



Country Factsheet for CESCR Committee



Save the Children

COUNTRY: KENYA

REPORT N°	N° 2-5 periodic report for the UN Committee on Economic, Social and Cultural Rights
PRE-SESSION/SESSION	Pre-sessional: 56 th (October 2015)
LAWS (THC-1993, GUIDELINES, DOMESTIC LAWS)	<ul style="list-style-type: none"> ▪ Children Act 2001 (Part XII on adoption) - its review is ongoing; ▪ Adoption Regulations 2005; ▪ National Standards for Best Practices in Charitable Children Institutions 2013; ▪ Guidelines for the Alternative Family Care of Children in Kenya 2014 (following the 2008 <i>Technical assessment of the legal provisions and practices of guardianship, foster care and adoption of children in Kenya</i>); ▪ THC-1993 acceded to and in force since 2007.
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<ul style="list-style-type: none"> ▪ It is estimated that 2.6 million children have been orphaned due to all causes, whilst 1 million of them were orphaned due to HIV/AIDS. Indeed, according to UNICEF Kenya, 'HIV/AIDS has claimed the lives of many parents, leaving in its wake a trail of over a million orphans. (...) The capacity of families to care and protect orphans is overstretched. This, combined with the increasing levels of poverty, has resulted in many children heading their own households, living in institutional care or surviving on the streets. (...) In Kenya, orphans are taken in mostly by the extended family, while a few children remain on their own. Child headed households are on the increase, especially in impoverished areas like North Eastern Province'. <p>Sources: UNICEF, Kenya, http://www.unicef.org/infobycountry/kenya_statistics.html; UNICEF Kenya, http://www.unicef.org/kenya/children.html.</p>
ALTERNATIVE CARE OPTIONS	<p>Various types of child care do exist in Kenya:</p> <ul style="list-style-type: none"> ▪ Kinship care: like most Africans, Kenyans have a long tradition of caring for their children via informal care although this situation is changing due to the current social and economic context. It is estimated that approximately 2 million Kenyan children live under some form of kinship care (Save the Children, June 2012), or approximately 10% of the estimated national child population of 19 million (Kenya National Bureau of Statistics, 2010). ▪ Foster care (non kinship): Not very known about but expanding. According to a recent study (see Source), 720 children were living in formal foster care in 2012. ▪ Residential care: although the Kenyan government has enacted guidelines and regulations for the management for Charitable Children's Institutions (CCI) as well as a training manual, the findings of the above mentioned study indicate that child care institutions must be better regulated and monitored. The study stipulates that out of the 700 CCI (non-state) running in the country, only 591 were legally registered by the government in 2012. The same year 2012, 8,176 children were living in state residential care and 40,230 in non-state residential care. ▪ Children and young persons leaving care must be further supported in the process. <p>Sources: Denise Stuckenbruck, <i>Advancing the rights of children deprived of parental care: Domestic adoption of children in Kenya</i>, 2013,</p>



	<p>http://resourcecentre.savethechildren.se/library/advancing-rights-children-deprived-parental-care-domestic-adoption-kenya-master; <i>Life as a care-leaver in Kenya</i>, 20 June 2009.</p>
ADOPTION	<ul style="list-style-type: none"> ▪ Most recently, a Notice in The Kenya Gazette (Gazette Notice N° 1092) was published and announced the establishment and appointment of an Expert Committee to review and develop a detailed policy and legal framework to regulate and manage child adoptions in Kenya. The aim is to address the situation of cases initiated prior to the moratorium as well as to reflect and develop documents to address general concerns in domestic and intercountry adoption. Gazette Notice 1092 also revokes Gazette Notice No. 15639 of 2013 appointing the National Adoption Committee. ▪ Kenya issued a moratorium on domestic and intercountry adoptions on 26 November 2014. This moratorium was decided and issued in a context of repeated reports of child abduction, child trafficking due to gaps and abuse of adoption regulations in the country, including improper financial gain, as well as due to a higher number of children being adopted internationally than domestically. <p>Sources: The Kenya Gazette, 20 February 2015, http://kenyalaw.org/kenya_gazette/gazette/volume/MTEsOQ--/Vol.%20CXVII-No.%2017; U.S. Department of State, Notice: Expert committee formed to review adoptions procedures; National Adoption Committee authority revoked, 10 March 2015, http://travel.state.gov/content/adoptionsabroad/en/country-information/alerts-and-notices/kenya15-03-10.html.</p>
STATISTICS	<ul style="list-style-type: none"> ▪ Intercountry adoptions: 63 in 2013, 76 in 2012, 83 in 2011, 71 in 2010. ▪ No available statistics on domestic adoption. <p>Source: Australian InterCountry Adoption Network (AICAN), International Adoption Statistics, http://www.aican.org/statistics.php?region=0&type=birth.</p>
RISKS	<ul style="list-style-type: none"> ▪ Poverty leading to family breakdown ▪ There have been reports of child abduction, trafficking and abuse of legal provisions for adoption purposes, which have resulted in the above-mentioned moratorium. ▪ There is a need for better regulations and higher quality in care, in particular in residential care. Foster care also needs to be better regulated if it is to be promoted and further implemented. ▪ Lack of leaving care policies, which makes this population highly vulnerable
POTENTIAL QUESTIONS	<ul style="list-style-type: none"> ▪ What poverty reduction measures are in place to prevent family breakdown? ▪ What specific support is being offered to child headed households to ensure members have access to economic, social and cultural rights? ▪ How does the country intend to support the placement of children in kinship care, whilst preventing any risks of abuse (e.g.: child labour and domestic slaves) in this form of care? ▪ What is being considered to better register and monitor children's homes and to provide follow-up to the situation of children placed? What educational, vocational and health standards are in place? ▪ What leaving care policies are in place to ensure that young adults re-integrate well into the community? ▪ What will the Expert Committee focus on in order to address the reports of abduction, trafficking and other abuses and issues in these proceedings? What follow-up will be given to the moratorium and are there any plans to maintain or suspend the moratorium?

