (Walker, et al 2004:101).

It has been established that whilst the study purports to explore the entitlement of children orphaned from the HIV/AIDS pandemic to ownership of family, there were no clearly defined laws pertaining to child headed households. For example the Child Care Act 74 of 1983 defines a child as a person under the age of 18 years but does not recognize households where the eldest responsible person may be a child. Whilst it might be true that children were being orphaned at a rate far surpassing Government's ability to cope, there is still a challenge for government and other decision makers to take account of children's best interest in all matters pertaining to their well-being as provided for in s 28(2) of the Constitution. (Sloth-Nielsen 2004:17; Davis 2002:56).

Clearly for government, if children are to enjoy their rights enshrined in the Bill of Rights contained in the South African Constitution, (1996:13), particularly the right to shelter and protection from abuse, 28(1) (c) and (d), strong mechanisms must be in place to protect them. Government should also ensure that the communities who are the target beneficiaries of such policies are educated about these rights and made aware of their legal recourse in the event where children who are orphans fall victim of exploitation of their human rights.

6.3 Limitations of the study

According to Sarantakos (1998:267) limitations do exist in case studies, which evoke inaccurate responses. These might, among others, be attributed to poor recollection on the part of the respondents especially the children. Some of these limitations were:

Stigma: Stigmatisation manifested itself in a variety of ways during the interviews. For example, most of the research families did not talk openly about the HIV/AIDS-related subjects. When probing the cause of death of the parent(s), a common response was that they died after a short or long illness. One could only guess that talking about HIV/AIDS was a subject highly taboo in the community. Families appeared to be overcome by fear of being ostracised. Out of the 5 research families, only two had members who openly disclosed that a mother to the orphans had died of the pandemic. Another common trend which the researcher observed was that, whilst some of the adults knew of the parents' cause of death, the information was not shared with the children. In my opinion, children should be informed about the impact of the pandemic. This would enable them to make informed choices about their lives in future. Where necessary, they would also feel free to seek and receive help on time.

Time: Interviews, particularly with children were very long. Some of the reasons were that most of the interviews were held in overcrowded shacks which did not have any privacy. This resulted in children being interviewed in the presence of the family members and in certain instances not being able to respond freely during the interviews. To overcome such pitfalls, the researcher assured the respondents that information obtained from the interviews would be kept confidential. In the event where the respondents declined to comment, they were allowed not to and in certain instances information was obtained from members of the family.

The other aspect pertaining to timing was the duration of the study. Since the researcher was a part time student, it took almost two years for her to complete the study and this impacted on the longevity of the study.

Representativity: According to de Vos et al (2002:201) representativity is always important when we want to generalise from the sample to a larger population. In this study the main limitation was that the sample used was too small and the results could therefore not be generalized to the entire country. However, findings from the case of Winnie Mandela Park may trigger an interest for future research in other sites and services areas with similar characteristics to see if similar problems do exist in other parts of the country.

6.4 Other areas that received little or no attention at all and implications for further research.

- The microlender who was scheduled to be one of the secondary informants could not be interviewed. This was after the researcher had been informed by a Housing Official working in Winnie Mandela Park that micro loan services had been withdrawn due to the high unemployment rate in the area.
- The Housing Officials from the National Department of Housing, specifically dealing with housing policy issues could not be interviewed due to the limitation of time and the fact that they were mostly reported busy.
- The Ward AIDS Forum² was allegedly one of the very active Non- Governmental Organisations (NGO) in Winnie Mandela Park. Due to limitation of time the researcher was not able to interview any of its representatives or attend meetings which were reportedly held every Tuesday at the Rabasotho Hall in Tembisa Township. To this end, the researcher proposes that in view of this NGO's active involvement in matters relating to HIV/AIDS in the community, further research be conducted to, amongst others, investigate the specific role it plays. This would assist

² The Ward AIDS Forum is an NGO actively involved in HIV/AIDS-related programmes in and around Tembisa Township including Winnie Mandela Park. They can be contacted through Tembisa Main Clinic.

Government in establishing and expanding its partnership base in the community specifically in programmes relating to HIV/AIDS.