

Key Drivers Contributing to Child-parents Separation

Kenya



March 2024

Key Drivers Contributing to Child-parents Separation Kenya

Key Drivers Contributing to Child-Parent Separation in Kenya

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Suggested referencing: Gale, C., Olumbe, R. & Yugi, P. (2024) Key drivers of child-parents separation Kenya. SOS Children's Villages International and Day Star University, Kenya.

This report was commissioned by SOS Children's Villages International.

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Foreword

Child–family separation remains a topic of interest not only in SOS Children’s Villages Kenya, but also nationally, regionally and even globally. A thorough understanding of the probable factors that lead to child–family separation goes a long way to identify long lasting solutions to prevent family separation and remedy relationships where separation has already occurred. Research plays a critical role in generating insights on this and related topics; key to understanding child–family separation are the voices and perspectives of children, young people and primary care givers who in most instances are left out in studies of this nature.

This study plays a pivotal role in Kenya, as it comes at a time when there are significant legal, policy, programmatic changes related to the way children are cared for, the Government, civil society stakeholders have emphasized on family, and community-based care options for children without adequate parental care and expansion of family strengthening interventions. These changes are contained in the national Care Reforms Strategy (2022-2032) and the Children’s Act (2022). The findings included herein will go a long way in shaping the care reforms discourse in the country and providing a platform for the voices and perspectives of children and caregivers to this topic.

SOS Children’s Villages Kenya’s Strategic plan (2021–2025) dubbed “delivering our promise”, has put emphasis on the need to formulate, design and implement evidence-based care and protection programs. This research therefore provides the desired evidence to program development teams to address this topic from a knowledge perspective. In addition, the research in Kenya was done in collaboration with Daystar University. This collaboration has opened opportunities to undertake joint research studies topics relating to childcare and protection programming. Lastly, the MA’s vibrant advocacy efforts will significantly benefit from this research. Specifically, the findings will strengthen the MA’s ongoing engagements with decision makers to strengthen gate-keeping efforts to end unnecessary separation of children from their families. Advocacy for investment in quality social services for children & families; addressing mental health, poverty and violence against children; and strengthen the utilization of the national Child Protection Information Management System (CPIMS) by lobbying for the enhancement of the system to collect and analyses data related to child-family separation within the country.

This study will add value not only to policy-makers, state and non-state actors in child protection, but also other sectors that provide supporting services to children, families and communities, including education, justice, and particularly social protection and development.

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Acknowledgements

Our research was made possible due to the considerable efforts of the SOS Children's Villages team in Kenya. We would like to thank the Director of National Programs and Quality, Pascal Mailu and the National Director Walter Odhiambo for inviting us to conduct the research in Kenya. Our gratitude also goes to all the programme staff who assisted in the setting up and implementation of the research. This includes the Programme Directors, Mombasa Reynold Finyange, Ireneous Kombe, Ag. PD Meru, and Mercy Nkirote. Thanks also go to the Family Support Programme Coordinators, Prisca. Philomena Atibu, Fausta Mwili, Juliet Makori, Kinoti Kevin, and Starford Yambu as well as the Program Managers for Alternative Care, Miriam Musyoka. We would also like to recognise the support of the Monitoring and Evaluation Coordinator, Shadrack Kombe, who was pivotal in helping to co-ordinate the field work.

A crucial element of our research has been the partnership with the Day Star University in Nairobi. The university and SOS Children's Villages Kenya entered into an agreement that allowed for the full participation of two national researchers, Dr Roseline Olumbe and Dr Philemon Yugi. They were accompanied by a research assistant, Ms Mercy Mwanzana. The careful facilitation of research workshops with children and young people by Dr Olumbe and Dr Yugi was particularly instrumental in the success of the research in Kenya. We would like to thank the University for all the support it offered in making this research possible.

Thanks are also offered to the programme team at Tushinde Children's Trust¹ who not only provided invaluable background information on the situation of families and family strengthening programming in Kenya, but also facilitated the setting up of workshops with adult family members in Nairobi and a number of interviews with key informants.

Our gratitude specifically goes to the professional stakeholders who kindly participated in interviews as well as all the adult family members who gave their time to attend our research workshops and share with us their knowledge and ideas.

Most importantly, we want to offer our heartfelt thanks to all the children and young people who shared with us their ideas about, and understanding of, family life that helped make our research findings so rich and informative. Their voices, and their recommendations for change that we hope will positively impact the lives of other children, young people and their families, have been a primary contribution to the conclusions in this report.

¹ Please see: <https://tushinde.org.uk/>

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Definitions

Abandonment	A situation in which children are anonymously left in a 'public' place by persons unknown e.g., a child is left on the steps of a mosque or in front of a hospital. or on the street.
Adoption	A child who is officially placed in the legal custody of the person adopting them 'pursuant to a final adoption order, as of which moment, for the purposes of the UN Guidelines for the Alternative Care of Children, the child is considered to be in parental care'. ²
Alternative care	Care provided for children who are not living with parents. According to the UN Guidelines, this is care that is formally arranged including foster care, kinship care and placement in small scale residential settings or, informal care. All care in residential institutions even if not formally arranged, is alternative care.
Care Leavers	Children and young people who have left alternative care
Child	A child is any person under the age of 18 years unless the law of a particular country sets the legal age for adulthood younger, as provided for under Article 1 of the United Nations Convention on the Child. ³
Children without parental care	For the purposes of this report, this is children not in the care of both parents. The UN Guidelines for the Alternative Care of Children note this to be 'All children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances'. ⁴
Family based alternative care	Refers to care arrangement whereby a child is placed in the domestic environment of a family, as opposed to institutional or residential care. ⁵
Formal care	'All care provided in a family environment that has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not the result of administrative or judicial measures'. ⁶
Foster care	'Situations whereby children are placed by a competent authority for the purposes of alternative care in the domestic environment of a family, other than children's own family, that has been selected, qualified, approved, and supervised for providing such care'. ⁷ This also applies to a formally arranged placement with family members i.e. formal kinship foster care..
Gatekeeping	A process by which the situation of a child is carefully assessed and decisions made about protection and care that is in their best interests. This requires adherence to the 'necessity' principle; no child should be separated from parental care and placed in alternative care unless necessary for their protection. Children should be placed in the most suitable alternative care, which should not include residential institutions, that meets their needs. This is a temporary measure and all efforts made to reunite a child with their parents, or other primary caregiver, as quickly as possible.
Informal care	Any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends also known as informal kinship care, or by others in their individual capacity. The arrangement is at the initiative of the child, his/her parents, or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body. ⁸
Institutional care	'Large residential care facilities', ⁹ where children are looked after in any public or private facility, staffed by salaried carers or volunteers working predetermined hours/shifts, and based on collective living arrangements, with a large capacity. ¹⁰

² United Nations General Assembly 2009

³ based on Article 1 of the UN Convention on the Rights of the Child 1989

⁴ United Nations General Assembly 2009

⁵ European Expert Group on the Transition from Institutional to Community-based Care 2012

⁶ United Nations General Assembly 2009

⁷ ibid.

⁸ ibid.

⁹ ibid.

¹⁰ NGO Working Group on Children Without Parental Care 2013

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Kafala	A means of providing care for children as recognised under Islamic law and in Article 20 of the Convention on the Rights of the Child and in the UN Guidelines for the Alternative Care of Children. This may include providing financial and material support to a child in parental or alternative care, or may be an arrangement closer to adoption or fostering where a child is taken to live with another family ¹¹
Kinship care	'Family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature.' ¹² Informal kinship care is 'any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends ... at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body.' ¹³ Formal kinship care is care in the same settings ordered by an administrative or judicial authority or duly accredited body. ¹⁴
Orphan	For purposes of this report the term orphan refers to a child whose both parents have died
Other primary caregiver	Legal or customary primary caregiver of a child who is not their parent.
Reintegration	The process of a separated child making the transition back into his or her family ¹⁵
Relinquishment	A process by which a parent/s or others with or without parental authority decide not to raise a child and hand them over to another 'carer' e.g., a child voluntarily taken to a residential facility. Relinquishment unlike abandonment is when the identity of the mother or father, or other caregivers are known.
Residential care	'Care provided in any non-family based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities, including group homes.' ¹⁶ A distinction is often made between residential institutions (described above) and small group homes. Small group homes are settings in which children are cared for in small groups, usually of up to four to six children at most ¹⁷ , with consistent caregivers responsible for their care, in a community setting. This form of care is different from foster care in that it takes place outside of the natural 'domestic environment' of the family, usually in facilities that have been especially designed and/or designated for the care of groups of children. ¹⁸
Separated children	Children who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. ¹⁹
Small residential care settings	A 'public or private, registered, non-family-based arrangement, providing temporary care to a group of 4 to 6 children, staffed by highly trained, salaried carers, applying a key-worker system, with a high caregiver-to-child ratio that allows for individualized attention for each child, based on the professionally developed case plan, which takes into account the voice of the child.' ²⁰
Street connected children	Children living and/or working on the streets
Violence against children	For this report the term 'violence against children' will be used to denote all forms of abuse and exploitation including and physical, sexual, and emotional abuse, serious neglect and deprivation. ²¹
Young person	There is no legal or internationally agreed definition of 'young person'. The United Nations for statistical purposes, has defined 'youth', as persons between the ages of 15 and 24 years. ²² In

¹¹ Cantwell and Jacomy-Vite 2011

¹² United Nations General Assembly 2009

¹³ ibid. Article 29b.i.

¹⁴ ibid.

¹⁵ Inter-agency group on Children's Reintegration 2016

¹⁶ ibid. Article III, 29c. iv.

¹⁷ UNICEF 2020

¹⁸ United Nations General Assembly 2019

¹⁹ United Nations Committee on the Rights of the Child 2005

²⁰ UNICEF 2020

²¹ Please see: <https://data.unicef.org/topic/child-protection/violence/>

²² Please see: <https://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-definition.pdf>

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some countries, a young person is someone up to the age of 34 years (as for example, Cote d'Ivoire). For the purposes of this report a young person is defined as persons aged 18 to 25 years.

Glossary of terms

Adverse Childhood Experiences	ACEs
Area Advisory Council	AAC
Community Based Organisations	CBOs
Charitable Children's Institutions	CCIs
Child Protection Information Management System	CPIMS
Child Status Index	CSI
Civil Society Organisations	CSO
Child Protection Volunteer	CPV
Department of Children's Services	DCS
Faith Based Organisation	FBO
Female Genital Mutilation/Cutting	FGM/C
International Non-Governmental Organisations	INGOs
National Council for Children's Services	NCFCS
Non-Governmental Organisations	NGOs
Office of Director of Public Prosecutions	ODPP
Orphans and vulnerable children	OVC
Trauma Informed Practice	TIP
UN Guidelines for the Alternative Care of Children	UN Guidelines
United Nations Convention on the Rights of the Child	UNCRC
Violence against Children	VAC
World Health Organisation	WHO

1. Background

Clearly enshrined in the United Nations Convention on the Rights of the Child (UNCRC) is the right of a child, 'for the full and harmonious development of his or her personality', to 'grow up in a family environment, in an atmosphere of happiness, love and understanding.'²³ This is further endorsed in the 2019 UNGA Resolution, Promotion and Protection of the Rights of Children²⁴ and the UN Guidelines for the Alternative Care of Children (UN Guidelines)²⁵. In relation to alternative care, the handbook written to accompany the UN Guidelines, 'Moving Forward',²⁶ refers to the important principles of 'necessity' and 'suitability'. These principles recognise the primacy of preventing separation and removal of a child from the care of their parents. A further important premise is no actions should deprive a child of parental care unless it has been rigorously assessed as a necessary

²³ United Nations General Assembly 1989

²⁴ United National General Assembly 2019

²⁵ United Nations General Assembly 2009

²⁶ Cantwell et al. 2012

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safeguarding measure. All decisions and actions must always be in a child's best interest. The UN Guidelines echo the UNCRC in highlighting the importance of efforts being primarily 'directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members.'²⁷ To this end, the 'State should ensure that families have access to forms of support in the caregiving role.'²⁸

Over recent years, researchers have made efforts to gather information about children living in 'vulnerable'²⁹ situations and risk of separation from parental care, as well as on the efficacy of family strengthening.³⁰ However, these studies often highlight a lack of information, due in part, to inadequate child protection data management systems that fail to gather information on the reasons why children are in alternative care, or at risk of being so.³¹ As a result, there are perceived gaps in evidence that would help inform the development of effective universal and specialist programmes and services to address the underlying drivers of child-parents separation.

Studies have also examined the detrimental impact of adverse experiences in childhood, including separation of a child from parents, as well as the impact of placement in alternative care.³² Such studies illustrate the way these events can have harmful life-long consequences for children. However, despite efforts to develop national child protection systems that encompass the principles of 'gatekeeping'³³ and prevention of child-parents separation, children across the world continue to lose parental care. Furthermore, studies suggest many children experience separation from their parents that could have been prevented.³⁴ It is such findings that highlight the need for urgent action to prevent all unnecessary placement of children in alternative care.

Drivers of separation are thought to be complex and varied with studies placing emphasis on differing antecedents.³⁵ To develop effective and relevant strategies and programmes of service delivery that help prevent the unnecessary placement of children in alternative care in different parts of the world, it is essential to have a clearer understanding of the drivers contributing to child-parents separation in differing contexts. It is particularly important to collate such evidence by listening to the views of children, young people, and adult family members. This study has been prompted therefore, by a recognition that 'more research is needed to understand the effective approaches to antecedents to placement'³⁶ in alternative care. This is coupled with an understanding that the most detailed information that currently exists overwhelmingly originates in high income countries and therefore, a

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ Nankervis et al. 2011; OECD 2017

³⁰ Delap and Reale 2013; EveryChild 2009; Laumann 2015; Lodder et al. 2021; Namey & Brown 2018; Ortea et al. 2022; Wilke et al. 2022

³¹ Martin & Zulaika 2016; Petrowski et al. 2017; Willi et al. 2020

³² Bruska & Tessin 2013; De Swart et al. 2012; Gale 2018; Howard et al. 2023; Simkiss 2019; Stein 2005; Stein 2012

³³ Casky, and Gale 2015

³⁴ Chaitkin et al. 2017

³⁵ Bryson et al. 2017; Family for Every Child 2014; Laumann 2015

³⁶ Wilke et al. 2022

need to gather further primary evidence of risk factors as relevant to different countries, contexts, and socio-ecological systems.³⁷ It is with this understanding, that the research was undertaken in Kenya.

2. Aim and Scope of the Study

The primary aim of the research was to address gaps in evidence relating to the key drivers that contribute to the separation of children from their parents and placement in alternative care.

To collate this evidence, the following questions were considered:

- What are the key challenges facing families that create conditions in which child-parents separation and placement in alternative care is more likely to occur?
- Who are the children already in alternative care?
- What are some of the gaps in multi-level and multi-sectoral approaches and service delivery that could help prevent child-parents separation?
- What are the ideas of children, young people, family members, and other key stakeholders, about the current support to families and how it could be improved?

Alternative care is recognised in the UN Guidelines as both informal and formal care.³⁸ The difference being the former is a private arrangement that has not been ordered by an administrative or judicial authority or other accredited body. Traditionally, alternative care includes a variety of settings including kinship care, foster care, other forms of family-based placements, as well as residential care, either in a small group setting or in large institutions, and supervised independent living arrangements.

We realise that around the world, interchangeable definitions are being used in relation to children in alternative care. Some of the literature refers to separation of a child from parents, or another primary caregiver, or legal guardian. Some refer to the process of separating children from their parents as 'child-family' separation. Indeed references to separation from parents and from family are both used in the UNCRC. Furthermore, it is acknowledged that the cultural construct and concept of 'family' can denote different household arrangements including the social norm of different members of the extended family being considered a child's primary caregiver through informal or formal arrangements. As Kendrick highlighted, over 'recent years, there have been significant developments in sociological and anthropological thinking in terms of the nature of family and intimate relationships'³⁹ with growing acceptance of differing concepts of what form a 'family' takes in different geographical and cultural contexts.

³⁷ Gale 2018; Martin & Zulaika 2016; Petrowski et al. 2017

³⁸ United Nations General Assembly 2009

³⁹ Kendrick 2012

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The UN Guidelines however, clearly define children in alternative care as those being no longer in the care of a parent/s.⁴⁰ In this regard, Article 9 of the UNCRC also notes how 'States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine...that such separation is necessary for the best interests of the child'.⁴¹ In addition, Article 3 of the UN Guidelines require efforts to be primarily directed toward 'enabling the child to remain in or return to the care of his/her parents'. Furthermore, Article 32 of the Guidelines clearly states how 'preventing the need for alternative care' should first and foremost be through 'promoting parental care'. This includes policies to 'promote the right to have a relationship with both parents', and to, 'strengthen parents' ability to care for their children' (Article 33). Most importantly, we are aware of research that reflects the voices of children and their clearly articulated wish to remain with, or to return to, their 'parents'.⁴²

Taking the differing guidance and terminology into consideration, it was decided to use the term 'child-parents separation' in this report in reference to situations where children lose parental care i.e., being separated from both parents, and placed in alternative care.

While discourse on the prevention of placing children in alternative care has been explored in previous research and reports,⁴³ our preliminary desk review found very little evidence that this topic had been directly informed by the voices and perspectives of children, young people, parents, and other primary caregivers themselves. Neither has the available research sufficiently provided for these voices to be jointly heard from different countries and contexts across the world. It was considered important therefore, that the scope of this study included efforts to address these gaps by collating information from different stakeholders across diverse socio-economic locations, and most especially, from children and young people. To this end, participatory research methodology was initially developed with the support of children and young people in El Salvador and Lebanon. This then allowed for the participation of children, young people, and adult family members living in different socio-political and cultural environments in a further six low, medium and high income countries, including Kenya, in an exploration of drivers contributing to child-parents separation and placement of children in alternative care. Gathering the knowledge of professionals from a range of government and non-government agencies holding a responsibility to protect and support children and families in these countries has also been an important contribution to the collated evidence.

The research was not intended to comment on the situation of children whilst in alternative care. Neither was it expected to provide an evaluation of the services provided of any one agency, including SOS Children's Villages, in each country. Other topics not covered by the research include the

⁴⁰ The UN Guidelines define children without parental care as all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances

⁴¹ United Nations General Assembly 1989

⁴² SOS Children's Villages 2020

⁴³ Casky & Gale. 2015; Family for Every Child 2014

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situation of unaccompanied and separated children affected by migration. We do recognise their plight however and draw attention to some of the existing documentation on the reasons children affected by migration become separated from parental care.⁴⁴ Furthermore, as the focus of our study has been prevention of separation, although recognised as important, issues related to reintegration and adoption have not been included. The situation of children deprived of liberty through placement in detention was also not included in the research.

⁴⁴ International Organization for Migration 2015; International Social Services 2017; Marcus et al. 2020

3. Executive Summary

3.1. Background

Clearly enshrined in the United Nations Convention on the Rights of the Child (UNCRC) is the right of a child, 'for the full and harmonious development of his or her personality', to 'grow up in a family environment, in an atmosphere of happiness, love and understanding.'⁴⁵ This is further endorsed in the 2019 UNGA Resolution, Promotion and Protection of the Rights of Children⁴⁶ and the UN Guidelines for the Alternative Care of Children (UN Guidelines)⁴⁷. Furthermore, the handbook written to accompany the UN Guidelines, 'Moving Forward',⁴⁸ refers to the important principles of 'necessity' and 'suitability' which recognise the importance of preventing unnecessary separation and removal of a child from the care of their parents. A further important premise contained within international guidance is that no actions should deprive a child of parental care unless rigorously assessed as being a necessary safeguarding measure. All decisions and actions must always be in a child's best interest and the 'State should ensure that families have access to forms of support in the caregiving role.'⁴⁹

Over recent years, researchers have made efforts to gather information about children living in 'vulnerable'⁵⁰ situations and at risk of being separated from parental care, as well as on the efficacy of family strengthening programmes.⁵¹ However, there are still perceived gaps in the evidence that would help inform the development of effective universal and specialist programmes and services to address the underlying drivers of child-parents separation. With this in mind, this study set out with an aim of addressing the need for further research 'to understand the effective approaches to antecedents to placement'⁵² in alternative care. The study was also built on the understanding that the most detailed information that currently exists on this topic overwhelmingly originates in high income countries thus leaving gaps in knowledge and primary evidence as relevant to different contexts, and socio-ecological systems.⁵³ It is with this background, that the research was undertaken in Kenya with the aim of collating evidence in consideration of the following questions:

- What are the key challenges facing families that create conditions in which child-parents separation and placement in alternative care is more likely to occur?
- Who are the children already in alternative care?

⁴⁵ United Nations General Assembly 1989

⁴⁶ United National General Assembly 2019

⁴⁷ United Nations General Assembly 2009

⁴⁸ Cantwell et al. 2012

⁴⁹ ibid.

⁵⁰ Nankervis et al. 2011; OECD 2017

⁵¹ Delap and Reale 2013; EveryChild 2009; Laumann 2015; Lodder et al. 2021; Namey & Brown 2018; Ortea et al. 2022; Wilke et al. 2022

⁵² Wilke et al. 2022

⁵³ Gale 2018; Martin & Zulaika 2016; Petrowski et al. 2017

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- What are some of the gaps in multi-level and multi-sectoral approaches and service delivery that could help prevent child-parents separation?
- What are the ideas of children, young people, family members, and other key stakeholders, about the current support to families and how it could be improved?

We realise that around the world, interchangeable definitions are being used in relation to children in alternative care and their separation from parents and family. The UN Guidelines clearly defines children in alternative care as those being no longer in the care of a parent/s.⁵⁴ Article 9 of the UNCRC also notes how 'States Parties shall ensure that a child shall not be separated from his or her parents...except when competent authorities subject to judicial review determine...that such separation is necessary for the best interests of the child'.⁵⁵ Furthermore, Article 32 of the Guidelines clearly states how 'preventing the need for alternative care' should first and foremost be through 'promoting parental care'. Most importantly, we are aware of research that reflects the voices of children and their clearly articulated wish to remain with, or to return to, their 'parents'.⁵⁶ With the differing guidance and terminology being taken into consideration, it was decided to use the term 'child-parents separation' in this research report in reference to situations where children lose parental care i.e., being separated from both parents and are placed in alternative care.

The research was not intended to comment on the situation of children whilst in alternative care. Furthermore, additional topics that have not been covered by the research include the situation of unaccompanied and separated children affected by migration although we recognise the challenges they face.⁵⁷ Furthermore, issues related to reintegration and adoption were not considered along with the situation of children deprived of liberty through placement in detention.

3.2. Research methodology

Our preliminary desk review found very little evidence that the topic of prevention of child-parents separation had been directly informed by the voices and perspectives of children, young people, parents, and other primary caregivers themselves. Neither has the available research sufficiently provided for these voices to be jointly heard from different countries and contexts across the world. It was considered important therefore, that the research methodology and scope of this study included steps to address these gaps by collating information from different stakeholders across diverse socio-economic locations, and most especially, from children and young people.

⁵⁴ The UN Guidelines define children without parental care are all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances

⁵⁵ United Nations General Assembly 1989

⁵⁶ SOS Children's Villages 2020

⁵⁷ International Organization for Migration 2015; International Social Services 2017; Marcus et al. 2020

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We recognise the absolute importance of children and young people having a say in decisions affecting their lives.⁵⁸ To this end, participatory research methodology was initially developed with the support of children and young people in El Salvador and Lebanon. The results of their work informed the development of the research questions along with the methodology for participatory research workshops. This culminated in the writing of a series of research workshop handbooks that were then used to guide the participatory research with children, young people, and adult family members living in low, middle and high-income countries, including Kenya. The methodology allowed for the exploration of drivers that contribute to child-parents separation and placement of children in alternative care.

In total 133 participants took part in research workshops in two urban locations in Kenya, Nairobi and Mombasa, and the rural setting of Meru. This included:

- 49 children aged 13 – 15 years old living with their own families (in vulnerable⁵⁹ circumstances) (26 girls and 23 boys)
- 36 young people aged 20-24 years old who had left alternative care (care leavers). (20 girls and 16 boys)
- 48 adult members of families living in vulnerable situations (41 female and 7 male)

A total of 9 semi-structured interviews allowed for the gathering of information from professionals stakeholders including social workers, child protection workers, alternative care providers, lawyers, and providers of family support programmes. The information they provided has formed an important contribution to the research findings. Furthermore, an online survey was sent out to professionals seeking their understanding of reasons children are placed in alternative care. In total information from 22 responses has been used in the evidence and conclusions reached in our study.

3.3. Research findings, conclusions and recommendations

Research findings, conclusions and recommendations have been informed by the information children, young people, and adult family members provided during research workshops. These findings have been triangulated with the knowledge and understanding provided by professionals holding responsibility to protect children and support families, as well as information gathered during a desk review.

The research framework, analysis of findings, and development of recommendations have been guided by the UNCRC and the 2019 United Nations General Assembly Resolution, 'The promotion and protection of the rights of children' as well as the UN Guidelines for the Alternative Care of Children.

⁵⁸ African Committee of Experts on the Rights & Welfare of the Child 2022; Clark and Statham 2005

⁵⁹ For the purposes of the research, a definition of 'vulnerable' was extracted from: Bauer & Wiezorek (2016) Vulnerable Families: Reflections on a Difficult Category. *Center for Educational Policy Studies Journal*, Vol 4, pp.11-28.

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Recommendations are therefore addressed in reference to children's rights. Although these rights are indivisible, and all are essential to the well-being of children, we have chosen to develop recommendations based on a certain number of rights thought most applicable to the findings of the research and prevention of child-parents separation.

We recognise that the responsibility to address drivers of child-parents separation and prevention of placement of children in alternative care is primarily that of the Government of Kenya through the provision of national, regional and local services and support to families. To this end, our research has taken steps to consider such provision. We also recognise that UN and other international bodies play a significant role in service provision alongside national and international NGO, CBOs, faith-based organisations and private enterprises, and these differing roles and responsibilities should be a consideration when reading the conclusions and recommendations below.

A brief summary of findings indicate there are many inter-related drivers contributing to the placement of children in alternative care in Kenya. A primary factor is violence against children. Violence against children is described by UNICEF as taking many forms, 'including physical, sexual, and emotional abuse, and may involve neglect or deprivation.'⁶⁰ Children are also experiencing and witnessing domestic and gender-based violence. Other factors that render children vulnerable to protection violations in Kenya include child labour, being street connected often after fleeing dysfunctional households, and being victims of harmful practices such as FGM/Cutting, forced and early marriage, and teenage pregnancy. Belief that some children may be possessed by evil spirits and labelled witches or wizards, including children with disability, is also a concerning factor.

Further causes, of family separation and possible placement in alternative care include issues related to disability (of child and/or parent), alcohol and drug misuse, and absence of one or both parents for varying reasons including divorce/separation. Children are also being neglected and abandoned and directly relinquished into alternative care by parents and other primary caregivers.

Drivers of child-parents separation are directly or indirectly caused by issues related to poverty and are inextricably linked to poor access to basic and specialist services and inadequate social protection programmes. This includes lack of ability of parents to find adequate and stable employment, feed their families, provide shelter, and pay for schooling and medical expenses. We also consider one of the most important findings is the need to urgently address the inter-generational aspect of violence, and of poor parenting ability, that are contributing to the perpetuation of family breakdown and separation.

It is also our understanding that there is a need to improve elements of the national child protection system. Although the Government of Kenya has taken many steps to develop the normative

⁶⁰ Please see: <https://data.unicef.org/topic/child-protection/violence/>

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framework, implementation of legislation and policies for child protection still requires significant investment in terms of both financial and human resources. Respondents to the research suggest there is a need to improve capacity in the use and understanding of gatekeeping tools such as child protection case management and the ability to ensure more accurate child protection assessments and informed decision making that is in the best interest of the child.

Protection

Articles of the UNCRC that afford children the right to protection include, safeguarding from violence, abuse and neglect (Article 19 and Article 37(a)), from sexual exploitation and abuse (Article 34) and, from sale, trafficking and abduction (Article 11, Article 35, Article 36, Article 39).

In particular, Article 19 requires:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Recognition is given to the efforts of the Government of Kenya which, over recent years, has invested in the development of legislation, policy and strategic plans that aim to end violence against children. However, a conclusion of our research is that the continuing physical, sexual and emotional violence against children is a driver of family breakdown and their placement in alternative care. Children and young people, along with other research participants, identified the presence of violence within families, and their communities. They specifically wrote about experiencing and witnessing violence in the home. Violence in the home is also resulting in children running away from their families or placing them in positions that could activate a referral to social workers and child protection officers, or contact with the police. This includes children who run away from untenable situations in the home and become street connected, are involved in child labour and gangs, exposed to drugs and alcohol, and other situations that place them at risk.

The high prevalence of violence against girls and women is a concern and particularly sexual abuse which was specifically mentioned many times by research participants, including children and young people. This is in part, is attributed to a culture of male dominance in many households. Domestic violence, which is predominantly experienced by women, is contributing to risks of children being placed in alternative care. Not only is the violence itself placing children at risk, but placement is occurring when as a result, parents separate and a child/children are not kept with either the father or mother or, are not accepted by new partners. Domestic violence is also leading to women becoming the head of households and all the stressors this entails. Especially when they have no-one to turn to for help, e.g.. no familial or social support network. Research shows how female-headed households

face specific challenges in terms of poverty, lack of employment opportunities and child care, and the anxiety and worry of coping alone. This can deplete a parent's ability to adequately care for their children and situations that result in poor and broken relationships between children and caregivers. Children are becoming direct victims of domestic violence thus prompting child protection authorities to respond and remove them from parental-care.

It should not be overlooked that some men are also struggling within the family home, especially with societal expectations that place responsibility on them to adequately provide for their families. This can affect their mental health which, as previously mentioned in this study, can result in violence against children and partners. Men also need support that will help them maintain strong and caring family relationships.

Inter-generational violence is a particularly worrying phenomenon in Kenya. It has been recognised that violence can be a learnt behaviour⁶¹ through 'observation, learning and imitation'⁶² of adults, and/or being a victim.⁶³ Our perception is, with each generation in which families in Kenya repeatedly experience and witness violence, and lack strong attachment to each other, family dysfunction and breakdown will continue. It means within each generation there is the concern of an ever weakening ability to parent in a loving and caring and protective manner in some households.

Although not always directly related to issues of violence and neglect, children are also living in alternative care because they are orphans and without any other family members who are willing or able to look after them. Although it is also recognised that there are thousands of children in Kenya who are living in informal kinship care. Children with disabilities are also being placed in alternative care when parents are unable, or do not want to, provide the care they need.

Recommendations

- There is an urgent need for investment in violence prevention programmes for adults and for children to help break the inter-generational cycle of violent behaviour. These programmes should be systematically applied in an ongoing and sustainable manner. To this end, provision of violence prevention programmes that reach children at an early age could be built into the school curriculum and comprise not just one-off 'civic' lessons, but continuous learning that promotes positive messages and behaviour throughout a child's school life. Violence prevention could also be built into family strengthening programmes that work with all members of the family.
- Article 2 of the UNCRC guarantees children protection from discrimination. Violence prevention programmes should include efforts to combat factors that contribute to the presence of abuse and exploitation including discrimination, stigmatisation, harmful cultural and social norms, and

⁶¹ Moylan et al. 2010

⁶² Conteras & del Carmen Cano 2016:44

⁶³ Bevans & Higgins 2002; Conteras & del Carmen Cano 2016

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lack of equality. They should incorporate clear messages that promote tolerance and understanding. Issues of gender equity, ending discrimination against persons with disabilities or from different religious, ethnic, or other specific backgrounds, and acceptance of those identifying as LGBTQI+ are examples of topics such programmes should include.

- To help inform policies and programmes that promote safe and united families, all professionals who hold responsibility for the well-being of children would benefit from a better understanding of the factors that are contributing to violence in the home, and in the community, in Kenya.
- In order to help break the cycle of inter-generational aspect of poor parenting ability, professionals would benefit from a better understanding of such topics as attachment theory, including the impact of separation from loved ones that children face when placed in alternative care, the negative impact of adverse childhood experiences (ACEs),⁶⁴ and trauma-informed practice (TIP).⁶⁵ These topics should also be incorporated into programmes for parents and other caregivers as prevention of violence also requires sustained actions working closely with families to bring about an understanding of the harm being created when they use violence and finding ways to address such abusive situations.
- Those living in situations of domestic violence and gender-based violence, most especially girls and women, need someone to turn as for example, access to counselling and psychosocial services provided within a caring and safe environment. When rejected by extended family and the wider community, and with no-where else to go, specific programmes including access to crisis shelters, and other support services, for women and their children could offer immediate protection. This could also help prevent situations from deteriorating to the stage where children may be separated and placed in alternative care. Access to child day care and after school clubs would also provide some respite for women living in chaotic and stressful households. The building of stronger supportive social networks is also important.
- Men should be actively involved in family strengthening and other programmes that help them understand the importance of, and how to maintain, strong and caring family relationships. This should include awareness on issues of gender parity and prevention of domestic violence.
- Article 42 of the UNCRC requires States Parties to make the principles and provisions in the Convention 'widely known, by appropriate and active means, to adults and children alike.' Efforts to increase the awareness of child rights amongst the general public as well as the harm to children when they lack love, affection and are victims of violence can help strengthen the protective environment in the home and community. Messages might also include information about risk of violence and exploitation children face as for example, if spending time on the streets, engaged in child labour, and being exposed to drugs and alcohol.

Adequate standard of living and well-being

⁶⁴ Please see: <https://www.eif.org.uk/report/adverse-childhood-experiences-what-we-know-what-we-dont-know-and-what-should-happen-next>. See also: SOS Children's Villages International and CELCIS, Centre for Excellence for Children's Care and Protection, University of Strathclyde 2021; SOS Children's Villages International 2022

⁶⁵ SOS Children's Villages International 2022

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Article 27 of the UNCRC requires States Parties to recognise the right of every child to a 'standard of living adequate for the child's physical, mental, spiritual, moral and social development.' The Article also calls on States Parties to take appropriate measures to support and assist parents with their responsibility toward children and 'shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.' Other articles within the UNCRC also include a right to health (Article 24), education (Article 28 & 29) and survival and development (6).

The 2019 United Nations General Assembly resolution⁶⁶ on the 'Promotion and Protection of the Rights of the Child' calls on States to 'improve the situation of children living in poverty, in particular extreme poverty, deprived of adequate food and nutrition, water and sanitation facilities, with limited or no access to basic physical and mental health-care services, shelter, education, participation and protection' (Article 1). Furthermore, the resolution clearly says that,

financial and material poverty, or conditions directly and uniquely imputable to such poverty, never should be the only justification for the removal of a child from the care of his or her parents or primary caregivers and legal guardians, for receiving a child into alternative care or for preventing his or her reintegration, but should be seen as a signal for the need to provide appropriate support to their family, benefiting the child directly.

We have observed how issues related to poverty are a driver contributing to children's placement in alternative care in Kenya. Poverty is an inter-generational as well as a multi-dimensional issue with measurements of poverty taking into account not only financial means, but other factors that contribute to well-being.⁶⁷ Concerns raised by children, young people and adult family members during our research signalled many areas of their lives in which they are struggling with issues related to poverty. Our research findings also suggest a correlation between the ability to face such daily challenges as providing food, adequate shelter, paying utility bills, sending children to school, and finding adequately remunerated and stable employment etc., with stress and tension found within households. Costs of medicines and health services are also contributing to worry and concern. We have also been told that the social protection programmes that do exist are not sufficient and are not reaching all the people that need such support. This is compounded by the absence of adequate access to basic and specialist services for many and challenging living conditions as for example in the informal settlements in urban conurbations. Persons with disabilities face multiple challenges including issues of exclusion and stigmatisation that further compound their ability to access already scarce basic and specialist support services. As a result of all the aforementioned circumstances, the

⁶⁶ United Nations General Assembly Resolution 'Promotion and Protection of the Rights of the Child', December 2019 'A/74/395

⁶⁷ Please see: [https://www.worldbank.org/en/topic/poverty/brief/multidimensional-poverty-measure#:~:text=The%20Multidimensional%20Poverty%20Measure%20\(MPM,the%20%242.15%20international%20poverty%20line;https://ophi.org.uk/video-poverty-in-el-salvador-from-the-perspective-of-the-protagonists/](https://www.worldbank.org/en/topic/poverty/brief/multidimensional-poverty-measure#:~:text=The%20Multidimensional%20Poverty%20Measure%20(MPM,the%20%242.15%20international%20poverty%20line;https://ophi.org.uk/video-poverty-in-el-salvador-from-the-perspective-of-the-protagonists/)

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ongoing challenges facing parents can exacerbate feelings of distress, anger, poor mental health, and for some, an inability to cope. This can lead to deterioration in family relationships and may even lead to violence against children.

Findings also suggest the need for greater support for families and communities in rural areas. It is understood that violence and the breakdown in marriages/partnerships and family relationships in villages, is resulting in some women fleeing with or without their children, to the cities where they end up facing additional hardships. They move to cities, particularly when lacking support from family and community networks, with the belief they will find more opportunities in larger urban conurbations. This is often not the case however with their exposure to hardship and violence even increasing. In this respect, one concern is the focus of some NGOs on more reactive programmes that are based in urban settings rather than preventative services in rural areas.

Although we have seen how issues related to poverty contribute to family breakdown and the presence of violence, nevertheless, it is recognised that there are families living in very difficult circumstances who are supportive and caring of one another and do create a safe environment for children. This illustrates how strong loving relationships are an important factor in helping families stand up to the impact of poverty and other shocks experienced by households.

It is clear not one agency can respond to all the multi-dimensional aspects of poverty leading families into crisis. However those in the child protection sector, as with other sectors, very often work in a silo rather than in partnership with other professionals (and indeed, alternative care is often seen as a separate issue/sector to child protection). The Government of Kenya has recognised this in the many policies and strategies that have now been developed with a view to family strengthening and prevention of child-parent separation. However, there appear to remain gaps in the funding and other resources necessary to achieve such important aims and objectives. Furthermore, a need has been identified to strengthen coordination and service delivery between Government and non-governmental bodies and agencies including those responsible for education, health, security, social protection and social welfare, justice, and child protection. Once again, steps to address this are highlighted in Government policy but are still not sufficiently addressed in practice.

Recommendations

- It is beyond the remit of this report to provide detailed recommendations as to government efforts to strengthen the country in terms of financial investment and other aspects of national monetary policies. It would be possible however, for different actors to come together and instigate advocacy for change, including the gathering and sharing of information that would help government policy makers, and others, gain a clearer understanding of efforts needed to improve services and programmes that prevent children's placement in alternative care. Especially information that takes into account the multi-dimensional and inter-generational aspects of poverty and the impact this has on families. This requires awareness raising that informs the

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establishment of an evidence based multi-sectoral and family-centred approach to the design, development and delivery of support to families with the understanding it is often more than one pathway or issue that contributes to family breakdown. One specific focus of such advocacy should include the development and availability of fully functioning social protection systems that reach all those in need of safety nets.

- Helping families address the many challenges they are facing requires closer multi-sectoral cooperation and improved coordination between Government and non-governmental bodies and agencies, UN entities, academics, faith-based leaders, the private sector, and donors, including those responsible for education, health, security, social protection and social welfare, justice, and child protection. There should be a concerted effort together, and within each organisation, body, or department, to assesses and recognise where each can most effectively contribute: whether it be direct service provision, advocacy to effect change, signposting so that families know how and where to receive the support they need, fundraising, or even leading/supporting such coordinated response. Organisations should also look at the breadth of their outreach to ensure they are reaching vulnerable families everywhere.
- Families need informed and coordinated access to service provision in a way that will address all the inter-related challenges they face. This should be available universally to address the concern that support often comes too late and so that vulnerability of families might be prevented. To this end consideration should be given to providing families with signposting to basic and specialist services as well as ensuring receipt of joined-up provision in a way that overcomes barriers of access. One example would be providing access to all support that is coordinated in one location rather than family members having to move from agency to agency to resolve their problems. In some countries for example, this is sometimes called a 'one-stop shop'.⁶⁸
- Supporting families to undertake the responsibility of adequately providing for all in the household could include programmes that help increase access to sustainable income generation schemes and in obtaining stable, well remunerated employment. This should be linked with easily available and free adult education programmes and other capacity building and training opportunities for both women and men. Such economic and training programmes require highly skilled facilitation and should be undertaken by organisations that have the particular focus and specialism to implement them.
- Article 18 of the UNCRC requires States to 'take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.' Affordable, or preferably free, day care for children would help women in particular find their way into the work force. It could also provide respite for those struggling with the stress of household responsibilities and overwhelmed by challenges of everyday life. In this way such provision would help in alleviating any pressure building up within families. This should include day care for infants as well as after-school provision.

⁶⁸ Please see: <https://www.undp.org/botswana/news/undp-supports-establishment-one-stop-shop-public-services-botswana> And: <https://www.undp.org/kazakhstan/stories/one-stop-shop-window-problem-solver-people-difficult-life-situations>

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- Increased efforts are needed to provide readily accessible psychosocial and mental health services and counselling programmes. The latter should also be a consideration in the delivery of family strengthening programmes.
- Children should not be placed in alternative care solely for the reason of poverty. Alternative care should only be used when absolutely necessary for children in need of protection. There is also a need for further in-depth investigation and the use of evidence applied to implementation of legislation, policies and strategies that eliminates the use of residential institutions and refocuses the funds currently used to run these facilities toward programmes that allow children to remain in their own homes. Any Government plans for the elimination of all residential institutions in Kenya requires the adequate expertise and resources to ensure they are enacted.

Support with parenting

The preamble to the UNCRC states that the 'family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community'. This requires States to provide parents, and other primary caregivers, with the support needed so that children have the best protection and opportunities in life.

Children and young people feel happy when they have parents that love, respect and understand them. They want to feel cared for, trusted, have better communication within the family, and to live in an environment where there is unity, support, and happiness. When asked why families reach a situation where placement of children in care is a consideration, interviewees drew attention to lack of harmony and to dysfunction in the family due to what they consider to be 'poor' parenting skills. They see the lack of parenting skills as a significant factor related to deterioration of child-parents relationships which can ultimately lead to violence against, or serious neglect of, children.

Interviewees also identified how lack of positive parenting skills is not only impacted by socio-economic circumstances as described above, but can be an inter-generational phenomenon. Findings in our research indicate the negative experience some parents had during their own childhood is impacting their own ability to parent, as well as having a detrimental effect on other aspects of their life. One outcome being an inability to maintain harmonious, unified, supportive relationships in the home leading to family breakdown and violence.

Many of the recommendations in this report will contribute to supporting those parents who are struggling with their role to better protect and care for their children. Below however, are additional specific recommendations towards achieving this objective.

Recommendations

- As with previous recommendations, actions are needed that will break any inter-generational cycle of poor parenting and violence. This requires consideration of parenting programmes that

take a holistic and family-centred approach and incorporate such topics as attachment theory, the negative impact of adverse childhood experiences (ACEs),⁶⁹ and trauma-informed practice.

- It is important that professionals working with families are in receipt of training, knowledge and understanding that prevent them taking decisions based on negative social and cultural norms and beliefs. This also requires a deeper understanding of the different factors impacting parents and their ability, family dynamics, what is necessary to maintain harmonious, unified, supportive relationships in the home, and ways to build on existing resilience and coping mechanisms.

Disability

Children with disabilities have the right to enjoy 'a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community (Article 23 of the UNCRC). Also contained within Article 23 of the UNCRC is provision of special care and assistance to ensure children with disabilities have, 'access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities'.

All the issues covered in this research report, and in this conclusion and recommendation section, apply equally to children with disabilities. However, there are additional risks that persons with disabilities in Kenya face. This includes serious concerns regarding the impact of stigma and discrimination and harmful social and cultural norms such as the belief by some that disability is associated with witchcraft. As a result, and also due to lack of sufficient investment, they face additional barriers when accessing already scarce basic and specialist services. In addition, other risks that are heightened in the case of children with disabilities include those of violence, abandonment or relinquishment into residential institutions. Children whose parents are disabled are also vulnerable to placement in alternative care.

Recommendations

- Family support programmes should ensure the inclusion of families that have members with disabilities.
- Violence prevention programmes, as previously mentioned, should inherently incorporate the subject of protection of children with disabilities.
- Advocacy and awareness raising programmes should promote an understanding and acceptance of disability, both within families and amongst the general public. Public information campaigns should speak about fair and respectful treatment of people with disabilities, the harm of stigmatisation, and topics that would help prevent violence and exclusion. Advocacy programmes by, and with, people with disabilities are important and help bring a specific focus to improving services, opportunities, and support.

⁶⁹ Please see: <https://www.eif.org.uk/report/adverse-childhood-experiences-what-we-know-what-we-dont-know-and-what-should-happen-next>. See also: SOS Children's Villages International and CELCIS, Centre for Excellence for Children's Care and Protection, University of Strathclyde 2021; SOS Children's Villages International 2022

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- Inclusion in local schools should be available to all children with disabilities and not just offer an equal opportunity to receive an education, but also ensure they are a place of safety.
- Children with disabilities, as with other children, should not be placed in residential institutions. Consideration should be given to any specialist support necessary to prevent the placement of children with disabilities, or children whose parent/s have a disability, in alternative care.

Education

Article 28 of the UNCRC requires States Parties to 'recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity'. States Parties must also 'take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.' Furthermore, Article 23(3) recognises education should be provided free of charge in a manner that responds to the special needs of a disabled child. Article 24 of the United Nations Convention on the Rights of Persons with Disabilities⁷⁰ calls on States Parties to 'recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an 'inclusive education system at all levels and life long learning'.⁷¹

Our research suggests there are many children missing out on education due to associated costs e.g. uniforms, books etc. This places them at much higher risk of such situations as child labour and early marriage. Situations that can then lead to placement in alternative care.

Not only is school education necessary for future well-being, as for example, gaining employment and becoming an engaged member of society, but previous research also suggests that higher educational achievement may also be related to positive parenting, not least because of an increased understanding and skills to relate to, support, and communicate with others, including children.⁷²

Recommendations

- Investment is needed in high quality and provision of free public education, including being free from costs of fees, materials and uniforms and other associated expenses, that is available in all local communities for all children.
- No child should be placed in a residential institution for reasons of gaining access to education.

Play and leisure

UNCRC Article 31 of the UNCRC directs States to the right of children to rest and leisure and encourages access to cultural, artistic, recreational and leisure activity. This right is highlighted in

⁷⁰ United Nations Convention on the Rights of Persons with Disabilities 2006

⁷¹ *ibid.* Article 24

⁷² See for example: Fruehwirth and Gagete-Miranda 2019; Sutin et al. 2017

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this report, not just because of the importance to children's development, but also the opportunity recreational pursuits can play in strengthening family life.

Children wrote about the importance of time spent in recreational activities and eating together with parents and other family members. A sentiment repeated by young people and family members who highlighted the importance of spending time as a family.

Time spent together contributes to family unity and may also help provide a respite from the stresses they may be facing. There might be parents who are doing their utmost to provide for the family by working hard and long hours but do not also realise the benefits of spending some time pursuing joint activities with their children and how this can help forge closer bonds.

Recommendations

- Activities that address important aspects of family unity and spending time together would add value to parenting and family strengthening programmes. This would include raising awareness amongst parents and professionals as to the important benefits of time spent as a family and how this can help forge closer relationships.

Addressing harmful social norms, attitudes and practices

Article 42 of the UNCRC requires States to make the principles and provisions in the Convention 'widely known, by appropriate and active means, to adults and children alike.'

Children and young people in Kenya want all violence to end. They do not want to flee their homes because of violence, or to be forced into early marriage, or subjected to FGM/Cutting. They want parents to understand they need love and kindness and for sexual abuse and physical and emotional violence to stop. However, our research notes the need for further national awareness raising and advocacy campaigns that would address such harmful social norms, attitudes and practices.

We also note the ongoing discrimination against girls and women. In this respect, we believe there are still insufficient efforts to raise awareness with the aim of preventing gender based violence. Furthermore, the research revealed other harmful beliefs, such as those of witchcraft, that pose risks to children and parents, and especially those with disabilities.

Recommendations

- Advocacy and awareness raising campaigns are needed to help eradicate harmful social and cultural norms and beliefs that place children and women at risk of harm. Such campaigns would greatly benefit from meaningful participation of children, young people and other primary stakeholders.

The child protection system and capacity of professional decision makers

Article 1 of the 2019 UNGA resolution on the 'Promotion and the protection of children's rights', calls on States Parties to ensure,

adequate and systematic training in the rights of the child, including by encouraging States to take the Guidelines for the Alternative Care of Children into account for professional groups working with and for children, including with children without parental care, including specialized judges, law enforcement officials, lawyers, social workers, medical doctors, care professionals, health professionals and teachers, and coordination among various governmental bodies involved in the promotion and protection of the rights of the child

Guidance relating to decision making and 'gatekeeping'⁷³ is outlined in a number of international documents including the UN Guidelines for the Alternative Care⁷⁴ and accompanying Handbook⁷⁵. This guidance includes the use of case management tools that allow for rigorous multi-sectoral and participatory assessments upon which careful and well considered decisions can be taken. These decisions should always be in the best interest of the child.

Decision making by professionals is not only influenced by such factors as their personal understanding, beliefs and experience, but also the strength of the national child protection system they work in and the statutory and other guidance they receive. Decision making, although ideally objective and undertaken within a structure of national legislation, policy and statutory guidance, are at risk of being too subjective with personal social and cultural beliefs becoming influencing factors. It is important therefore, that sufficient training is received and social work and child protection personnel have the knowledge and experience necessary to make the correct safeguarding decisions. This requires wide dissemination and support in the understanding of laws, policies, and tools that guide and facilitate the work of professionals and help with well-informed decision making that meets the best interests of a child.

It is noted that much investment has been made in Kenya to develop legislation and child protection policy and strategic plans that are in line with the UNCRC and other international standards. However, our findings suggest there is a need for substantial investment in the implementation of the normative framework and details as to how this will be achieved. For example, we consider the 2023 National Policy for Child Protection is lacking sufficient clear guidelines and details as to the individual roles and responsibilities of the different stakeholders responsible for its implementation.

⁷³ For further explanation of the term 'gatekeeping' please see: Csaky & Gale 2015

⁷⁴ United Nations General Assembly 2009

⁷⁵ Cantwell et al. 2012

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Our research suggests that, although there are many people dedicated to their work, the social services workforce would benefit from improved coordination, and to meet government policy aims and objectives, facilitation of a more cohesive and comprehensive multi-sectoral approach that is truly focussed on prevention of child-parent separation and family support. This means shifting their approach to being more preventative than reactive. Furthermore, a need has been revealed for the workforce to have a better understanding of how to apply rigorous child protection case management procedures. A further contributing factor to what some believe is lack of time and effort spent undertaking child and family assessments and support, is the insufficient numbers of social services personnel.

It has not been possible to assess the amount of training different government and NGO/CSO personnel have received on the use of child protection case management tools, or whether there is sufficient understanding of how to evaluate the risks a child might be facing through any assessment findings. The evidence we have collated does suggest however, that further investment in the social services workforce is needed. An assessment of the quality of social work training in higher education institutions is also missing from our research.

Recommendations

- There is a need for further in-depth review of the resources needed to implement child protection and family strengthening legislation and policies in Kenya. Furthermore, legislation that requires the gradual elimination of all forms of large residential institutions should be urgently applied. This requires investment in human and other resources to ensure all residential institutions are identified and a plan that carefully monitors their closure in a timely manner.
- To inform the development of future training and capacity building, it is recommended that an assessment of the quality of social work training in higher education institutions is undertaken along with a review of provision and standards of in-service capacity building. This should be coupled with a study of current skills, knowledge and capacities of all those responsible for making decisions about protection and care of children including social workers, police, judiciary, health and education workers etc. This should consider their understanding of child protection assessments, the use of risk thresholds in relation to protection, and how to apply the principle of the best interest of the child.
- Training of those working in residential institutions may not only help alleviate some of the opposition to those employed in such settings, but also contribute to re-skilling. If sufficiently trained, they could be offered new roles in family strengthening programmes and, if family based care settings are further developed, they might become providers. In addition, training on how to re-focus the use of funds towards family support programmes, and family based alternative care when necessary, would be aided by the undertaking and application of a cost benefit analysis.
- Steps should be taken to address the lack of resources available to members of the social services workforce to effectively carry out their roles and responsibilities.

Data management systems

Legislation, policy, statutory guidance, planning and programme delivery, should be informed by evidence. The 2019 UNGA Resolution, highlights this by calling on States Parties to,

improve data collection, information management and reporting systems relating to children in Improving data collection, information management and reporting systems related to children without parental care in all settings and situations in order to close existing data gaps and develop global and national baselines.

In the first instance, the Resolution is referring to data related to children in alternative care, including the reasons for placement. It is further necessary to continue to collate evidence that includes consideration of the following:

- What is the situation of children affected by the issue of child-parents separation
- What are the main drivers of child-parents separation, and how are these influenced by various factors, e.g. gender, age, ethnicity, socio-economic circumstances, and access to services etc.
- How are children at risk of separation officially identified and recognised (e.g. in official data).
- Which child protection and social protection services are available to children at risk of child-parents separation and what are the gaps.
- What are the ideas and proposals of children, and other key stakeholders, about responses to the issue of child-parents separation and how they could be improved.

Our findings suggest there is a need for investment in more regular collection and analysis of disaggregated data that gathers such as information as pathways into alternative care and reasons for placements, length of stay, reintegration etc. This data should be publicly available.

Recommendations

- Ongoing development of local, regional and national child protection data management systems that provide clearer definitions and understanding of all the issues impacting children's protection and well-being including a more comprehensive explanation as to the reasons children are separated from parental care.

Participation

Article 12 (1) of the UNCRC requires,

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Our research suggests that children in Kenya are not participating in the process of completing a form of assessment in relation to their situation, or in decisions being made about their lives, including placement in alternative care.

Recommendations

- Children should be supported in a way that allows their full and meaningful participation in any decision making processes that will affect them, including their placement in alternative care.
- All children should be acknowledged as active citizens and afforded equal opportunity to contribute to their society. In this respect, policy makers and programme designers and implementers may need help understanding that children are experts in their own lives. This will require challenging any negative assumptions regarding children's capacities to engage and participate and providing them with opportunities that allow them to build and demonstrate such capability.

4. The Research Framework



The research framework was informed by international child rights conventions, most especially the UNCRC and the 2019 United Nations General Assembly Resolution: 'Promotion and the protection of the rights of children' (A/RES/74/133).⁷⁶ Every child in the world has rights. These rights, including those of protection and participation, are universal and indivisible. The role of States Parties in upholding and realising the rights of children has also been taken into account when developing this research including the responsibility to 'develop and implement comprehensive child welfare and protection policies within the framework of their overall social and human development policy'.⁷⁷

The research framework has also been informed by socio-ecological models such as that of Bronfenbrenner.⁷⁸ An adaptation of his model can be seen in Figure 1. This considers the impact of inter-relating factors affecting children and families at an individual interpersonal level (microsystem), structural level, including family and community level, (meso and exo systems), and institutional level (macrosystem). We have added an additional consideration to our research which is the influence of international normative frameworks and other global influences within the macrosystem.

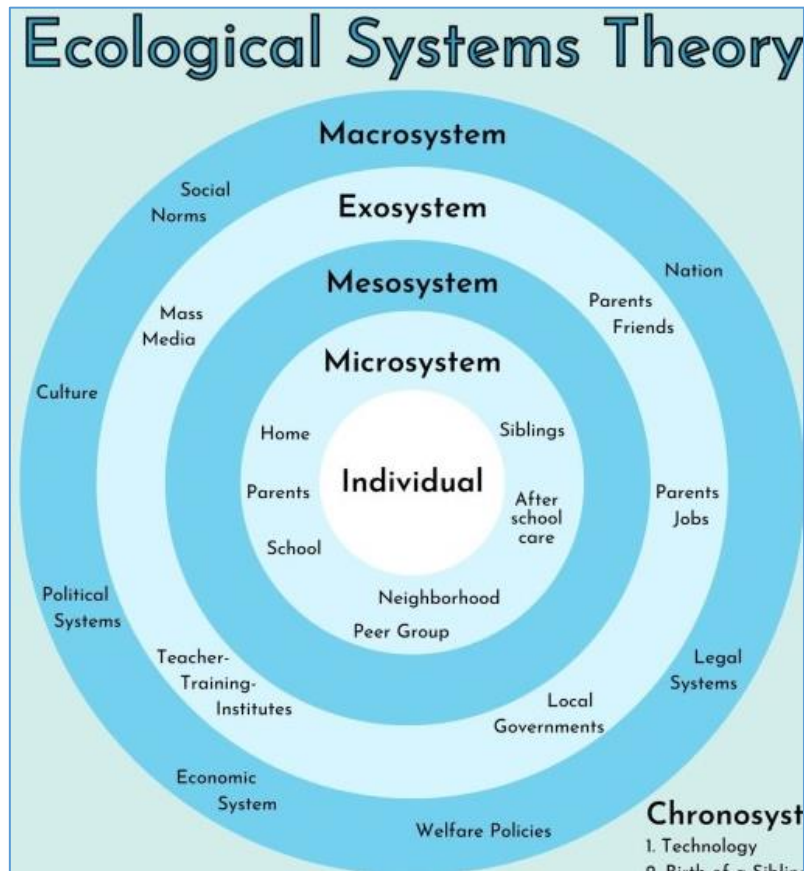
⁷⁶ Please see: <https://digitallibrary.un.org/record/3837858?ln=en>

⁷⁷ United Nations General Assembly 2009

⁷⁸ Bronfenbrenner 1977 See also: Bronfenbrenner 1986; Bronfenbrenner 1994

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Figure 1. An adapted graphic illustration of Bronfenbrenner's socio-ecological systems theory



(Source: Drew 2023)

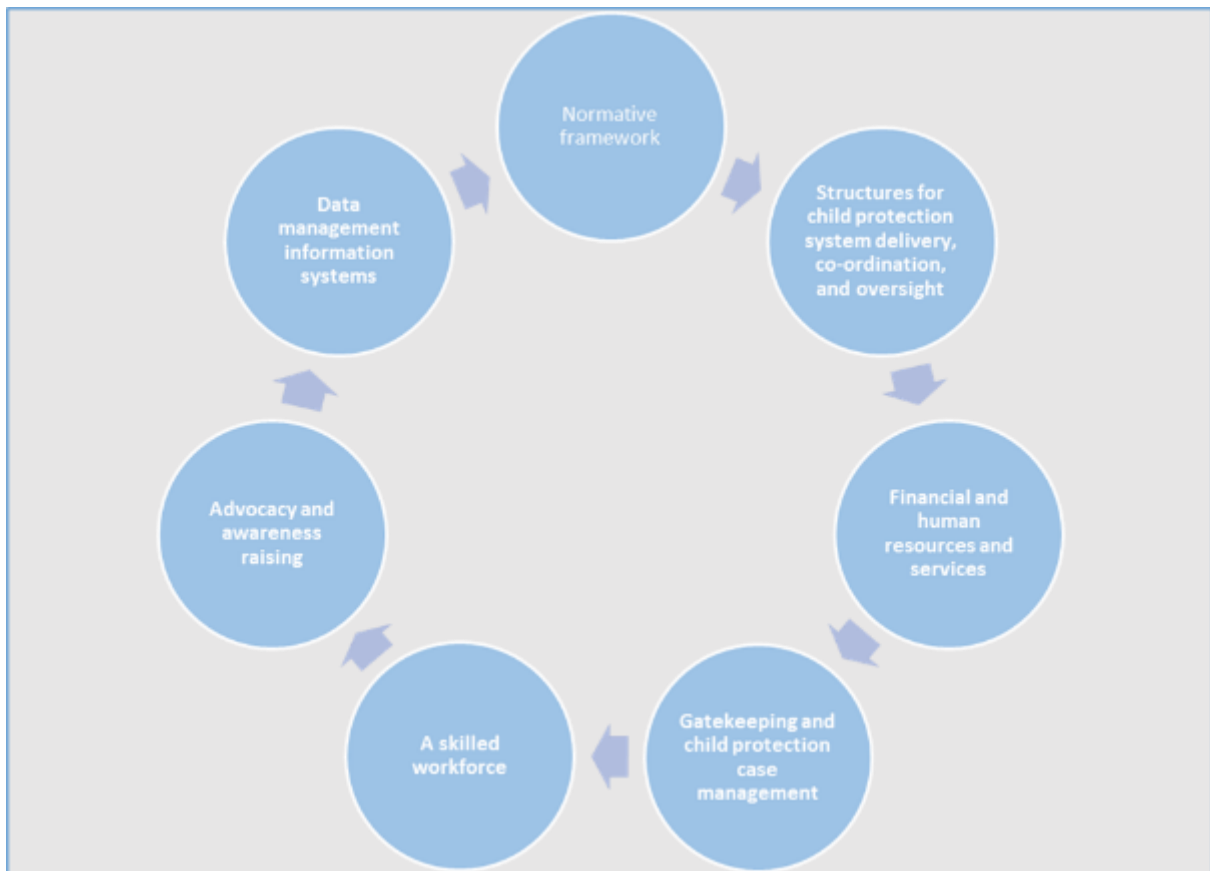
Based on this model, research questions used with respondents remained broad in order to extract information about the range of factors positively and negatively influencing and impacting family life.

The research framework also considered the functioning of different components of the national child protection system (Figure 2). Such system should include a suitable normative framework and programmes informed by rigorous data collection and analysis, as well as structures for the delivery of child protection services and those that help mitigate and respond to the multi-sectoral factors placing children at risk and families in difficulty. It requires efforts to ensure public awareness of child rights and child protection as well as a well-resourced and skilled work force and coordinated, inter-sectoral partnership working between the State, families, communities, NGOs, and the private sector. Utilising such examination of national child protection systems, we also adopted a research focus that sought evidence and understanding of how 'gatekeeping'⁷⁹ works in Kenya.

⁷⁹ Csaky and Gale 2015

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Figure 2. Components of a national child protection system



5. The engagement of the Day Star University and national researchers

Creating a caring, safe and trusting atmosphere when conducting research with children and young people is essential. To this end, rather than the international Lead Researcher facilitating the workshops with children and young people in Kenya, the services of a national researcher were sought. This helped with easier communication between researchers and participants thus avoiding disjointed communication (as for instance if we had been working through a translator). It also removed any distrust or suspicion that being asked questions by a 'foreigner' might incur. Furthermore, it meant the person directly interfacing with children and young people had a much more informed understanding of the cultural and other influencing aspects of the environment children and young people came from. Care was taken to ensure the national researchers not only had professional research skills but also the right aptitude and understanding to facilitate the workshops in a caring and careful manner.

A vital element of the research programme therefore, has been a partnership between SOS Children's Villages Kenya and the Day Star University facilitated through the work of a national researchers, Dr Roseline Olumbe and Dr Philemon. They were assisted by a research assistant, Ms Mercy Mwanzana. This partnership also allowed for a research ethics application to be made to the university. Full ethical approval was awarded.

6. Research methodology

6.1. Research participants

Invitations were issued to research participants involved in different government and NGO/CBO family strengthening and child protection programmes. In total 133 participants took part in research workshops in two urban locations in Kenya, Nairobi and Mombasa and the rural setting of Meru. This included:

- 49 children aged 13 – 15 years old living with their own families (in vulnerable circumstances⁸⁰) (26 girls and 23 boys).
- 36 young people aged 20-24 years old who had left alternative care (care leavers). (20 girls and 16 boys).
- 48 adult members of families living in vulnerable situations (41 female and 7 male).

In addition, research respondents included:

- 9 professional stakeholders including social workers, child protection workers, lawyers and providers of alternative care and family support services.
- 22 key stakeholders who responded to an online survey requesting information on reasons children are placed in alternative care and access to support services.

6.2. The research process

The research was finalised in Kenya in April 2023. Great importance was placed on the development and use of participatory research methodology to highlight the voices of children, young people and adult family members. Methods were also used that sought the views and understanding of professionals. All findings have been correlated with information drawn from relevant literature. The following methods were used to gather qualitative and quantitative data:

- **Desk review**

A series of desk reviews were conducted by means of a systematic exploration of academic and other web-based databases and search engines as well as hand sourcing additional reports and written materials. This included a review of the socio-economic and cultural environment, the functioning of the national child protection system, and provision of alternative care in Kenya. Further desk reviews sought information on topics that included participatory research methodology, prevention of family separation, gatekeeping, and family strengthening.

⁸⁰ For the purposes of the research, a definition of 'vulnerable' was extracted from: Bauer & Wiezorek (2016) Vulnerable Families: Reflections on a Difficult Category. *Center for Educational Policy Studies Journal*, Vol 4, pp.11-28.

- **Co-design research workshops with children and young people in El Salvador and Lebanon**

In recognition of the importance of children's right to participate in decisions affecting their lives, and understanding that they are 'competent social actors'⁸¹ who should be 'actively involved in shaping their own social worlds',⁸² steps were taken to achieve as high a degree of participation as possible during the research.⁸³ To this end, in order to highlight their voices, and seek their knowledge and ideas, children and young people, were not only invited to join qualitative participatory research workshops, but efforts were made to engage them in the design of the research questions and qualitative participatory methodology. This included a series of co-design of workshops with a group of children and care-experienced young people in both EL Salvador and Lebanon. The resultant research questions they helped develop and to be used with other children and young people were:

Question 1: What makes children/young people in this family happy when they are at home? (based on a drawing of a house and a family that had been drawn by participants)

Question 2: What makes children/young in this family worried or unhappy when they are at home?

Question 3: What makes the adults in the family feel happy, strong and united when they are at home?

Question 4: What makes the adults in the family feel worried or unhappy when they are at home?

Question 5: What is needed to help families be happy, strong and united?

The questions and methods developed in the co-design workshops were then piloted in El Salvador and Lebanon. The results informed the development and use of the qualitative research participatory workshops implemented in Kenya.

It is important to note that the research questions did not ask research participants to answer questions about their personal experience but to provide information that is representative of what happens to children, young people and other adult family members within their communities and country. These questions also informed those used in workshops with adult family members.

- **Participatory research workshops with children and young people in Kenya**

One group of children aged 13-15 years old living with their families and one group of care experienced young people aged 21-24 years old, now living within different local communities, were invited to help evaluate the research methods to be used in Kenya. They were invited to an Introduction Meeting during which they received information on the aims and objectives of the research and what their participation would involve. They subsequently agreed to participate in a series of research consultation workshops. During these workshops they undertook a brief evaluation of each participatory research exercise that had been co-designed with children and young people in El Salvador and Lebanon. They were asked whether or not they thought the research

⁸¹ Gilchrist et al. 2013:577. See also Davidson 2017

⁸² Gilchrist et al. 2013:577

⁸³ Arnstein 1959; Beebejaun et al. 2013; Blanco et al.2022; Bradbury-Jones and Taylor 2015; Bromark et al. 2023; Chevalier and Buckles 2019; Cossar et al. 2014; Cuevas-Parra and Tisdall 2019; Fouché and Light 2011; Garcia-Quiroga and Salvo Agoglia 2020; Grant 2017; Helm 2013; Holland et al. 2008; Jamieson et al. 2021; Lake and Wendland 2018; Sabo 2000; Shamji 2007; Stuart et al. 2021

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exercises were suitable to use with other children and young people in Kenya. The children and young people unanimously agreed the methodology was appropriate.

This process was followed by the implementation of workshops with other children and young people. In total 8 groups of children and young people participated in the research workshops held in the urban settings of Nairobi and Mombasa and the rural setting of Meru. Workshops included different activities including ice breakers and energisers, a reminder of the aims and objectives of the research; reading of Information Sheets, signing of consent forms; and joint creation of workshop 'ground rules'.

During the workshops participants were split into two groups and invited to take part in a number of exercises that involved the drawing of imaginary houses and families and the writing down of answers to the five research questions (on different coloured post-its) (Figure 3). Children were able to privately answer questions 1 and 2 by placing their post-its into bags placed on the drawings. They placed their answers to the questions 3 and 4 on their drawings and were invited to present them to the whole group. In the workshops with young people, they placed all their answers on their drawings and were also invited to present what they had written. If appropriate, short discussions about what had been written were facilitated.

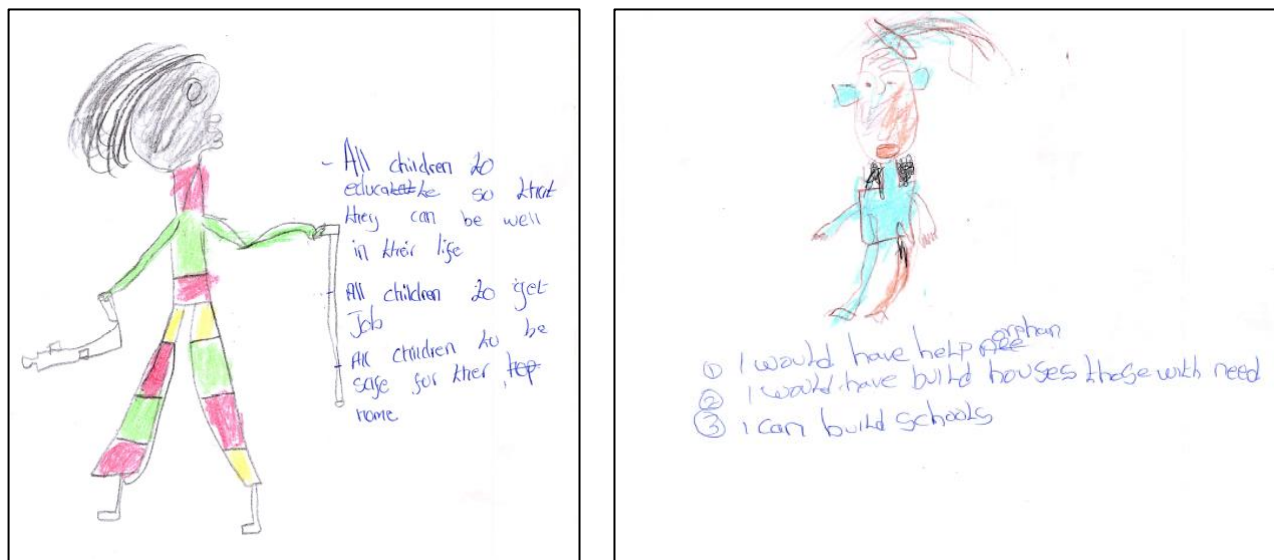
Figure 3. Examples of drawings produced by children and young people



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In order to seek children's ideas for solutions to the challenges families are facing, they were asked to think of themselves as a superhero and to depict this in drawings (Figure 4). They were then asked to write three things they would do with their superpowers to help families.

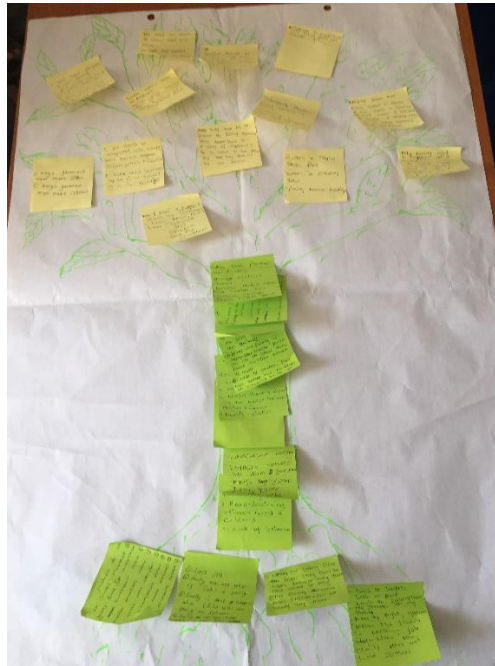
Figure 4. Examples of children's superhero drawings



A problem and solution tree exercise was used with young people in order to gain and rank their ideas for solutions. Young people placed their post-its containing answers regarding what made young people and adult family members worried or unhappy on the trunk of a tree (Figure 5). Their solutions depicted the leaves' of the tree.

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Figure 5. Example of a problem and solution tree



Young people were asked to group the solutions into different categories e.g., money, health, education etc., and then to rank them in order of importance. Participants presented their 'trees' to the full group and were offered the opportunity to briefly discuss their solutions.

At the end of each workshop, participants were invited to ask questions or asked if they wanted to discuss topics that had arisen during their time together. Workshops always finished with thanking participants and an energiser.

- **Family workshops**

It was also important to elevate the voices and ideas of adult family members. To this end, adult family members living in vulnerable circumstances were also invited to participate in research workshops. The research questions used with adult family members were:

Question 1: What makes families feel happy, strong and united when they are at home?

Question 2: What makes families feel worried or unhappy when they are at home?

Question 3: What is needed to help families remain happy, strong and united?

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A total of 4 workshops were held with adult family members. Two workshops were held in the urban setting of Nairobi and 2 in the Mombasa attended by 48 adults. One of the workshops was kindly supported by the team at Tushinde Children's Trust in Nairobi.⁸⁴

Similar participatory research exercises were used to those developed by, and for, children and young people including drawings of homes containing a family and problem and solution trees (Figure 6).

Figure 6. A problem and solution tree produced by research participants



At the end of the workshops, participants were invited to ask questions or to discuss topics that had arisen during their time together.

- **Semi-structured interviews**

A total of 9 semi-structured interviewees were conducted with professional stakeholders. The principle research questions focussed on the reasons children lost parental care and are placed in

⁸⁴ Please see: <https://tushinde.org.uk/>

alternative care. Interviewees were selected through a purposive sampling methodology and included professionals working in child protection, family strengthening and provision of alternative care. Purposive sampling methodology was chosen as it allows for intentional selection of knowledgeable participants that will generate theory and understanding of a specific social process and context.⁸⁵ Criteria for the selection of interviewees was prepared and based on this information, members of SOS Children's Villages Kenya team, and through support from the team at Tushinde Children's Trust in Nairobi,⁸⁶ interviewees were selected based on their knowledge of different key professional stakeholders in the country working for government and non-governmental agencies.

- **Online survey**

An online survey for professionals working in the support, care and protection of children was designed and disseminated utilising the Qualtrics⁸⁷ data software programme. The questions sought information regarding the reasons children are being separated from their family and placed in alternative care, different types of services and support available to families. The aim was to seek answers from 25 participants. After cleaning of the data a total of 22 responses were included in the final analysis.

6.3. Research ethics

Informed participation and consent

It was important that participation in the research was fully informed and voluntary. All prospective participants were provided with language, age, and respondent appropriate Information Sheets were provided to prospective participants when they were first invited to be part of the research. Age and language appropriate consent forms were also prepared in all countries. At the start of each research workshop, the content of the Information Sheets were discussed. Participants were given the opportunity to ask questions before being asked to sign a consent form. A strong emphasis was placed on participants understanding that they were free to withdraw their participation at any time. This process was also repeated at the start of each semi-structured interview.

For the online survey, participants were provided with an Information Sheet in advance of their participation. The consent process was built into the survey and respondents could not move on to complete the questionnaire without first giving their consent.

Confidentiality and data protection

Research participants were assured confidentiality and anonymity, unless providing information that suggested risk of harm to a child was revealed. All data used in reporting has been anonymised, and care taken not to reveal the identity of participants. Workshop participants were asked not to share

⁸⁵ Arber 2006; Flick 2006; Ritchie et al. 2006; Robson 2002

⁸⁶ Please see: <https://tushinde.org.uk/>

⁸⁷ Please see: <https://www.qualtrics.com/uk/>

personal stories, name anyone in any discussions, or share participant's information outside of the workshops. National researchers and the translator accompanying the international researcher signed third party confidentiality agreements.

Recordings of interviews were made using an encrypted recording device and uploaded to secure password protected folders. These are held only by the International Lead Researcher. All data has been stored in an electronic format and held securely in password protected computer files.

Facilitation of participation and remuneration

Care was taken to balance the available time researchers had to complete the field work with efforts not to disrupt the lives of participants. This included consideration of the times and length of workshops. All out of pocket expenses for participants such as transportation were covered and non-monetary gifts were provided including food for adult family members and school materials for children and young people.

Ethics and child safeguarding

All elements of the research process have been designed and conducted in a manner guided by professional standards and ethical principles.⁸⁸ Ethical clearance to conduct the research was sought and granted by Day Star University in Nairobi.

All efforts were made to ensure participation in the research did not lead to harm, stigma, re-victimisation or discrimination. Careful consideration was given to the sensitive nature of the topic under consideration i.e., events that may cause distress in the lives of participants. In this regard, the study was designed in a way that did not ask workshop participants about personal experience. Through careful observation, researchers did their best to pick up on cues indicating any distress. Ground rules developed by the participants themselves at the start of each workshop also highlighted issues such as respect, trust, the importance of being able to talk freely and being listened to. All efforts were made to ensure the workshops were safe and welcoming. No other adults except the national and international researchers and a translator were present in the workshops.

The issue of child safeguarding was taken with the utmost seriousness and informed the design of an ethical research process that took all steps possible to ensure the rights and dignity of participants. An SOS Children's Villages social worker, or equivalent, (a 'responsible adult') was present at the same location as the research workshops with children and young people. They were available if any participant wanted to speak with them. If a researcher had a concern about the safety or wellbeing of a child or young person during the workshop or, something was revealed that suggested a child or young person was at risk of harm, the 'responsible adult' was informed. In the event of such disclosure, SOS child safeguarding procedures were to be followed. Children and young people were

⁸⁸ See for example, Social Research Association (2020)

informed of this process. In addition a room was made available on the same premises as the workshops and designated a quiet and safe space children and young could use if they needed time alone.

Research analysis

All interviews have been transcribed and collated into a word document of which, in-depth reading was completed by the Lead Researcher. All the information provided on post-it notes by children, young people and adult family members during the research workshops have been transposed into digital word documents. These documents have been imported into the NVIVO 11 data analysis programme⁸⁹ and through a text query process, used to extract and collate 'instances' of similarities (and variances) and inform emerging and core themes. Linkages were identified in highlighted text and illustrated in word clouds and tree maps.

The software programme, Qualtrics, allowed for the analysis of responses to the online survey.

6.4. Limitations of the research

Limitations of the research include the time available to researchers to conduct field work in part due to available budgets. With particular reference to the process of co-designing research questions and methods with children and young people, it is recognised that additional time would have allowed for an even greater degree of participation in the very initial research conceptualisation and methodology design.

A focus was placed on creative activities and writing exercises to gather information rather than discussion groups. Engagement in discussions was therefore, only a very small element of the research. It is recognised this may have limited the opportunity to seek clarification and/or conduct a deeper exploration of the issues raised. Furthermore, research workshops utilised group work methodology that obscured individual voices whilst providing collaborative answers. As a result the data does not allow for the capturing of individual participant's responses. In addition, as almost all research workshops, groups of children and young people comprised both girls and boys working closely together, an in-depth analysis of similarities and differences in their answers in terms of sex has not been possible.

We recognise that many children are living in informal alternative care with members of their extended family or other members of the community. The research methodology did not allow for the study of the situation of these children. Other children not included in the research include unaccompanied and separated children affected by migration or children in conflict with the law. Furthermore, we are aware of many studies that have focussed on the impact of the COVID-19 epidemic. This topic was raised occasionally by interviewees but was not a specific focus in our search.

⁸⁹ Please see: <https://lumivero.com/products/nvivo/>

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Our research was limited to three locations which may not have fully reflected the situation throughout. This includes information analysed in relation to national ethnicities or other specific socio-cultural influences is absent in the research findings.

Finally, and importantly, a lack of published disaggregated quantitative and qualitative data on children in alternative care means it has not always been possible to quantify placements according to the different reasons that led to such action.

7. Context: Kenya

Figure 7. Map of Kenya



(Source: Nationsonline⁹⁰)

The Republic of Kenya is located on the east coast of Africa on the Indian Ocean. Kenya borders the countries of Ethiopia, Somalia, Uganda, and the United Republic of Tanzania. The total land area is 580,367 square kilometres.⁹¹ The capital city is Nairobi which has an estimated population of 4.2 million.⁹² Approximately 31.2% of the population live in urban areas and 68.8% in rural locations.⁹³ The country is divided into 47 administrative regions known as Counties.⁹⁴

⁹⁰ Please see: https://www.nationsonline.org/oneworld/map/kenya_map2.htm

⁹¹ Please see: <https://www.cia.gov/the-world-factbook/countries/kenya/#geography>

⁹² Please see: <https://housingfinanceafrica.org/documents/2019-kenya-population-and-housing-census-reports/>

⁹³ Please see: <https://www.britannica.com/place/Kenya/People>

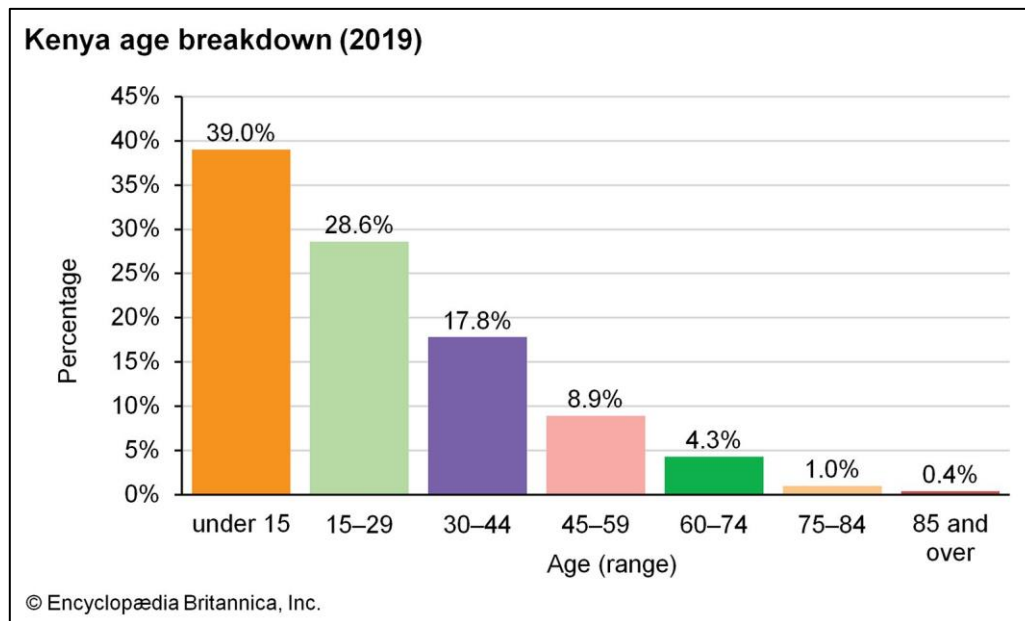
⁹⁴ Please see: <https://www.cia.gov/the-world-factbook/countries/kenya/#government>

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Population

In 2023, the population of Kenya was estimated to be 55,100,000⁹⁵. According to data published by the World Bank, in 2022 the population grew by 54,0227.⁹⁶ Figure 8 depicts the population age breakdown in Kenya as of 2019.⁹⁷

Figure 8. Age breakdown in Kenya 2019



(Source: Please see <https://www.britannica.com/place/Kenya/People>)

According to the United Nations Population Fund (UNFPA), in 2023 approximately 37% of the current population was under the age of 14 years of age.⁹⁸ Information published by the Government of Kenya in 2022⁹⁹ shows 3.6 million children were classified as Orphans and Vulnerable children (OVC).¹⁰⁰ In 2021, UNICEF suggested approximately 13% of children, or 3.2 million, were living in kinship care.¹⁰¹

A Government of Kenya census, show there to have been 12.2 million households with an average household size of 3.9 people in 2019.¹⁰² This is a decline from 5.89 in 2004.¹⁰³ The 2022 Kenya Demographic and Health Survey¹⁰⁴ shows an estimated 30% of all households were female-headed.

⁹⁵ UNFA, Kenya Overview Sourced at: <https://www.unfpa.org/data/world-population/KE>

⁹⁶ The World Bank, population total Kenya. Sourced at: <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=KE>

⁹⁷ Please see: <https://www.britannica.com/place/Kenya/Climate>

⁹⁸ Please see: <https://www.unfpa.org/data/world-population/KE>

⁹⁹ Republic of Kenya 2022

¹⁰⁰ National Council for Children's Services 2020

¹⁰¹ UNICEF and Changing the Way we Care 2021

¹⁰² Please see: <https://housingfinanceafrica.org/documents/2019-kenya-population-and-housing-census-reports/>

¹⁰³ (<https://globaldatalab.org/areadata/table/hhsize/KEN/>)

¹⁰⁴ Kenya National Bureau of Statistics 2023

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In 2019, the population was identified as Kikuyu 17.1%, Luhya 14.3%, Kalenjin 13.4%, Luo 10.7%, Kamba 9.8%, Somali 5.8%, Kisii 5.7%, Mijikenda 5.2%, and other 18% (comprised of Meru 4.2%, Maasai 2.5%, Turkana 2.1%, non-Kenyan 1%, and other 8.2%).¹⁰⁵

In 2020, the total number of people migrating out of Kenya was 535,348.¹⁰⁶ It is understood many left for Europe and the United States of America (USA) in what is recognised as a 'brain drain'.¹⁰⁷ A 2006 study revealed there were only 600 doctors in Kenya, whilst 6,000 trained doctors had emigrated to countries like the USA, Canada, UK, and Australia.¹⁰⁸ UNHCR reports how Kenya is now the second largest refugee-hosting country in Africa after Ethiopia.¹⁰⁹ Refugees come mainly from the Great Lakes and the Horn of Africa region and those fleeing conflict in South Sudan and Somalia.¹¹⁰ As of July 2023, there was an estimated 636,024 refugees and asylum seekers in Kenya of which approximately 83% were women and children.¹¹¹ UNHCR report over half the refugee population in Kenya, as being children of school age (4-18 years).¹¹²

Gender parity

UNDP¹¹³ regularly reports on gender parity across the world. In 2023, Kenya was marked as a 'upper-middle' ranking country in terms of achieving gender parity taking in to consideration such measurements as fraction of life expectancy at birth spent in good health; population with completed secondary education or higher; youth not in education; employment or training; labour force participation; holding an account in a financial institution (e.g. a bank); share of women holding managerial positions and seats held (e.g. parliamentary seats).

According to UN Women data, gender parity has been increasing in Kenya. For example Kenya has seen improved performance on the Global Women's Peace and Security Index moving from number 107 in the world in 2017, to 90 in 2022.¹¹⁴ There has been some progress in the number of women holding managerial positions and parliamentary seats in Kenya including an increase of women holding elected office. This rose from 22% in 2017 to 23.5% in 2022.¹¹⁵ UN Women also noted Kenya's rank and score on the Gender Inequality Index (GII) has consistently improved since 1995,

¹⁰⁵ Please see: <https://www.cia.gov/the-world-factbook/countries/kenya/#people-and-society>

¹⁰⁶ Please see: <https://www.talkdiplomacy.com/post/migration-and-development-in-kenya>

¹⁰⁷ Please see: <https://www.talkdiplomacy.com/post/migration-and-development-in-kenya>

¹⁰⁸ Please see: <https://www.talkdiplomacy.com/post/migration-and-development-in-kenya>

¹⁰⁹ Please see: <https://www.unhcr.org/ke/who-we-help/refugees#:~:text=The%20East%20and%20Horn%20of,the%20Horn%20of%20Africa%20region.>

¹¹⁰ Please see: <https://www.unhcr.org/ke/who-we-help/refugees#:~:text=The%20East%20and%20Horn%20of,the%20Horn%20of%20Africa%20region.>

¹¹¹ Please see: <https://www.unhcr.org/ke/wp-content/uploads/sites/2/2023/08/Kenya-Statistics-Package-31-July-2023-DIMA.pdf>

¹¹² Please see: <https://www.unhcr.org/ke/education>

¹¹³ UNDP 2023

¹¹⁴ Please see: https://africa.unwomen.org/sites/default/files/2023-04/FINAL_V2_SN%20Results%20-%20U

¹¹⁵ Please see: https://africa.unwomen.org/sites/default/files/2023-04/FINAL_V2_SN%20Results%20-%20Simple-Edited%20CLEAN%20-%20PRINT%20VERSION.pdf

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however, the most recent ranking of 126 out of 189 countries indicates the agency, means gender inequality continues to be a concern in Kenya.¹¹⁶ The report by UN Women also notes how women are still not equal in relation to security, reproductive health, empowerment nor in the labour market.¹¹⁷

Although the Government of Kenya is investing in development of legislation and policy reform, there remains much to be done to achieve gender parity with reports speak of significant inequality between males and females in education, health, representation in parliament, and participation in the labour market.¹¹⁸

Governance

The Republic of Kenya gained its independence from the United Kingdom in December 1963. The first democratic elections were held in 1963. In the same year, Kenya joined the British Commonwealth. Kenya is a presidential republic.¹¹⁹ The country has a Constitution with the current version passed by in 2010. There is a mixed legal system comprising English common law, Islamic law, and customary law.¹²⁰

The President and a Deputy President are elected every five years. They can serve a total of two 5-year terms and are directly elected by the majority vote.¹²¹ The President is both the Head of State and the Head of Government.¹²² There are three branches of government, an executive branch led by the President, a bicameral parliament consisting of the Senate and the National Assembly, and the Judiciary.¹²³

Religion

According to Britannica online in 2019, religious affiliation in Kenya constituted Christian 85.5% (Protestant 33.4%, Catholic 20.6%), Evangelical 20.4%, Muslim 10.9%, Atheist 1.6% and other 13.1% which includes African Instituted Churches and other Christian denominations (Figure 9).¹²⁴

¹¹⁶ UN Women 2023

¹¹⁷ UN Women 2013

¹¹⁸ <https://www.usaid.gov/kenya/document/gender-equality-female-empowerment-kenya>

¹¹⁹ Please see: <https://www.cia.gov/the-world-factbook/countries/kenya/#government>

¹²⁰ Please see: <https://www.cia.gov/the-world-factbook/countries/kenya/#government>

¹²¹ Please see: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/kenya/#:~:text=Kenya%20is%20a%20republic%20with,National%20Assembly%3B%20and%20a%20judiciary.>

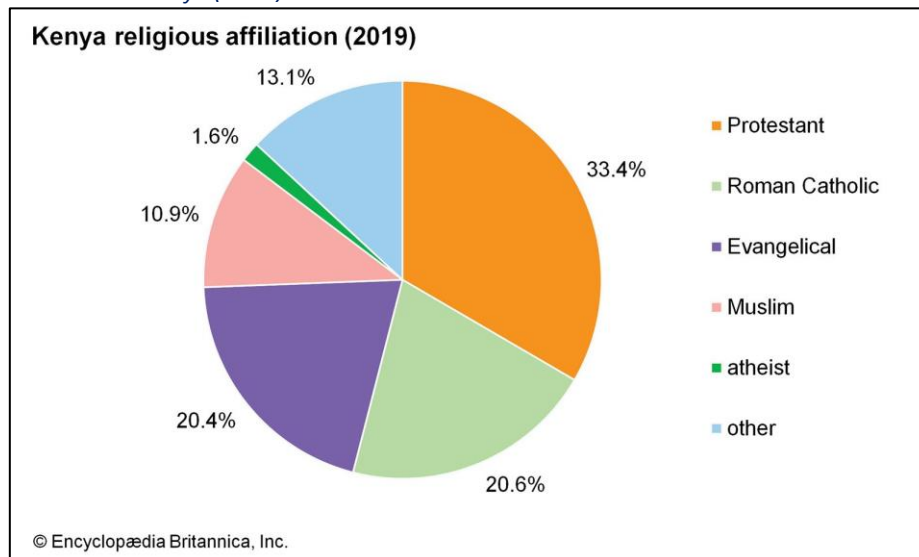
¹²² Please see: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/kenya/#:~:text=Kenya%20is%20a%20republic%20with,National%20Assembly%3B%20and%20a%20judiciary.>

¹²³ <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/kenya/#:~:text=Kenya%20is%20a%20republic%20with,National%20Assembly%3B%20and%20a%20judiciary.>

¹²⁴ Please see: <https://www.britannica.com/place/Kenya/People>

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Figure 9. Religious affiliation in Kenya (2019)



(Source: <https://www.britannica.com/place/Kenya/People>)

Economy and social protection

The World Bank classifies Kenya as a lower-middle income country.¹²⁵ In 2022 GDP per capita, \$2,099.¹²⁶ In 2022 Gross Domestic Product (GDP) was over \$100 billion¹²⁷ but had decreased to 4.8% in 2022 from 7.5% in 2021. In part, this was due to a levelling up after a strong recovery following the COVID-19 crisis.¹²⁸ According to a recent World Bank report, Kenya's GDP growth outpaced that of Sub-Saharan Africa in 2022.¹²⁹ The service sector is a major area of growth contributing approximately 80% of the total GDP.¹³⁰ Other important sectors include financial services, tourism, and transport sectors.¹³¹

Although the World Bank considers Kenya's economy to have recovered well after COVID-19, nevertheless, the Bank points to ongoing challenges including rising inflation, the impact of climate change and drought, as well as the effects of the war in Ukraine cause rising food prices and instability.¹³² Despite these concerns, the World Bank thinks the Government of Kenya's economic growth plan will remain on track.

¹²⁵ Please see: <https://blogs.worldbank.org/opendata/new-world-bank-country-classifications-income-level-2022-2023>

¹²⁶ Please see: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=KE>

¹²⁷ Please see: <https://www.usaid.gov/kenya/document/economic-growth-and-trade>

¹²⁸ World Bank 2023

¹²⁹ Please see: <https://www.worldbank.org/en/news/press-release/2023/06/07/kenya-afe-economy-is-recovering-from-the-polycrisis-but-challenges-remain>

¹³⁰ Please see: <https://www.worldbank.org/en/news/press-release/2023/06/07/kenya-afe-economy-is-recovering-from-the-polycrisis-but-challenges-remain>

¹³¹ Please see: <https://www.worldbank.org/en/news/press-release/2023/06/07/kenya-afe-economy-is-recovering-from-the-polycrisis-but-challenges-remain>

¹³² World Bank 2023

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Kenya's score on the Human Development Index has risen steadily from 2019 to 2022, placing it at 143 out of 189 countries and territories in 2022.¹³³ However it is estimated that as many as two-thirds of Kenyans live in poverty and are earning less than \$3.20 per day.¹³⁴ In 2022, UNICEF reported over 53% of Kenya's population were living under the poverty line and, of the total child population (23.5 million), more than half were multi-dimensionally poor, meaning being deprived of basic needs.¹³⁵ Up to 42% of these children (approximately 9 million) were living on less than \$2 a day and were in urgent need of support.¹³⁶ The International Rescue Committee announce on their current website that up to 4.5 million people in Kenya are experiencing hunger and almost 1 million children under the age of 5 years are acutely malnourished.¹³⁷ UNICEF has also estimated that, 12% of all Kenyan children under 18 years of age (1.8 million) were classified as orphans with Government estimates showing 700,000 children had lost one or both parents due to HIV/AIDs.¹³⁸

According to USAID, most Kenyans, and particularly women and girls, can be considered 'chronically vulnerable'.¹³⁹ This include approximately 70% of families who are chronically vulnerable due to poor nutrition, food insecurity, and preventable diseases.¹⁴⁰ It is believed this situation has been exacerbated by COVID-19, ongoing corruption, 'inefficient and inequitable systems, exclusion of youth and women, lack of reliable electricity and sanitation, and increasing crises such as droughts'.¹⁴¹

Efforts are underway to tackle financial challenges facing the country. This includes the Government's Cash Transfer for Orphans and Vulnerable Children (CT-OVC) programme, which reached 280,000 households by 2022, a decrease in coverage 350,000 households in 2016/17.¹⁴² However, it is understood all expansion of the programme has now halted even though UNICEF call attention to the 13 million children in Kenya living in poverty.¹⁴³ Previous Government plans included the National Social Protection Policy and Kenya Social Protection Strategy 2018/19–2022/23 that included programmes to expand social assistance programmes towards what was termed a life cycle approach, including universal child benefits and disability benefits. However, in 2022 the Government

¹³³ Please see: https://africa.unwomen.org/sites/default/files/2023-04/FINAL_SN%20popular%20version_3003_edited%20brochure%20version_030422_ONLINE%20VERSION.pdf

¹³⁴ Please see: <https://www.usaid.gov/kenya/economic-growth-and-trade#:~:text=However%2C%20Kenya%20continues%20to%20face,includ%20corruption%20and%20economic%20inequality>.

¹³⁵ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹³⁶ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹³⁷ Please see: <https://www.rescue.org/uk/press-release/irc-urges-immediate-action-address-alarming-rise-malnutrition-cases-threatening>
¹³⁸ <https://www.hsph.harvard.edu/hhrjournal/wp-content/uploads/sites/2469/2013/07/6-Bryant.pdf>

¹³⁹ Please see: <https://www.usaid.gov/kenya/economic-growth-and-trade#:~:text=However%2C%20Kenya%20continues%20to%20face,includ%20corruption%20and%20economic%20inequality>.

¹⁴⁰ Please see: <https://www.usaid.gov/kenya/economic-growth-and-trade#:~:text=However%2C%20Kenya%20continues%20to%20face,includ%20corruption%20and%20economic%20inequality>.

¹⁴¹ Please see: <https://www.usaid.gov/kenya/document/economic-growth-and-trade>

¹⁴² Please see: <https://www.unicef.org/kenya/press-releases/opinion-why-we-need-expanded-social-protection-kenya>

¹⁴³ Please see: <https://www.unicef.org/kenya/press-releases/opinion-why-we-need-expanded-social-protection-kenya>. Please also see information gathered during a series of semi-structured interviews conducted for this report.

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recognised that these ambitions remain an aspiration.¹⁴⁴ UNICEF also noted the Government's commitment to increase social protection coverage, including coverage of the National Safety Net Programme from 1.2 to 2.5 million households.¹⁴⁵ However, the agency also reported on the decline in the reach of national welfare programmes, and suggests an annual increase of 30% in coverage rates is required if half of those living in poverty are to receive the necessary support by 2030. UNICEF calls for an 'urgent need to scale up investments in social protection in Kenya, particularly for children.'¹⁴⁶

Employment

In 2021, labour force participation rate was 67.5%, of which 72.6% was male and 62.9% female.¹⁴⁷ The Kenya Bureau of National Statistics found unemployment rates to be 6.6% in the first quarter of 2021.¹⁴⁸ This was an increase from 5.2% in the first quarter of 2020. In 2019, the sector offering the most employment was the service industry (51.4%) followed by agriculture (33.6%).¹⁴⁹

Although youth unemployment has reportedly decreased significantly over the past 10 years, it remains much higher in comparison to other age groups in the workforce.¹⁵⁰ In 2020, UNICEF reported¹⁵¹ child labour to be on the increase and quoting data from the Kenya National Bureau of Statistics, indicated 8.5%, of children (1.3 million), were working.¹⁵² The highest child labour rates, in excess of 30%, are to be found in the arid and semi-arid land counties where boys are sent out to herd livestock or harvest sand. Girls are engaged in domestic work. The impact of COVID-19 was also noted and in April 2020, the National Bureau of Statistics reported that approximately 1.72 million people in Kenya had lost their jobs.¹⁵³ UNICEF believes this loss of income may have been a significant factor in children being sent out to work.

Health

In Kenya, life expectancy at birth has improved rising from 53.9 years in 2000 to 66.1 years in 2019.¹⁵⁴ The 10 top causes of death for females and males can be seen in Table 1.¹⁵⁵

¹⁴⁴ Republic of Kenya 2022

¹⁴⁵ Please see: <https://www.unicef.org/kenya/press-releases/opinion-why-we-need-expanded-social-protection-kenya>

¹⁴⁶ Please see: <https://www.unicef.org/kenya/press-releases/opinion-why-we-need-expanded-social-protection-kenya>

¹⁴⁷ Please see: <https://ilostat.ilo.org/data/country-profiles/>

¹⁴⁸ Kenya National Bureau of Statistics 2021

¹⁴⁹ Please see: <https://ilostat.ilo.org/data/country-profiles/>

¹⁵⁰ World Bank 2020

¹⁵¹ Please see: <https://www.unicef.org/kenya/stories/lets-end-child-labour-kenya>

¹⁵² Please see: <https://www.unicef.org/kenya/stories/lets-end-child-labour-kenya>

¹⁵³ Please see: <https://www.unicef.org/kenya/stories/lets-end-child-labour-kenya>

¹⁵⁴ Please see: <https://data.who.int/countries/404#:~:text=Global%2057.7%20Kenya-,In%20Kenya%2C%20healthy%20life%20expectancy%20at%20birth%20has%20improved%20by,person%20can%20expect%20to%20live.>

¹⁵⁵ Please see: <https://data.who.int/countries/404>

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Table 1. Deaths per 100 000 population. Kenya, 2019

Top 10 causes of deaths per 10000 of the population in 2019 Female	%	Top 10 causes of deaths per 10000 of the population in 2019 Male	%
Neonatal conditions	42.5%	Neonatal conditions	55.2%
Lower respiratory infections	39/3%	Lower respiratory infections	50.3%
HIV/AIDS	35.1%	HIV/AIDS	46.6%
Stroke	29.8%	Stroke	44.4%
Diarrhoeal diseases	25.9%	Diarrhoeal diseases	42.4%
Tuberculosis	24.6%	Tuberculosis	32.8%
Malaria	21.8%	Malaria	30.6%
Maternal conditions	21.3%	Maternal conditions	30.6%
Cirrhosis of the liver	20.4%	Cirrhosis of the liver	26.3%
Ischaemic heart disease	20.4%	Ischaemic heart disease	25.2%

(Source: <https://data.who.int/countries/404>)

A 2022 UNICEF report says 5,360 women per year, or 0.48% of women, die during pregnancy or childbirth.¹⁵⁶ In 2018, 70% of births were attended by skilled health personnel which is an increase from 62% in 2014.¹⁵⁷ Teenage pregnancy reportedly increased in 2020 partly says UNICEF, because of school closures as a result of COVID-19.¹⁵⁸

The Kenyan health system can be divided into three categories: public providers; private non-profit organisations including faith-based and mission hospitals as well as local and international NGOs; and private for-profit healthcare providers. Whilst recognising the Government of Kenya's plan to achieve universal health care coverage, the World Bank also calls to account the significant underinvestment in health care and an 'urgent need to increase spending on health'.¹⁵⁹ This includes programmes to improve nutrition, reduce rates of stunting, and address 'high child and maternal mortality rates'.¹⁶⁰ There are also recommendations to improve productivity of health care workers, ensure a more appropriate mix of skills among staff, and provision of more balanced distribution of health resources.¹⁶¹

Results of a survey conducted by the Kenyan National Bureau of Statistics in 2022 said only 1 in 4 people (26% of females and 27% of males) had some form of health insurance with the National Hospital Insurance Fund being the most utilised.¹⁶² There were more respondents with health

¹⁵⁶ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁵⁷ Please see: <https://www.unicef.org/kenya/media/1951/file/UNICEF%20Kenya%20country%20kit%202020-2022.pdf>

¹⁵⁸ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁵⁹ World Bank 2020:17

¹⁶⁰ *ibid.*

¹⁶¹ *ibid.*

¹⁶² Kenya National Bureau of Statistics 2023

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insurance living in urban areas (39% of females and 41% of males) than in rural settings (20% of females and 19% of males). UNICEF says coverage of community health services in Kenya is only 59%.¹⁶³

In terms of disability, reports suggests 6% of females and 5% males aged 5 years and over experience a lot of difficulty or cannot function at all in at least one of the six domains of disability.¹⁶⁴ There are more females and males (22% and 14%, respectively) aged 50 years and above with a disability. There are more members of households in the lowest wealth quintile that have a disability (8% female and 7% male) compared to those in the highest wealth quintile (3% female and 2% male).¹⁶⁵

UNICEF identify some of the main health risks in Kenya as including high population density in urban slums, poor hygiene and unsafe food practices, lack of adequate sanitation, access to and storage of food, safe water and medical examinations.¹⁶⁶ A document¹⁶⁷ issued by UNICEF in 2020 reports that 9.9 million people were drinking directly from contaminated surface water sources and an estimated 5 million people were practicing open defecation. Only 33% of the population had access to basic sanitation services, a very small increase from 32% in 2015.¹⁶⁸

Data on child health includes a recent UNICEF report stating around 83,000 children per year are dying before reaching the age of 5 years with main causes of death being diarrhoea, pneumonia and neonatal complications.¹⁶⁹ However, it is also recognised that these rates have fallen significantly over the past thirty years with under-five mortality rate decreasing by 57% between 1990 and 2020. Between 2008 and 2014, approximately 2 million children were malnourished although stunting among children under 5 years fell from 35% to 26% and wasting from 7% to 4%.¹⁷⁰ As of February 2023, UNICEF reported that the number of acutely food insecure people to be 4.4 million with 970,214 children aged between 0-59 months needing treatment for malnutrition of which, 242,567 are severely wasted.¹⁷¹

In 2019/20, approximately 22 million children, or 86% of the child population, were fully vaccinated by the age of 1 years old however, UNICEF report that large numbers of unimmunised children has led

¹⁶³ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁶⁴ Kenya National Bureau of Statistics 2023

¹⁶⁵ *ibid.*

¹⁶⁶ Please see: https://www.unicef.org/media/142666/file/UNICEF_Kenya_Humanitarian_Situation_Report_No._5%2C_1_-_31_May_2023.pdf

¹⁶⁷ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁶⁸ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁶⁹ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁷⁰ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁷¹ Please see: https://www.unicef.org/media/142666/file/UNICEF_Kenya_Humanitarian_Situation_Report_No._5%2C_1_-_31_May_2023.pdf

to outbreaks of measles and polio.¹⁷² It is understood cholera may also be increasing. Children living in the northern counties and urban informal settlements are most likely to die from preventable diseases.¹⁷³ The practice of FGM/Cutting remains high in certain parts of the country with rates ranging from 98% in north-eastern Kenya, to 1% in the western part of the country.¹⁷⁴

Education

Legislation and policy provides for free and compulsory basic education. However, it does not provide for uniforms, school meals, and other related costs. This is making education inaccessible for some children.¹⁷⁵ The Government of Kenya has multiple strategic plans and policies to improve education including the Sector Policy for Learners and Trainees with Disabilities published in 2018. The Government acknowledges this sets out 'an ambitious agenda for inclusive education'.¹⁷⁶ In general however, legislation and policy governing disability is thought to be 'disjointed and unclear'¹⁷⁷ especially in terms of the position on inclusion versus specialist services.

As of 2021, the adult literacy rate (population aged above 15 years old) was 82.6%.¹⁷⁸ According to UNICEF, educational inclusion means all children should have access to schooling. This is not being achieved according to the agency which quotes data from a 2019 Ministry of Education report illustrating 2.5 million children aged 4-17 have never been to school. In 2021, secondary school enrolment was just 53% which was well below the reported primary enrolment rate of 93%.¹⁷⁹ Children living in what are described as 'hard-to-reach'¹⁸⁰ areas are the least likely to attend school as well as those affected by child marriage, are living on the street, or have a disability. In 2020, closure of schools due to COVID-19 disrupted learning for over 17 million children, who missed more than 6 months of formal education.¹⁸¹ As a result it is understood they also faced increased risks of violence, child labour and child marriage, and to their mental well-being.¹⁸²

Shelter

The World Bank notes how Kenya is urbanizing, and the inequality in urban areas continues to rise.¹⁸³ In 2005, 21.7% of the population were living in cities. This is expected to reach almost 30% by 2025. Approximately 56% of the urban population live in 'slums',¹⁸⁴ also known as informal settlements, where there is an extremely high concentration of poverty. According to Habitat for Humanity, this is

¹⁷² Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁷³ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁷⁴ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁷⁵ Please see: Republic of Kenya 2022

¹⁷⁶ Republic of Kenya 2022:126

¹⁷⁷ Republic of Kenya 2022:126

¹⁷⁸ Please see: <https://www.cia.gov/the-world-factbook/countries/kenya/#people-and-society>

¹⁷⁹ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁸⁰ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

¹⁸¹ Please see: <https://www.unicef.org/kenya/media/1951/file/UNICEF%20Kenya%20country%20kit%202020-2022.pdf>

¹⁸² Please see: <https://www.unicef.org/kenya/media/1951/file/UNICEF%20Kenya%20country%20kit%202020-2022.pdf>

¹⁸³ World Bank 2020

¹⁸⁴ World Bank 2020:54

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affecting approximately 6.4 million people.¹⁸⁵ Residents in the informal settlements face harsh living conditions with severely inadequate shelters and lack of access to basic services including clean water and sanitation.¹⁸⁶ Many families are living together in homes that have just one room.¹⁸⁷ Lack of available low cost housing is a problem with concerns that most Kenyan's are unable to afford to buy or build their own home and only 2% of formally constructed housing is thought to target low-income families.¹⁸⁸

¹⁸⁵ Please see: <https://www.habitat.org/where-we-build/kenya#:~:text=Kenya%20has%20an%20annual%20housing,or%20build%20their%20own%20home>.

¹⁸⁶ World Bank 2020

¹⁸⁷ Please see: <https://www.habitatforhumanity.org.uk/country/kenya/>

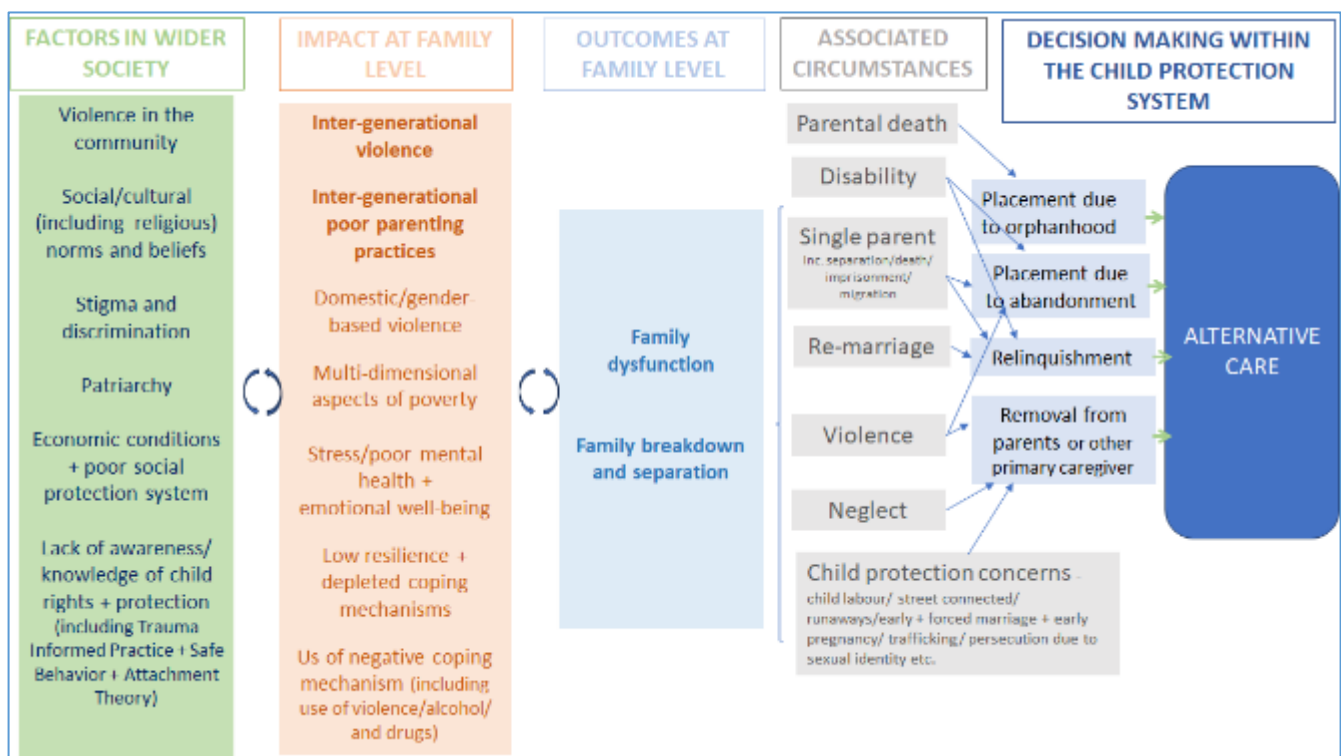
¹⁸⁸ Please see: <https://www.habitat.org/where-we-build/kenya#:~:text=Kenya%20has%20an%20annual%20housing,or%20build%20their%20own%20home>.

8. Research Findings

The research had the primary aim of determining reasons children are placed in alternative care in Kenya. Following an analysis of the research data, a strong correlation has been identified between all the information provided by the different participants including children, young people, adult family members, and professional key informants. This section of the report provides a summary of the research findings and an understanding of some of the drivers that may lead to child-parents' separation in Kenya.

Overall our findings highlight two distinct influences related to placement of children in alternative care. The first is the impact of the wider society that families live in and how this influences outcomes and circumstances within a family that can subsequently lead to children being placed in alternative care (Figure 10). The second is the functioning of the national child protection system in which gatekeeping decisions are made.

Figure 10. Drivers associated with placement of children in alternative care



A brief summary of findings includes analysis of information provided by children, young people, adult family members, and interviewees, complimented by findings of a desk review, indicating multiple factors are contributing to the placement of children in alternative care in Kenya. One such reason is the prevalence of violence against children. Violence against children is described by UNICEF as

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taking many forms, 'including physical, sexual, and emotional abuse, and may involve neglect or deprivation.' Children are experiencing and witnessing all forms of violence, factors that also contribute to family breakdown and dysfunction, which is leading to child-parents separation and the use of alternative care.

Findings reveal concerns about inter-generational violence and the perpetuation of adverse childhood experiences that can have a lasting impact including on parenting ability across generations. Further causes, of family separation and possible placement in alternative care include disability of a child and/or parents. Stigma, discrimination and harmful social beliefs play a role in such placements. Absence of a parent/s, also include imprisonment and death as for example, those related to COVID-19 and HIV/AIDs.

Children are also living in alternative care because they have been abandoned or orphaned. It is important to note that in Kenya the term 'orphan' is not only used for children that have lost both parents due to death. Other factors that render children vulnerable to protection violations, and therefore, as per the Kenyan Child Act of 2022, can be provided care of the State, are issues of child labour, being street connected often after fleeing dysfunctional households, and being victims of harmful practices such as FGM/Cutting and forced early marriage.

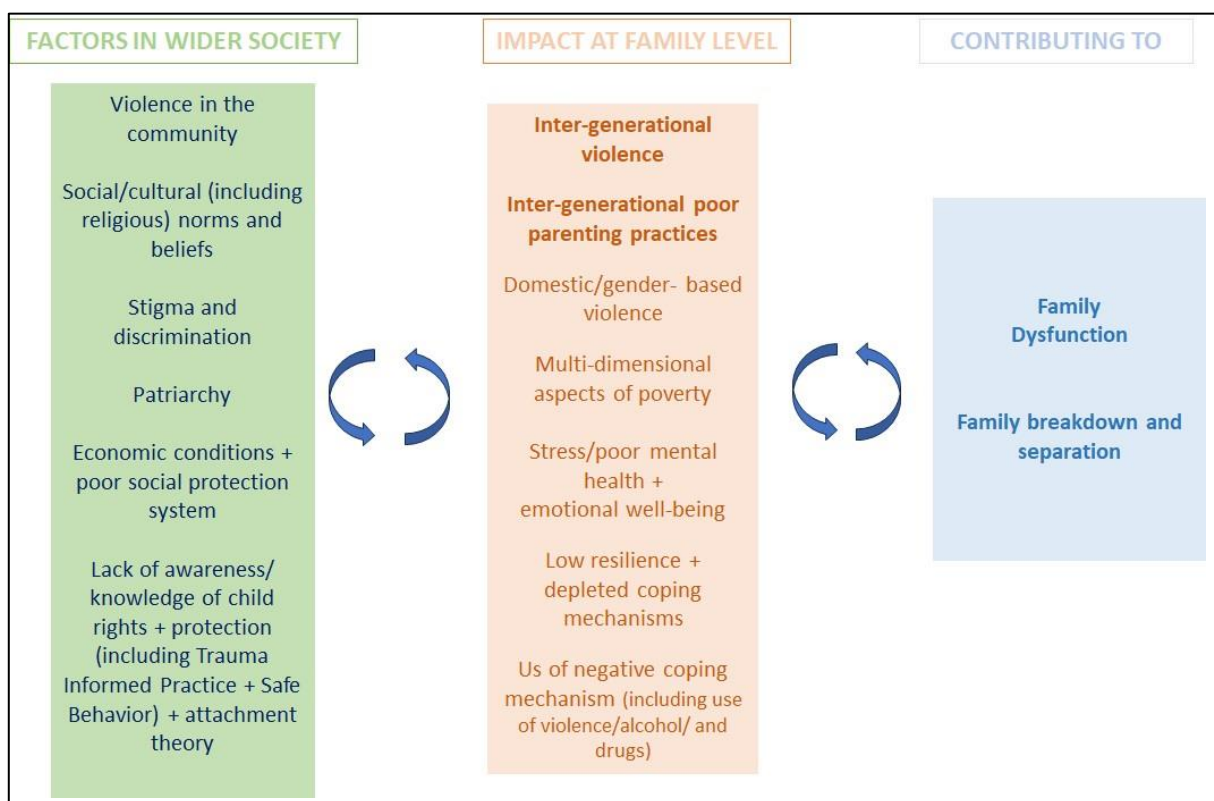
Many of these drivers of child-parents separation may be directly or indirectly caused by situations of poverty and are concerns inextricably linked to poor access to basic and specialist services and inadequate social protection systems. Research participants told of the challenges in finding stable and well-renumerated employment and in providing food, clothing and adequate shelter for their families. Our research findings confirm that the stress and other issues related to poverty are also impacting families especially in terms of family relationships, dysfunction and separation. In addition we found living with poverty is depleting coping mechanisms, affecting psychosocial health and even leading to conflict and violence within the home.

It is recognised that the Government of Kenya has made a considerable investment over recent years in development of legislation, policies, strategic plans and statutory guidance for child care reform and aims to increase family strengthening and support programmes. It is our understanding however, that further resources for, and investment in implementation and provision of such services are needed. Furthermore, the child protection work force require additional in-depth capacity building in the use and understanding of legislation, government policies, and gatekeeping tools that would increase their ability to more accurately assess protection risks of children and identify the support services needed by families to ensure no child is placed in alternative care unnecessarily.

8.1. Circumstances at a family level that result in children being placed in alternative care

This section of the report provides a more detailed summary of the research findings in relation to circumstances within the family home that are leading to the placement of children in alternative care. This is followed by an exploration of some of the factors within wider society, including social, economic and cultural issues, that are directly and indirectly impacting the lives of families and contributing to family dysfunction, breakdown, and separation (Figure 11).

Figure 11. Factors at a societal and family level contributing to placement of children in alternative care



8.1.1. Violence

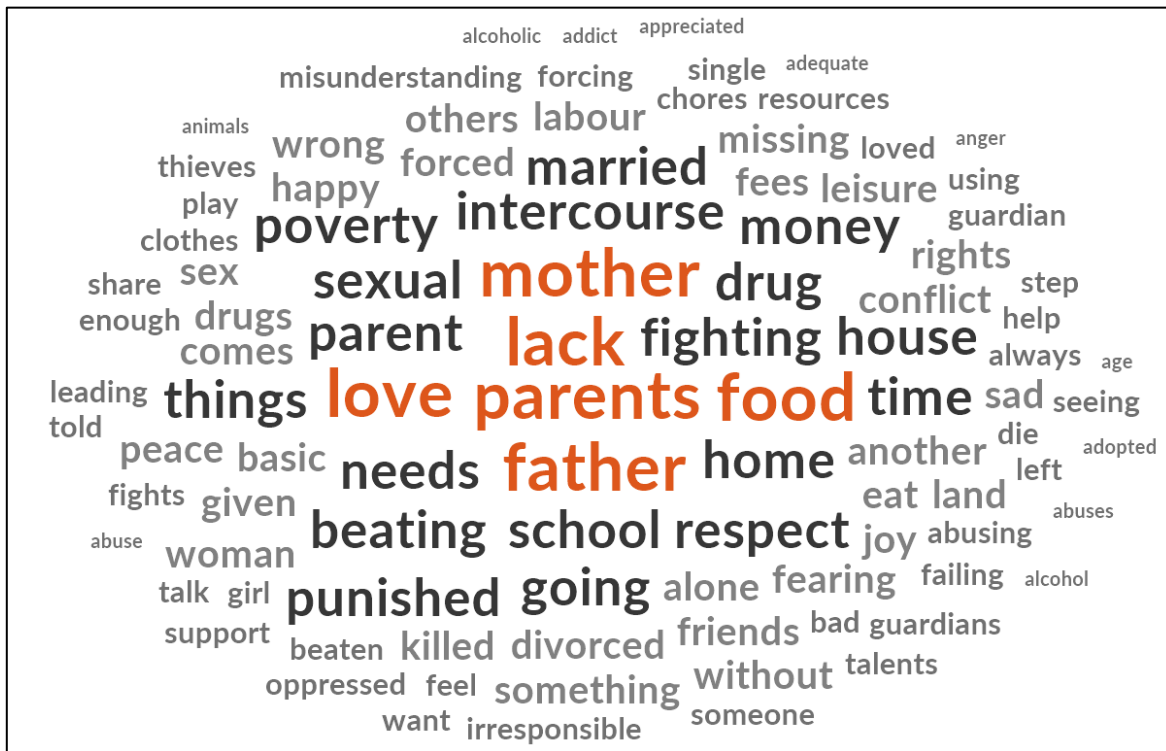
Violence is a driver related to children being placed into alternative care in Kenya. Violence manifests itself in all forms of physical, sexual, and emotional harm inflicted on children as well as between parents and other adults in the family. Violence is an issue that can prompt involvement of the child protection authorities and a possible decision to move children into alternative care. Under the Kenyan Child Act of 2022, children can be removed from parental care and placed in alternative care for their protection. Violence is also leading to family breakdown and separation.

As seen in Figures 12 and 13, when children and young people were asked, what makes children or young people unhappy or worried at home, they wrote words which when analysed, related to abusive

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behaviour e.g. 'violence', 'beating' and 'beaten'), 'fighting', 'punished', 'sexual' and 'sex' (abuse), and 'intercourse'. These words predominantly referred to being victims of violence. In many instances, using the word 'parents', 'father', and 'mother' referred to harsh or abusive behaviour experienced by children and young people as well witnessing violence between parents.

Figure 12. Results of workshops with children: What makes children feel unhappy or worried when at home?



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Figure 13. Results of workshops with young people: What makes young people feel unhappy or worried when at home?



Below are further details of responses relating to violence in the home provided by children and young people (Figure 14).

Figure 14. What makes children and young people worried or unhappy when they are at home (as answered by children and young people)

What makes children worried or unhappy when they are at home? (as answered by children)

if someone needs you in mode of love and sexual intercourse

a girl is left at home with the father and the father sexually abuses the girl

father comes to my room at night and sleeps with me

the father or the mother having sex with their children and they get pregnant and others kill themselves

being raped by your own father

mother or father want you to have sexual intercourse

your father wants to have sexual intercourse with you.

being forced to engage in sexual intercourse to get money

you are forced to do bad things or to do work that does not make your body or you yourself happy

getting involved in sexual intercourse

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insecurity-such as mother leaving a young daughter at home with a father who might have evil intentions
the children see mother and father having sex they will also want to have sex
parents beating you
being punished
being oppressed
fearing to be beaten when you do wrong things
mistreatment from guardians or step parents
parents forcing you to steal
parents are forcing us to take drugs
parents deny us food
early pregnancy
parents giving you to child labour
early marriages leading to early pregnancies
they are going to school and then interrupted by being told by parents to get married early.
children have to get married at an early age
fighting does not make any child happy
failing exam and parents punished you
bullying

What makes young people worried or unhappy when they are at home? (as answered by young people)

abusive parents
violence
violence against children – uncles can rape children in the family inside the house – it is easier for them
rape cases from parents and relatives
sexual arrangements
child abuse
gender based violence
fighting
physical violence
quarrelling
corporal punishments
being beaten
harsh punishment
physical abuse
mental abuse
no peace

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poor communication skills
hate speech like bad words
un-positive discipline
quarrelsome family even over small things
violent parents
hatred
drug abuse

Conversely, when asked what makes children and young people happy when they are at home, the most frequently used words related to having parents that loved them, peace, respect, good communication, and understanding.

Figure 15 provides a selection of answers in reference to violence as provided by children and young people when asked what makes adults worried or unhappy when they are at home.

Figure 15. What makes adults in the family feel worried or unhappy when they are at home (as answered by children and young people)

What makes adults in the family feel worried or unhappy when they are at home? (as answered by children and young people)

violence in the family
conflict in the family
abuse
fighting and quarrelling
conflict each and every time
violate the rights of the female
gender based violence – maybe because of cultural norms – can be against female but also male
fighting all the time
when a parent is a silent killer- has a wife outside the marriage
if the father is not obeyed and oppressing mother and children
a mother is fighting a father the families will not feel good about them
husband kills the children and the mother
fighting and get divorced and the children live separately
father has another woman so my mother is very sad and stressful
quarrelling
drugs
unfaithfulness

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*alcoholic partners
drug abuse*

Figures 16 illustrates the answers adult family members provided in relation to families being worried or unhappy at home due to abusive behaviour. Adults did not raise the issue of violence in the home to the same degree as children and young people. Substantially more answers provided by adults related to issues of poverty which is a topic discussed later in this report.

Figure 16. What makes families worried or unhappy when they are at home (as answered by adult family members)

What makes families worried or unhappy when they are at home? (as answered by adult family members)

*violence
lots of fights and quarrels
violence in the house
children being beaten
child is abused
neglect of the children so the children are not safe
violence between mother and father
if parents are drunk there will be violence in the house
women have to take more responsibility because men run away from their responsibilities
and men want to know what happens to the money and this causes fights
if children are not taken care of they will become vulnerable to other people abusing them
violence in the home
drugs
alcoholism
children are using drugs*

In contrast, the words most frequently used in relation to what makes families happy, strong and united when they are at home as provided by adult family members related to love, understanding, harmony, respect and peace in the family.

When asked why children become separated from parents and placed in alternative care, interviewees identified violence as being one of the primary reasons.

"there is a lot of violence against children....in fact I am going to court, I have a child who has been brutally beaten by the father, the father used to beat the mum, the mum

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managed to run away, now came to the children. Violence against children is also high. Sex violence, physical violence, it is very high."

"Most of the kids that have been abused are staying with their aunts or uncle they do abuse them, you can see, they are so scared"

"So violence, kids, children are being violated a lot, in schools, at homes."

"[there is] both the domestic violence between husband and wife making the environment toxic and also the violence of the parents towards their children."

"...and actually there is a lot of violence in the home and it really affects the children so some of them can actually leave. "

"So, I can say violence has been pushing kids away from home."

"here in Kenya, we have juveniles with guns, juvenile with guns that are children at a very early age that comes out from the domestic issues. So for them there are into guns, they are in school but they are carrying tools, carrying machetes because they want to protect themselves."

According to UNICEF, violence against children in Kenya 'is pervasive'.¹⁸⁹ In 2015, a report on violence against children in Kenya found 76% had experienced at least one type of violence (sexual, physical or emotional) before the age of 18 years.¹⁹⁰ A survey conducted in 2019 survey with young people, found 'children's exposure to physical and emotional violence begins young.'¹⁹¹ A total of 66% of females and 50% of males reported having experienced physical violence in childhood. Among those aged 13-17 years old, 50% of females had experienced their first incident of physical violence when aged 6 to 11 years, and approximately 66% of males between the ages of 12 to 17 years old.¹⁹²

The use of physical violence to discipline children was raised during our research including being inflicted by parents and teachers.

"You don't necessarily have to beat your child in order for them to behave well. There are a lot of techniques you can actually do to correct the child, but in the African culture beating seems to be the only form of discipline and there are so many forms of discipline a lot of alternative."

¹⁸⁹ UNICEF 2022:2

¹⁹⁰ Republic of Kenya and UNICEF 2015

¹⁹¹ Ministry of Labour and Social Protection 2019:75

¹⁹² Ministry of Labour and Social Protection 2019

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"we do teachers training on alternative discipline and they will even tell you, their teachers who are the cause of the beatings"

It is purportedly a common belief that children should be raised very strictly and with the use of physical punishment with one report describing parents as having 'been raised this way themselves, pass on what they have learned and are not aware of positive alternatives.'¹⁹³

Results of our research workshops conducted with children and young people indicate a serious concern in relation to **sexual violence** (please see Figure 14) and, in particular, incest. Interviewees spoke about sexual abuse of children. However, in relation to the magnitude of concerns expressed by children in our research, overall, interviewees did not raise the topic of sexual abuse to the same degree.

"Yes it is there is [sexual abuse]. We do work on the street of Nairobi with street basis with children and we also have a rehabilitation centre. Because we take a hundred girls every year we only find about 8-10% of those girls have suffered some form of abuse"

"The abuse is mostly done by those that are known to the children, family members. Uncles, brothers, grandfathers, grandmothers, strangers are very few. There is a lot of incest...They know it is wrong, but they do it anyway...It is mostly the uncles. They are very bad. Even some of the fathers. Mostly the fathers...Some mothers they fear to be taken from their homes, so they would rather keep quiet. For them to survive."

"because there are some serious issues that you find that this children need to be removed issues of sexual abuse"

In 2015, a report on violence against children in Kenya found 33% of girls and 20% of boys had at least one experience of sexual violence.¹⁹⁴ Among females aged 18 to 24 who had experienced sexual violence prior to age 18, approximately 7% had received money for sex. The report went on to say an estimated 17,500 Kenyans were being trafficked annually for domestic work, forced labour or commercial sexual exploitation with indications that approximately half of those being exploited in this way were children.¹⁹⁵ Data published by the Ministry of Labour and Social Protection published in 2018 indicated that at least 32% of females and 18% of males reported having experienced sexual violence during their childhood.¹⁹⁶

¹⁹³ Parenting in Africa Network 2016:9

¹⁹⁴ Republic of Kenya and UNICEF 2015

¹⁹⁵ Republic of Kenya and UNICEF 2015

¹⁹⁶ Ministry of Labour and Social Protection 2018

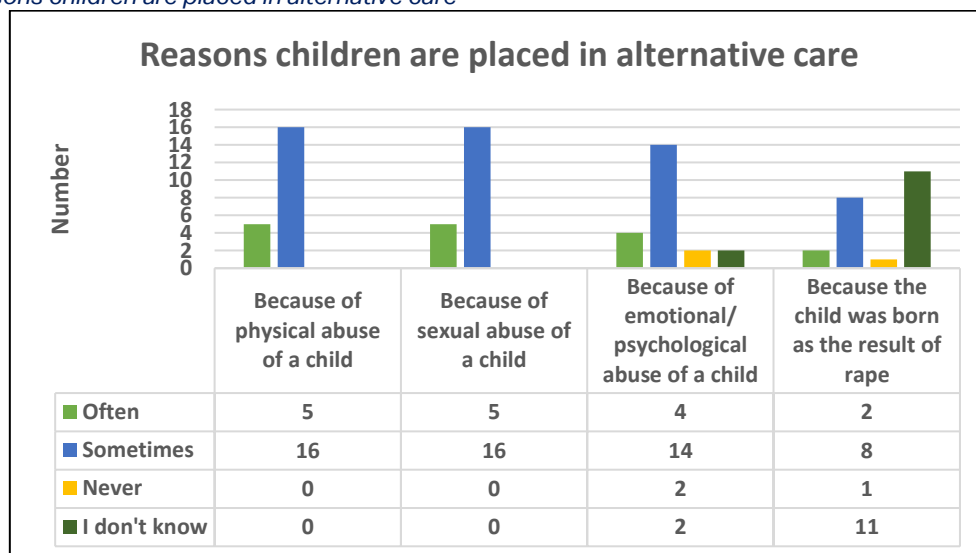
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A report issued in 2019 found more that 62.6% of females who had experienced childhood sexual violence, experienced multiple incidents before the age of 18.¹⁹⁷ Among females who experienced any childhood sexual violence, 18.4% experienced the first incident aged 13 years or younger, 26.6% aged 14 to 15 years, and 54.9% between the age of 16 to 17 years. Among females ages 18-24 years old who experienced sexual violence in childhood, just over a quarter had more than one perpetrator involved in the first incident. It is important to recognise that boys also experience sexual abuse however, the 2019 report indicates females are more than twice as likely to experience sexual violence in childhood than males.¹⁹⁸

Whilst the government has set up various initiatives to combat sexual abuse¹⁹⁹, it has been acknowledged sexual abuse and exploitation, including prevalence online, remains a problem²⁰⁰ with increasing numbers of child victims. Meanwhile the level of public awareness on this issue remains low.²⁰¹

In an online survey disseminated for our research, respondents were asked about reasons children are separated from parents and placed in alternative care in Kenya. In terms of violence committed against children, physical and sexual abuse received the highest ranking as reasons they are 'often' placed in care (Figure 17). However, it is noted that many more respondents believe different forms of violence is 'sometimes' the reason children are placed in alternative care. Half of all respondents do not know if being born as the result of rape is a cause for placement.

Figure 17. Reasons children are placed in alternative care



¹⁹⁷ Ministry of Labour and Social Protection et al.2019

¹⁹⁸ Ministry of Labour and Social Protection 2019

¹⁹⁹ Please see: Ministry of Labour and Social Protection et al. 2019:5-7.

²⁰⁰ Ministry of Labour and Social Protection 2018:13

²⁰¹ Ministry of Labour and Social Protection 2018

Of particular concern is how being victims or witnesses of violence can have a serious and long lasting impact on a child's mental health and well-being. For example, Mutavi et al. undertook a study of 2015 of 1,456 boys in Kenya aged 13–24 years who had experienced sexual abuse.²⁰² They found 90% of these children and young people had symptoms of depression 89.2% had experienced difficulties with their academic performance. As discussed later in the report, such experiences can also affect the way they interact in society and parent in the future. Issues of domestic and gender-based violence are also considered in further detail in other sections of this report.

8.1.2. Neglect

8.1.2.1. Material neglect

When asked what makes families vulnerable to separation and placement of children in alternative care, interviewees spoke of neglect. For example, they spoke of issues of nutrition and hygiene as well as families who do not take care of children with disabilities.

"Most of the children that are coming are cases of child neglect, case of child abandonment, lost children, cases of neglect"

"So cases of neglect, as my data collection system, it is very high, we don't know why kids are been neglected"

"They cannot feed them. They cannot provide the three meals. That is the issue. They are not in a position to educate them though the government is saying that education is free, but it is not that free as quoted there are medial charges and exams charges. So many things. So, a parent will find it difficult. They even say that I would rather take my child to the government so that the government can raise this child. I am ready to given back my child. But this neglect, how can I take your child to a government centre and then I leave you. I must charge you. I must charge you with neglect, that is what we tell them".

"...parents neglect, they don't care about their children"

"So I would say that children living with disability are somehow a neglected lot"
(interviewee explaining why parents relinquish their children with disabilities into their care)

²⁰² Mutavi et al. 2018

8.1.2.2. Emotional and psychological violence and neglect

The WHO defines emotional or psychological violence' as including, 'restricting a child's movements, denigration, ridicule, threats and intimidation, discrimination, rejection and other non-physical forms of hostile treatment.'²⁰³ These actions can have a particularly negative impact on children's sense of self-worth and emotional well-being.²⁰⁴ During our research children and young people wrote about these issues. This included lacking love, care, and attention, facing stigmatisation and discrimination, being treated differently to their siblings, and not being trusted. Both children and young people drew particular attention to situations when a parent took another partner and how this can lead to rejection. Examples of the information provided by children and young people are illustrated in Figure 18.

Figure 18. What makes children and young people worried or unhappy when they are at home (as answered by children and young people)

What makes children worried or unhappy when they are at home? (as answered by children)

lack of parental love

when the child is disabled he/she is not given adequate love

lack of love and feeling alone

not being cared for by their parents

when they don't have kindness

lack of kind treatment

lack of trust

no respect

when there is no honesty

stigmatization

not being appreciated by parents

when there is no patience

being lonely and not being regarded as a family member

lack of support to children from parents when you say you need something so you can make your talents higher and they don't help

having irresponsible guardians

not respecting the rights of children

parents don't support children with their talents

parents are misleading the children

facing challenges at home

²⁰³ Please see: <https://www.who.int/news-room/fact-sheets/detail/Violence-against-children>

²⁰⁴ Please see: Alliance for the Rights of Children, Adolescents and Youth in Kenya 2022 and <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>

*when they are denied their rights
no time for playing*

What makes young people worried or unhappy when they are at home? (as answered by young people)

lack of parental love

no love and affection makes you feel worthless in this world with no parent to turn to taking out frustration and anger on your child because of how your parent raised you and filled your heart with hate and bitterness it affects the life of your child

lack of attention

a child needs love and care and affection

hostile parents

lack of parental affection understanding and knowing what kind of child you are

unsupportive parents but especially the father

parent abusing children (maybe verbal) making reference to their parents who died

judgemental parent

being neglected

being ignored

favouritism from the parents

inequality and no equal opportunities amongst family members you feel left out since you have nothing to share

misunderstanding among children and parents

being attacked because of your background

being attacked because of your disability that worries your family

not respecting your life and opinion

loneliness

lack of communication

chaos

betrayal depression

lack of moral values

stigmatisation – like if you have HIV and disability but this is the time people need to support each other

false accusations

lack of family time together

denial of rights

life is too harsh for me that the family expects much from me and there are no opportunities

Conversely, when asked what makes children and young people happy, the children and young people in the research workshops wrote about being loved, having supportive parents, feeling

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respected and understood, good communication in the family, and sharing. They also mentioned the importance of family members spending quality time with each other including participating in leisure activities and taking meals together.

When children and young people were asked what makes adults in the home worried or unhappy, they frequently mentioned parents being disappointed and 'let down' by them if they are unsuccessful, fail to achieve good school grades, do not behave well, have bad friends, or do not offer them obedience and respect. Being fearful they will not meet their parent's expectations seems to be placing emotional pressure on children and young people and results indicate tension and breakdown in the relationships between children and parents. Expectation of children including educational achievements, having a prosperous future, and being well-behaved were issues also frequently mentioned by adults in the workshops.

In 2015, a report on violence against children in Kenya showed almost 25% of girls and 33% of boys had experienced emotional violence.²⁰⁵ In a further report issued by the Ministry of Labour and Social Protection in 2019, of the female respondents aged 18 to 24-years old, 7.3% had experienced emotional violence by a parent, adult caregiver, or adult relative before the age of 18 years.²⁰⁶ Of these, a total of 60.4% had first experienced emotional violence between the age of 12 to 17 years, and 39.6% whilst below the age of 11 years.

In summary, findings clearly show children and young people in Kenya are experiencing and witnessing high levels of physical, sexual and emotional violence. We particularly want to note concerns regarding the serious extent to which sexual violence against girls in particular was frequently raised by children, young people and adult family members. It is clear that violence is a reason children are separated from parents and placed in alternative care. Of further concern as discussed in more detail below, is how being victims or witnesses of different forms of violence have serious and long lasting impact on a child's mental health and well-being²⁰⁷. It can also be a contributing factor to their own use of harmful behaviour throughout their lifetime.²⁰⁸

8.1.3. Orphanhood

For the purposes of our research, we define an orphan as someone whose both parents have died. However, the term 'orphan' is used interchangeably in Kenya for children who have lost one or both parents. In a guidance document on what are referred to as Charitable Children's Institutions (CCIs) published by the Republic of Kenya in 2013, defines a 'single orphan' ²⁰⁹ as a child who has lost one

²⁰⁵ Republic of Kenya and UNICEF 2015

²⁰⁶ Ministry of Labour and Social Protection 2019

²⁰⁷ Kim et al, 2022

²⁰⁸ Asmundson and Afifi 2019; Dube et al. 2001; Dube et al. 2002; Felitti et al. 1998; Kim et al. 2022; Moylan et al. 2010; Tarabah et al. 2015

²⁰⁹ Republic of Kenya and UNICEF 2013:13

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biological parent, a 'double orphan'²¹⁰ when both parents have died, a paternal orphan if the father is dead, and a maternal orphan if the mother has died.

One interviewee spoke about reasons children are taken into care when they are orphaned,

"...some people have been rendered orphans. They have no one to take care of them, and the society nowadays is a bit individualised, everyone is for themselves. So you find these children have been orphaned in these urban settings maybe a single mother who has been looking after the children, she dies and there is no father to take care of the children. The relatives maybe are the grandparents, are in rural far up country...The grandparents will not know their grandchildren. Maybe the neighbours will help them for two or three weeks after the death of their parents but that wouldn't last long. At the end of the day they will start lacking some basic needs and also drop out of school and end up in the streets, so unless an organisation...finds them they might be rescued. For maybe after which they would be still in the street".

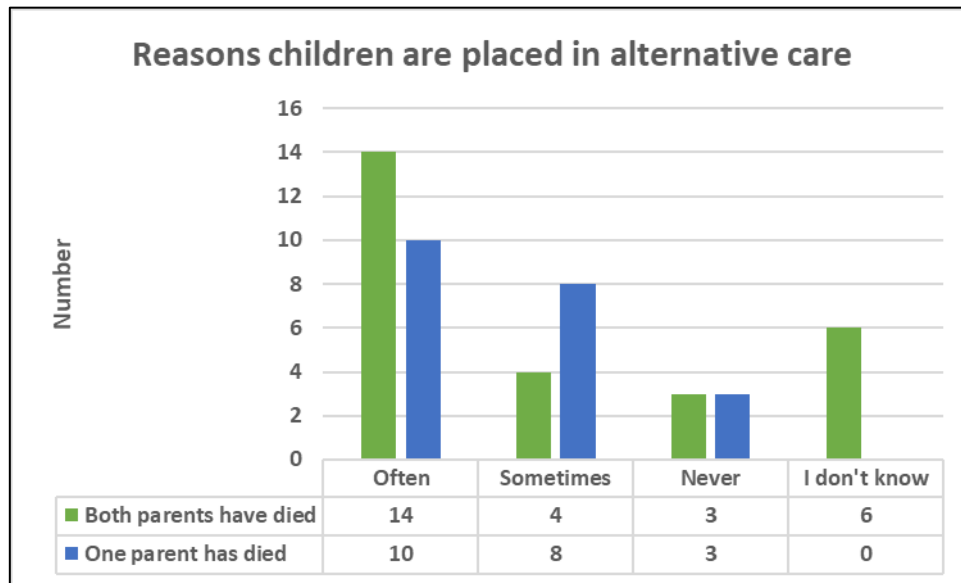
"So in the traditional societies they took care of orphans, even in African societies, when children lost their parents, they still had families and now the issue of CCLs was introduced, charitable children's institutions, was first introduced, we embraced it like as a first result, they have lost their parents."

In the online survey we launched for our research respondents agreed that death of one or both parents are a reason child are placed in alternative care (Figure 19).

²¹⁰ Republic of Kenya and UNICEF 2013:13

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Figure 19. Reasons children are placed in alternative care



No official data has been found indicating the exact number of children who are in alternative care because they are orphans i.e. both parents have died. However, in a 2020 study²¹¹ of CCIs, the Kenyan National Crimes Unit received information from 209 respondents. Social workers thought 'orphanhood and death'²¹² was the primary reason children had been brought to the CCIs, and managers of CCIs thought this was the second most relevant reason after abandonment. The definition of 'orphanhood' was not provided in the report.

In 2017, Lee et al.²¹³ estimated there was 2.6 million orphans and vulnerable children (OVC) in Kenya in 2012, of whom 1.8 million were orphans, and of which, approximately 15% were 'double orphans' i.e. both parents had died. In 2022, the Global Reference Group on Children Affected by COVID-19 estimated that due to the virus associated deaths in Kenya, there was an estimated minimum loss of 8,700 primary caregivers.²¹⁴ The definition of an orphan used in the report was a child who had lost either a mother or a father. The report also recognised that this was an under-estimation because only 10% of deaths had been reported.

Chege and Ucembe²¹⁵ also highlight the lack of reliable statistics leading to different estimations of orphans. They quote for example, a 2015 UNICEF study that included data showing 3.6 million OVCs of which 646,887 had lost both parents in 2012. However, the authors questioned this data as it had actually been retrieved from documents published earlier than 2012.

²¹¹ Aben and Soi 2020

²¹² Aben and Soi 2020:2

²¹³ Lee et al. 2017

²¹⁴ The Global Reference Group on Children Affected by COVID-19

²¹⁵ Chege and Ucembe 2020

8.1.4. Abandonment

For the purpose of our research, we define abandonment as children whose both parents are unknown. However, it is important to note that in Kenya the term 'abandoned' is not necessarily being used by professionals to denote only children whose parentage is not known. For example, some use the term when referring to children who have been relinquished by parents or other caregivers. During our interviews, we clarified the definition we were using. A guidance document on CCIs published by the Government of Kenya in 2013, defines abandonment as 'a child who is not with parents or guardians or in a safe place'.²¹⁶

The little information on abandonment provided during interviews conducted for this research included,

"So now that is the big challenge that we are experiencing and mothers due to depression they even go through depression after depression they end up abandoning their babies. I have so many kids that are rescued from December till now, some have been abandoned at birth."

"I have like four cases that were abandoned from December till now. Four that have been abandoned at birth, some at the beach, some at the hospital. They give birth and they run away."

"Some of the children go to the streets, to the care, because the girls they are teenage mothers. They cannot afford to rear their children, so they just dump them anywhere. When they dump you see that some people have good hearts, they are Samaritans, they go and collect those children and take them to the police. The police will know where to place them."

"Yes they abandon them everywhere. Let's say it is me and you travelling together in a car, I tell you can you take this child for me, I am coming back. But the person disappears. Others are abandoned because of incest, they got pregnant through the incest. There is a lot of incest".

In the aforementioned 2020 study²¹⁷ of CCIs, the Kenyan National Crimes Unit, Managers of CCIs said they thought abandonment was the primary reason children had been brought to the institutions and Social Workers thought this was the second most relevant reason after orphanhood. However, the definition of 'abandonment' was not provided in the report. It has not been possible to obtain recent or more accurate data about children who have been abandoned and placed in alternative care, not the reasons for abandonment.

²¹⁶ Republic of Kenya 2013:13

²¹⁷ Aben and Soi 2020

8.1.5. Disability

Interviewees confirmed that children with disabilities lose parental care and are placed in residential institutions in Kenya. Others spoke of the reluctance of some alternative care providers to accept children with disabilities into their programmes. Although the Kenyan Child Act of 2022 makes it clear that disability should not be 'the driving factor' for removing a child from their family and placement in alternative care, the Act also allows children who have 'a disability or other special needs and is unlawfully confined, concealed or ill-treated' to be offered protection of the State.

Interviewees said situations that lead to placement of children with disabilities in alternative care are varied and include lack of access to basic and specialist services as well as persons with disabilities being, *"prone to the level of poverty can be severe for such people compared to than normal people"*. Stigma and discrimination also play a role, including a belief that someone with a disability is 'bewitched'. When interviewees were asked about the placement of children with disabilities into alternative care they said,

"We also work with children who have a disability and we have found that the children that are living with a disability are also at most risk of losing parental care. Most parents do not know how to handle children who are living with a disability. So, they will seek want to take them somewhere where people are more knowledgeable to deal with them because they do not know what to do with them".

"Africans have anti for everything, we have tendency for interpreting everything...so even when children are born with disability we would not look at it maybe a genetical issues something that went wrong during the pregnancy or during the birth but you are bewitched. I think it is something that your father did not do, and now the ancestors are angry so there are attention that we are supposed to give these children they do not get it. So now how they end up in alternative care, it becomes even more complicated."

One interviewee however, spoke of the reluctance of alternative care providers in accepting children with disabilities into their facilities,

"If you go to most of the organisations offering alternative care services you will not find children living with disabilities but we have a few specifically target such cases. The problem we have is that because their need is so great, and they are not able to accommodate all of them, so they end up lumping all of them together and from the trainings we have received children each child is unique even a child living with disabilities in their own way... They deteriorate and become worse. But I don't blame the organisation that put them together. But you require a lot of nerve a lot of

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commitment to take care of such children. So I would say that children living with disability are somehow a neglected lot, when it comes to the child care and protection services..."

Others spoke about stigmatisation, how children with disabilities are hidden in the home, and even of the belief that those with disabilities have been cursed,

"And another culture is that now you are married fine, but then you get a child, who is disabled, it is believed it is a curse such a child in some cultures the child is just left somewhere, but that is very little. The culture, once you have told that getting a child that has two sexual organs it is also believed to be a curse, also maybe a child that has a disabled hand or arm or leg it is a curse. Father run off and Mother leaves those kids because they believe it is a curse, such kids are left. This culture is fading but not all of it."

"Yes, [stigmatisation] it is there, because it is lack of inadequate knowledge but as we do sensitisation even in parenting we need to tell them if you find a child like this, this is what we need to do, you don't need to run away you don't need to condemn the child. But it is always good to take care not to abuse more, not to stigmatise more."

"So how we see we perceive children living with disability, there are a lot of misconceptions about children with disabilities, so a lot of them are hidden in homes...so they locked in the house so they actually become more vulnerable...So we don't give them the attention they require, because of the issues they have they require special attention. So if the special attention is not there as the parents will not come out and say they have a child with a disability."

In relation to the belief in witchcraft and how it relates to people with disabilities in Kenya, reports say that 'mothers of children with developmental disabilities or sickle cell risk charges of witchcraft within families',²¹⁸ and that parents themselves identify their children's disability as being the result of witchcraft. Media reports also highlight this issue with one BBC reporter telling the story of a woman who was told to kill her disabled child due to the belief in witchcraft.²¹⁹

Kenya has ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa. This Protocol obligates State parties to, 'take all appropriate measures and offer appropriate support and assistance to victims of harmful practices, including legal sanctions, educational and advocacy campaigns, to eliminate harmful practices perpetrated on

²¹⁸ Groce and McGeown 2013:7

²¹⁹ Please see: <https://www.bbc.co.uk/news/world-africa-45670750>

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persons with disabilities, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.’ As of September 2022, it was reported that the protocol had not yet come into force in Kenyan legislation.²²⁰

Due to the lack of up-to-date disaggregated data, it has not been possible to confirm the number of children with disabilities currently in alternative care. However, during our research we were told by interviewees that there are an unspecified number of residential institutions specifically for children with disabilities. As already noted above, we were also told that other residential institutions do not accept children with disabilities with one reason being lack of specialised staff and equipment.

The Government of Kenya recognises that ‘legislation and policy governing disability is disjointed and unclear in its position on inclusion versus specialist services’²²¹ and the need for improved policy focussing on the ‘specific needs of children with disabilities.’²²² It has also reported children with disabilities,

‘and special needs continue to face many challenges for a number of complex reasons. Stigma remains a key challenge with much work still to be done to unravel long-held cultural beliefs and practices surrounding persons with disabilities. A second challenge lies in the uncoordinated nature of Government services and approaches to persons with disabilities, and within these, a lack of focus on the specific needs of children with disabilities. A further challenge lies in Government policy which promotes both specialist and inclusive services for persons with disabilities...Significantly more support is needed for parents and carers of children with disabilities if they are to avoid institutionalization or isolation and neglect within the family home...Underpinning a broad agenda of work which needs to happen in these areas is a greater awareness and understanding of the needs and referral pathways for children with disabilities, special needs and chronic and complex health conditions by the social service workforce.’²²³

It is clear from all the information above therefore, that children with disabilities in Kenya are very vulnerable and do need far more support and protection within their family home.

8.1.6. Divorce/separation and re-marriage/new partnerships

As will be discussed later in this report, coping with stressful and challenging life circumstances to which issues of poverty is a significant contributing factor, is leading to breakdown of family life and even violence and separation. Such concerns were raised by children and young people who participated in the research workshops. For example, they say children and young people are fully

²²⁰ Kenya National Commission on Human Rights 2022

²²¹ Republic of Kenya 2022:126

²²² *ibid.*

²²³ Republic of Kenya 2022:129

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aware of the violence and disagreements between adult family members. They are particularly fearful that one of their parents, fathers in particular, will take a new partner. They are concerned the new partner will be brought into the home so the other parent will be forced to leave or, the unfaithful partner will leave them and move in with their new 'family'. During the research workshops children and young people wrote,

'your father has married another woman and the woman comes with her children your father can change his mind towards you'

"parental rejection e.g. when a woman loses her husband or gets child out of wedlock and has to leave her child with the grandmother or out on the streets because her new husband has rejected the child"

'there are some children who are not happy because their parents have married another woman and spends a lot of money out there and when he comes back he says that there is no money'

'the father brings other women in the house it makes mother sad and the children sad'

'when all parents die and the child has been adopted by the step mother who will treat him as if he is not one of them'

'divorce – the parents are at home and they are not agreeing with each other and now the man brings the divorce papers and asks the woman to sign'

Concerns of separation, infidelity, 'suspicion', and lack of trust leading to fights and breakdown in relationships were also referred to by adult family members. Interviewees also spoke of concerns in relation to family breakdown, the impact this has on children, and how it can place them at risk of being placed in both formal and informal alternative care,

"First and the most common one is divorce, separation, or the death of one partner... And for us you can be divorced today and tomorrow you are married. So these kids from the first marriage they can be taken to an auntie or maybe an uncle. And now this woman gets remarried, she will get kids there. So these kids are left to a caretaker and that caretaker is unable to take them to school. That caretaker might not be able to buy food for those kids, so the kids are left. So the divorce makes children suffer. And many go to the streets, because the dad married somewhere and the mum married somewhere. There is a second family there and I am no longer needed so what do I do? I go and look for those people that can make me feel loved. So that is why I can find one on the streets maybe at night maybe a 10 or 11 years old. And what are you doing here? I have nowhere to go. Where is your mum? She left somewhere,

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so I take the child to go into protection...So then another factor, now there are those young ones, after growing on this, they have been taken from the family because of the divorce, now there are parents and parents neglect, they don't care about their children, they just give back to the children and the responsibilities left to someone else."

Separation from a spouse or partner has led to many single-headed households in Kenya with the vast majority being female-headed.²²⁴ This brings with it a heightened risk of children being relinquished into alternative care when coping mechanisms are depleted. Discussions during our research workshops highlighted the struggle single-headed households face, especially those led by women, and the stress caused by having to provide for and bring up children alone. One interviewee also said,

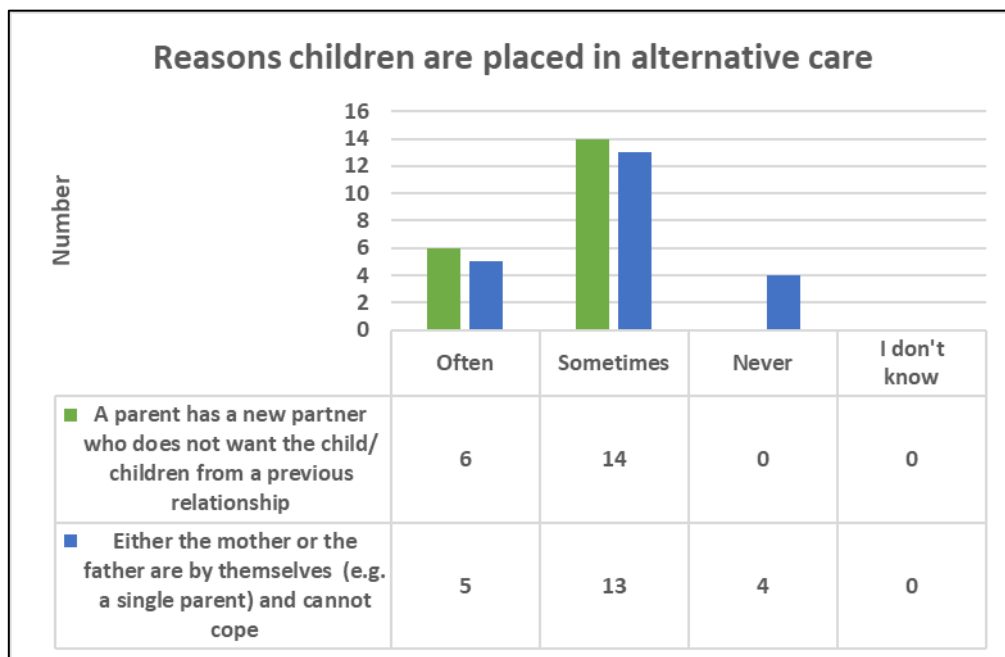
"You know it is very difficult for you to raise a child as a single parent, in this economy it is very difficult. Mothers are complaining about the high standard of living. Prices have risen from nowhere, school fees and so many things. Now you find that a mother has raised her child for so many months and she feel overwhelmed. I cannot move, so now how am I going to move alone...but now I am raising this child alone, and maybe I am not working. What I can say. Poverty is high and unemployment also contributes. When you try to interview them, what happens, what argument did you get with this man before getting this child. They say we agreed then they abandon their children. They neglect their children."

Over half the 22 respondents to the online survey (14) think a parent having a new partner that does not want the child/children from a previous relationship is 'sometimes' a reason for placement in alternative care (Figure 20).

²²⁴ Ngunjiri 2019

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Figure 20. Reasons children are placed in alternative care



Previous research found increasing 'conjugal instability and declining rates of marriage that have resulted in a significant increase of the number of single-mother families'²²⁵ in Kenya. A report issued by the Kenya National Bureau of Statistics provided data for 2022, showing almost a third of the 13,478,733 households in Kenya were female-headed.²²⁶ This equated to approximately 4,492,911 households. Furthermore, female-headed households in particular, face economic challenges including restricted employment opportunities which in part, is related to lack of available/affordable child care. These are factors also reported in previous research in Kenya highlighting the,

challenges facing single mothers are daunting, high levels of unemployment and extreme poverty place many mothers in precarious positions struggling to pay for food, shelter, and other basic necessities critical for the health and well-being of their children. Children living in such contexts require high levels of supervision as the environment is fraught with extraordinary dangers stemming from poor sanitation, accidents, violence, drugs and alcohol abuse.²²⁷

As recently as 2020, a Government of Kenya report also said female-headed households in Kenya being 'associated with higher likelihood of monetary poverty'²²⁸ and single women including those who are widowed, separated, or divorced, are more likely to be multi-dimensionally poor in

²²⁵ Ngunjiri 2019

²²⁶ Kenya National Bureau of Statistics 2023

²²⁷ Ngunjiri 2019:1

²²⁸ Kenya National Bureau of Statistics 2020:59

comparison to married women or those living with a partner. In addition, a World Bank report assessing the impact of COVID-19 on households in Kenya confirmed how, 'female-headed households are relatively poorer, more likely to suffer from hunger, and thus have smaller assets to cope with the negative shock compared to the male-headed households.'²²⁹ The report stressed the importance of support female-headed households rely on from extended family and community networks.

As seen in Figure 20, respondents to the online survey also think being a single parent and not being able to cope can lead to placement in alternative care 'often' or 'sometimes'. There are also concerns regarding the role poor mental health plays in the breakdown of family life. Research participants attribute poor mental health to different factors outlined in this report such as inflicting, experiencing, and witnessing violence, as well as stress associated with everyday living and survival. This in turn, can impact familial relationships thus contributing to family breakdown, violence, and separation.

"because of mental issues as a result of the stress that they are going through some of them end up wiping out of their families." (interviewee speaking about the impact of mental health)

Our online survey asked respondents specifically about the impact of mental health in relation to parents-child separation. As seen in Table 2 almost all (18 of 22) respondents think the mental health of parents is a reason a child 'sometimes' become separated from parents and placed in alternative care.

Table 2. Reasons children are placed in alternative care

Reasons children are placed in alternative care	Often	Sometimes	Never	I don't know
One or both parents have a mental health condition	2	18	0	0

8.1.7. Use of drugs and alcohol

Children's exposure to drugs or alcohol is not only a protection concern in its own right but can also place them in situations where they become vulnerable to other risks. Exposure to drugs and alcohol was referred to by children, young people and adult family members who attended our research workshops. This was in reference to mostly adults, but also young people, who use drugs and alcohol. One adult family member wrote how the *"stress of not being able to provide for children leads to depression and a way out is drugs and alcohol."* Another claimed, *"parents use their children to help sell alcohol and make them taste it"* whilst someone else said they are concerned that *"children are using drugs"*.

²²⁹ Xu et al. 2022:2

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The topic was also raised by interviewees in relation to children and young people being at risk of placement in alternative care. They spoke of drugs and alcohol being used to cope with stress and escape the challenges of everyday life. Several also mentioned children and young people fleeing harsh domestic situations by spending more and more time on the street where they find, or are put under peer pressure to use, drugs.

"Typically it is what is happening here, many parents are drunkards or drug addicts and they exercise a lot of prostitution, whereby the children are being left alone and when you try to look at it and you try to find out you say that it is stress. Levels of stress. I don't have food to eat I don't know what to do, I don't have or know anything and they are drop outs at school like their had bad parents who left the country they left their home. And they come to a town centre where you have to have your own money and they don't have money that is why we have all these informal settlements. Because people left their own homes to come to the city and when they arrived at the city there was nothing, so they now decide to get into alcohol and drug abuse. Cause of their poverty, because of their distress..."

"Oh yes, some children are getting out of their homes because they get themselves in drugs at an early age."

"So they [children] go now to the easy and quick method of making them not to think, which is drug abuse...Nobody is caring for them, they don't have families, they don't have food. They see somebody with drugs they say once I take this drug. Maybe they take heroin, maybe they take bang. They will say I will forget all my worries and all my problems. Once they take that maybe for the first or second time and then after many times they cannot leave it... now, the peer pressure is there. And when they take those drugs, now they are adults and they have children because once under influence of drugs, for example maybe a woman taking drugs, they just do sex openly. They will bring out children. Who will care for those children?, They still have no one to care for them. So, the drug abuse and the peer pressure is the added factors."

Maithya and Cheloti have written about a survey conducted in 2019 by the Kenyan National Authority for the Campaign against Alcohol and Drug Abuse²³⁰ The survey involved 3,307 pupils from 177 primary schools. It found children as young as 4 years old were taking drugs. From their findings, the authors concluded that drug use was 'prevalent'²³¹ and indicated the role of parents in the supply of substances and drugs to their children. In a further survey completed in 2020 by the Kenyan National Authority for the Campaign against Alcohol and Drug Abuse involved 3,314 respondents aged 15 to 6

²³⁰ Maithya and Celoti 2020

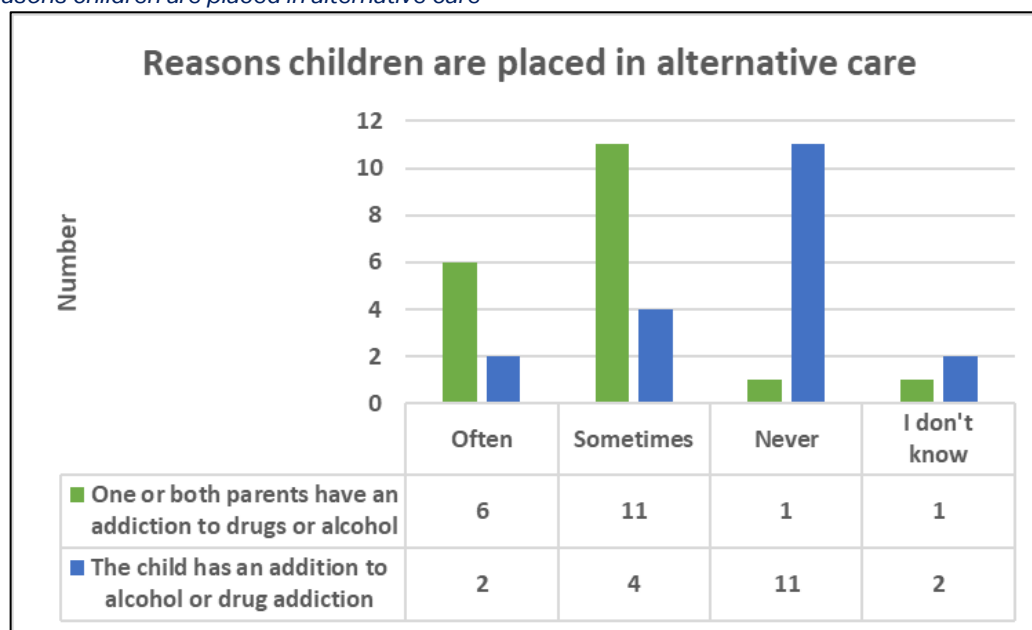
²³¹ Maithya and Celoti 2020:15

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years old.²³² The survey findings reveal more than half of the population had used a drug or substance of abuse in their lifetime and highlighted the need to prevent children's exposure.

More respondents to the online survey think parents having an addiction to drugs or alcohol is more likely to be the reason children are placed in alternative care 'sometimes' rather than 'often' (Figure 21). Only a few respondents think children with addictions would be placed in alternative care.

Figure 21. Reasons children are placed in alternative care



8.1.8. Access to education

Although public education is supposedly free of charge there are costs including the need to pay for books, uniforms and transportation etc. However, unlike many other countries, the information received suggests that education is not such a pull factor leading parents to place their children in residential institutions. It has also been reported that the Government is planning to ban boarding schools in Kenya.²³³

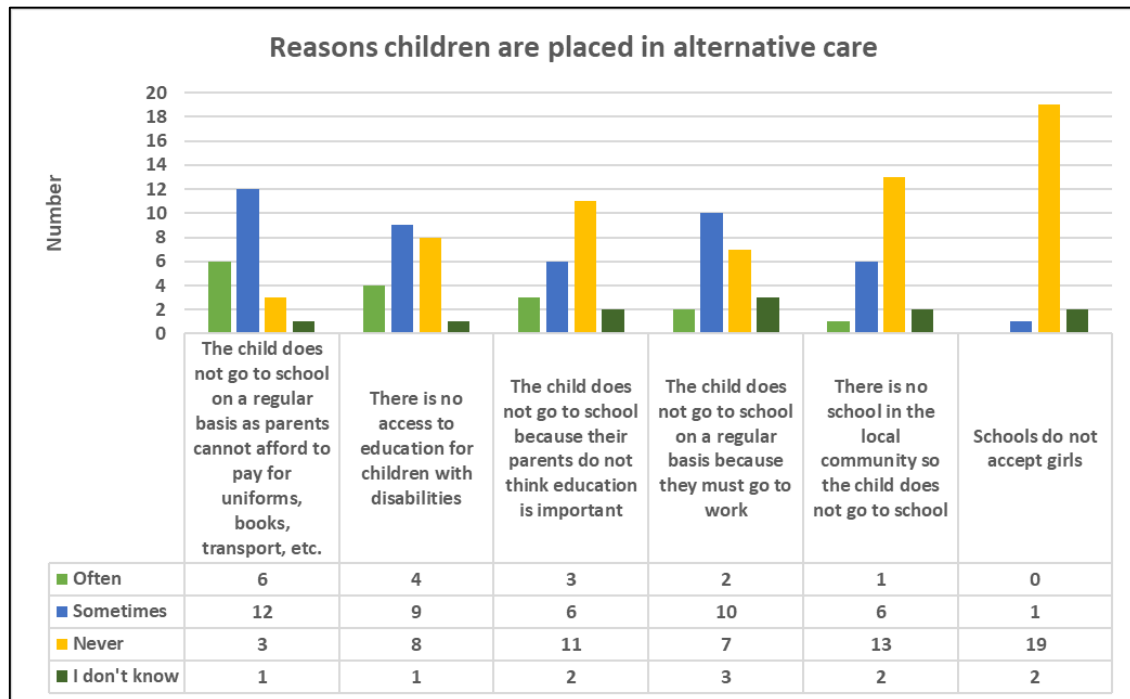
In relation to questions associated with access to education and placement in alternative care, in the online survey, very few of the 22 respondents think issues related to education are 'often' the reason. However, up to half think this such placement might 'sometimes' be due to costs (12) and because children must go to work (10) (Figure 22). Notably girls access to education is not seen as a concern however, some respondents (9) believe access to education for children with disabilities can be a reason they are 'sometimes' placed in alternative care.

²³² National Authority for the Campaign against Alcohol and Drug Abuse 2020

²³³ Please see: [https://observer.ug/news/headlines/76247-kenya-ban-of-boarding-schools-reignites-debate-in-uganda#:~:text=A%20ban%20on%20boarding%20sections,aged%2014%2D15%20years\).](https://observer.ug/news/headlines/76247-kenya-ban-of-boarding-schools-reignites-debate-in-uganda#:~:text=A%20ban%20on%20boarding%20sections,aged%2014%2D15%20years).)

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Figure 22. Reasons children are placed in alternative care



9. Additional child protection concerns that can place children at risk of placement in alternative care

As a consequence of circumstances in the home, for example the result of inadequate parental care and protection, children find themselves in situations that place them at risk of placement in alternative care when also outside the home environment. Below are some of the concerns raised by interviewees as well as children, young people and adult family members during research workshops. Information has also been triangulated with details collated from the desk review and the online survey. It has not been possible to report on data that clearly disaggregates the number of children in alternative care due to each of the different circumstance described below.

9.1. Street connected children

Street connected children, including those living and working on the streets, face an increased risk of violence. Children on the streets also attract attention of police and child protection authorities concerned for their safety and welfare and as a result, may face the possibility of placement in care.

The Kenyan Child Act of 2022 considers children who are found begging or working and/or living on the streets, to be in need of protection. The Government of Kenya's strategy for child care reform recognises that, 'Street-connected children remain a cohort of children for whom institutionalization is too often a prescribed solution.'²³⁴

Interviewees believe one of the reasons children become street connected is to escape violence and conflict in the home,

"eventually the situation is unbearable and they will go to the streets. Organisations that work with children living in the street we no longer call them street children, will tell you that those children have stories that they can tell, some come from dysfunctional families, if there is a lot of violence at home, if you have hooliganism at home. If you have parents who are always drunk who are always using hard drugs, the children will run away."

"So, I can say violence has been pushing kids away from home..."

"So when you ask why they went to the streets, of course the kids will tell you. We just went there to look for food, yes so lack of food has also been pushing them away, making them to run away from home. I can say those are the two contributing factors. Violence at home and lack of basic needs at home."

²³⁴ Republic of Kenya 2022:130

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"There are various reasons why the children are on the street...there are several factors, both pull and push factors. So, one of the push factors is the general lack of material things. When children lack the basic needs at home their parents cannot provide they will always go somewhere to get them. And that somewhere especially in the context of Nairobi that somewhere is on the streets. That is because usually on the streets you stand and beg and people will give you...so they will always come to the street to beg. I have also observed the conflicts within the family have also been an issue. There is so much conflict especially that can also be related to lack of material things. Whenever there is poverty there is also conflict and the children feel that the home environment is a bit toxic. There is always war between the mum and dad, and so they want some form of peace which they cannot find at home. So, they will go and find peace on the streets."

In 2018, a report issued by the Ministry of Labour and Social Protection identified a total of '46,639 street persons'²³⁵ including 15,275 children. The findings of the survey also endorse information provided by interviewees for our research in that, children are running from untenable domestic situations. Children are reportedly being pushed into living and working on the street due to violence, and issues related to poverty including not having enough to eat, or abandonment, death or separation/divorce of parents, peer pressure, or looking for employment.²³⁶ Some children are also born on the streets and remain there with family members. A 2018 report also highlights the challenges street-connected children face including lack of access to basic services such as health care and education, the violence inflicted by adults and other children, dangerous working conditions, addiction to substance abuse, and emotional harm.²³⁷

Sixteen of 21 respondents who answered a question about being street connected, think children found working on the streets 'often' results in their placement in alternative care (Figure 23).

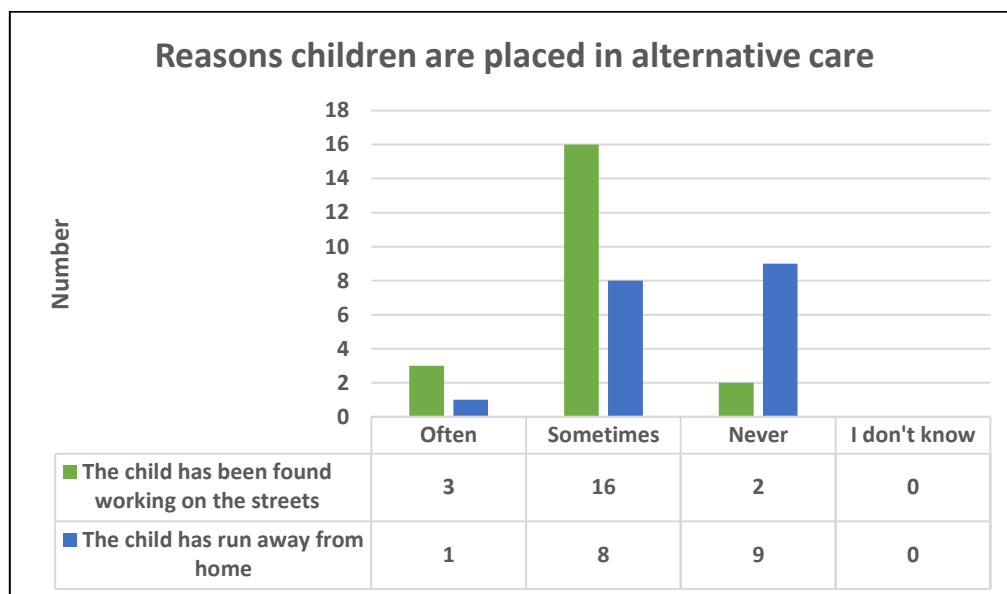
²³⁵ Ministry of Labour and Social Protection 2018 page xvi.

²³⁶ Ministry of Labour and Social Protection 2018

²³⁷ Ministry of Labour and Social Protection 2018

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Figure 23. Reasons children are placed in alternative care



9.2. Child labour

Only one child who participated in our research workshops raised the issue of child labour: “*parents giving you child labour*”. And one young person wrote “*...getting some work but family start using that to make you contribute even if you cannot afford it - the parents say I gave birth to you but you must now provide for us.*” The topic was mentioned by interviewees but only in relation to children who have run away from home and were now living on the streets.

However, according to the literature, child labour is a situation that exposes children to further protection risks. The Kenyan 2022 Child Act also allows for a child ‘who is engaged in any work likely to harm his or her health, education, mental or moral development’ to be the subject of a child protection investigation that could lead to placement in care. In 2015, the prevalence of child labour was noted to be ‘high’ and affecting over 1 million children between the ages of 5 and 17 years.²³⁸ Almost 20,000 of these children were thought to be working in conditions defined as the worst forms of child labour.²³⁹ According to the US Department of Labour, by 2021, Kenya had made only small advances in eliminating the worst forms of child labour despite new legislation and training of law enforcement officers.²⁴⁰ Children continue to be subjected to the worst forms of child labour including commercial sexual exploitation, forced domestic service, gold mining, and engagement in dangerous agricultural practices. Children were also found working on coffee, tea, sugarcane and tobacco plantations.²⁴¹

²³⁸ Republic of Kenya and UNICEF 2015:7

²³⁹ Republic of Kenya and UNICEF 2015

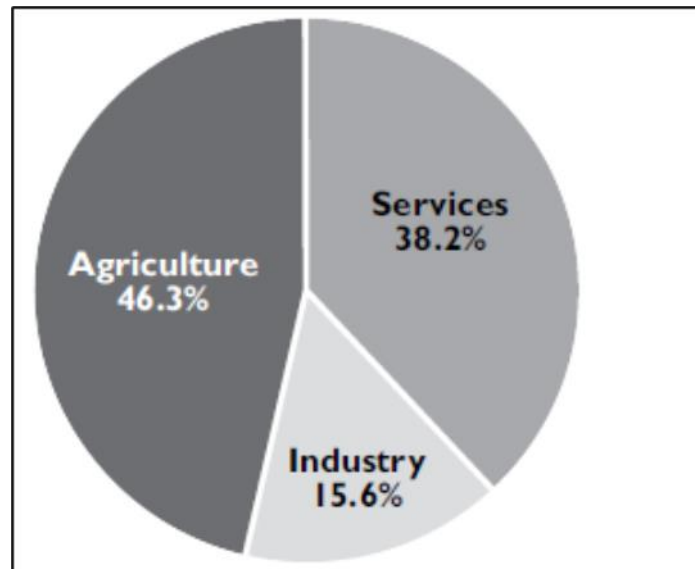
²⁴⁰ Please see: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kenya>

²⁴¹ Please see: Please see: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kenya>

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Figure 24 provides information extracted from the 2021 report issued by the US Department of Labour. It illustrates participation of children aged 5 to 14 years old by sector.²⁴²

Figure 24. Participation of children aged 5 to 14 years old in work by sector (as reported in 2021)



(Source: https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kenya_)

It is also understood that human traffickers are exploiting Kenyan children both within, and taking them outside, the country.²⁴³ This includes girls and boys being subjected to commercial sexual exploitation in busy tourist areas. A practice thought to be mostly hidden due to complicity of hotel and bar owners, local tour guides and transport providers.²⁴⁴ A 2021 report also claims school closure during COVID-19 contributed to the increase in children's engagement in the worst forms of child labour, particularly in forced begging and commercial sexual exploitation - including online.²⁴⁵ This highlights how being in school is not only important for education purposes, but can also be a protection mechanism.

9.3. Female genital mutilation/cutting and forced circumcision (FCM/Cutting)

Female genital mutilation/cutting (FGM/C) and boys subjected to forced male circumcision are listed in the 2022 Child Act as reasons child protection proceedings can be initiated. This topic was raised by interviewees when speaking about protection risks and alternative care. Below is information from two of these discussions in relation to FGM/C,

²⁴² Please see: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kenya>

²⁴³ Please see: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kenya>

²⁴⁴ *ibid.*

²⁴⁵ Please see: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/kenya>

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"Many of the cases that I have handled the children have left to look for alternatives and many of them come to me and say can you help us? Take some of us [into alternative care] the way you took the other ones. You know. because when there is a female genital mutilation, I have to look for a way of protecting the children so I have to report to the authorities."

"Sometimes the woman really wants to fight for her child so she does not undergo FGM, because immediately she undergoes FGM she will be married off to a very old rich man. So for women that have seen the light sometimes they want to protect their daughters and they can draw from their experience, they are suffering in their marriage. They have no say, they have no source of income...So sometimes there are disagreements between the caregivers. The father wants to retain his identity as a man coming from this clan, coming from this community but does not listen to women, does not listen to children. Who are you to tell me that you will not undergo the cut. So when they start to argue some of the families break."

The UNICEF Kenya website reports on the widespread practice of FGM/C revealing approximately 4 million, or one in five, women and girls have been 'subjected' to this practice and how it can affect up to 94% of females in some communities.²⁴⁶ In 2022, the national prevalence rate for FGM/C was reportedly 15% with the highest rates are amongst females with no education.²⁴⁷ The Government has publicly recognised the need to eliminate FGM/cutting and are working on a 'Joint Programme on Ending FGM' with UNFPA and UNICEF,²⁴⁸ However, it is estimated that 574,000 girls are at risk of undergoing FGM/cutting in Kenya by 2030 unless urgent action is taken.²⁴⁹ With regards male circumcision, in 2017 Auchter wrote that, although the exact prevalence is unknown, it is not nearly as widely practiced in Kenya as female FGM/C.²⁵⁰ Nevertheless, Auchter goes on to say, it is a violation that continues to be inflicted on male children, particularly by some certain ethnic groups.²⁵¹ Whilst FGM/cutting is legislated against in Kenya, forced male circumcision is not.

9.4. Child marriage and early/teenage childbearing

UNICEF defines child marriage as any formal marriage or informal union between a child under the age of 18 and an adult or another child with girls being 'disproportionately affected by the practice.'²⁵² Only two adult family members mentioned 'early pregnancy'. However, as seen in Figure 25, early

²⁴⁶ Please see: <https://www.unicef.org/kenya/stories/lets-work-together-end-fgm-kenya>

²⁴⁷ Please see: <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/kenya/>

²⁴⁸ Please see: <https://www.unicef.org/kenya/stories/lets-work-together-end-fgm-kenya>

²⁴⁹ Please see: <https://www.unicef.org/kenya/stories/lets-work-together-end-fgm-kenya>

²⁵⁰ Auchter 2017

²⁵¹ Auchter 2017

²⁵² Please see: <https://www.unicef.org/protection/child-marriage#:~:text=Child%20marriage%20refers%20to%20any,in%20childhood%20across%20the%20globe.>

marriage, and early pregnancy, as being something that makes children and young people worried or unhappy.

Figure 25. What makes children and young people worried or unhappy when they are at home

What makes children worried or unhappy when they are at home? (as answered by children)

children have to get married at an early age
early pregnancy
early marriages leading to early pregnancies

What makes young people worried or unhappy when they are at home? (as answered by young people)

forced marriage due to my age and I know that I am not ready for that. how can I be handled on this matter?
early pregnancy
parents don't talk to the children about pregnancy and so no help to understand what pregnancy is and also if we don't get comfort in the home we look elsewhere for it
early marriage
if I get pregnant early in the house my parents might kick me out
when you have a baby (get pregnant) and parents behave as if you are a bad omen and in your mind you want to raise that child and just move on with life
early marriage

Interviewees said,

"There is also the issue of early marriages, it is a bit casual and social economic at the same time. There are those families they believe in that if you give us, a daughter there is no point in educating her as she will be married, at maybe at 13 or 14 you find that the girl has already been married because maybe the father is illiterate, does not value education. Culturally she or he was brought up to be believing that girls are just brought up to be married and to have children. So that coupled with poverty, they find it easy to sell off their children at a very tender age."

"In my jurisdiction, child marriages are very high. You know with the Muslims they say when you just become adolescent you can get married. But they cannot consider that the Kenyan law says that you cannot consider when a child is below 18 years. But with

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them they believe that someone who is already in adolescent stage, that person is legally to get married."

Such UN bodies as UNICEF²⁵³ and WHO recognise the harm that can be caused by early childbearing/ teenage pregnancy and the Kenyan Child Act 2022, allows for children 'who have been, or is likely to be, subjected to child marriage' to be brought into the State child protection system. In 2022, UNICEF published data showing 4.2 million children in Kenya were married before the age of 18.²⁵⁴ The international NGO, Girls not Brides, also provide data for Kenya indicating 3% of girls were married before the age of 15 years and 23% before their 18th birthday.²⁵⁵ Three percent of boys were also married before the age of 18 years. It is understood child marriage rates vary across regions and among ethnic groups and girls from poorer households are twice as likely to marry before they reach 18 years old than those living in higher income families. Girls also enter early marriages to escape unhappy or abusive home life.²⁵⁶

The Kenya Demographic and Health Survey of 2022 claims progress is being made in reducing the prevalence of teenage pregnancy.²⁵⁷ It shows rates declining from 18% in 2014 to 15% in 2022. However, wide variations remain influenced by factors such as poverty, geographical location, and levels of education. For example, teenage pregnancies are more likely to occur among poor communities, with the survey revealing 21% of females aged 15-19 years old in the lowest wealth quantile becoming pregnant in comparison to 8% in the highest wealth quantile.²⁵⁸ A further Government of Kenya report²⁵⁹ found 8.4% of 13–24-year-olds had become pregnant as the result of pressured or physical forced sex, including situations involving the use of excess alcohol.

9.5. Sexual orientation and gender identity

It is important to recognise the possible protection needs of children and young people who identify as LGBTQI+ especially due their being rejected by some families and communities. When interviewees were asked about reasons children become separated from parents a few referred to issues related to sexual orientation or gender identity.

"In the African society, he would be thrown out. There is little understanding. But there is one he says gay and the mother looked at him. So now it is 50/50. Some will keep. some will throw them away because it is being talked about. Before it was not talked about. It was whispered but now out in the open. Some will keep, some not."

²⁵³ Please see: <https://data.unicef.org/topic/child-health/adolescent-health/>; <https://www.who.int/news-room/fact-sheets/detail/adolescent-pregnancy>

²⁵⁴ Please see: <https://www.unicef.org/kenya/media/3111/file/Situation%20of%20Children%202022.pdf>

²⁵⁵ Please see: <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/kenya/>

²⁵⁶ Please see: <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/kenya/>

²⁵⁷ Kenya National Bureau of Statistics 2023

²⁵⁸ Kenya National Bureau of Statistics 2023

²⁵⁹ Republic of Kenya 2019

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"I don't think it has been very pronounced and if we have we are dealing with secrets, and the children are not revealing to talk about their sexual identity, because of the label associated. Even If they did, they would not want people to know about that."

"We never used to talk about LGBQ in Africa. It is now even a discussion in our churches. It was so un-African...Issues of sexuality, it is not in our culture and we are not discussing...The supreme court, or high court say it is ok the LGBQ members can register their organisation. It has been a hidden debate...And you know cool things are very attractive to young people and attractive to the young generation. Some of us that you would never convince us that a male and a male can be partners. I don't know how you can convince me. But you can easily target my child, that is what you are introducing. That is a kind of expulsion they are getting."

The National Gay and Human Rights Commission and Amnesty International have published a report highlighting the risks facing members of the LGBTQI+ community in Kenya.²⁶⁰ It signals 'abuse of the rights of LGBTI people is widespread and well documented, including physical violence, death threats, harassment by state officials, stigma, expulsion from educational institutions, blackmail, extortion, poor access to health care and medical research abuse.'²⁶¹ There are however, disturbing reports on the 'Africa News' website indicating that the Ministry of Education has initiated a campaign to address 'the perceived infiltration of LGBTQ advocacy in schools' and claims Kenya appears to be doing its best to rid the country of LGBTQ+ practices.²⁶²

9.6. Child headed households

It has not been possible to gain data that illustrates if, and how many, children are in alternative care because they were living in child-headed households. However, it is understood that a significant number of children are living in child-headed households in Kenya and are rendered highly vulnerable by these circumstances.²⁶³ According to a recent Government report, they also 'remain a largely invisible group in Kenya and more effort is required for them to be documented, monitored and supported'.²⁶⁴

²⁶⁰ Please see:

<https://nglhrc.com/#:~:text=The%20National%20Gay%20and%20Lesbian,was%20borne%20out%20of%20conversations.>

²⁶¹ National Gay and Human Rights Commission and Amnesty International 2023:19

²⁶² Please see: <https://www.africanews.com/2023/03/10/kenyan-launches-lgbtq-crackdown-in-schools/>

²⁶³ Please see: <http://www.anppcan.org/many-children-living-in-child-headed-households-in-kenya/>

²⁶⁴ Republic of Kenya 2022:129

10. The multiple dimensions of poverty

Poverty is an inter-generational as well as a multi-dimensional issue with measurements of poverty taking into account not only financial means, but other factors that contribute to well-being.²⁶⁵ Our research identified multiple dimensions of poverty, including for many families, a severe lack of financial resources coupled with insufficient access to government services, as being a major factor contributing to the placement of children in alternative care. A concern is the how the challenge of coping with poverty can lead to feelings of stress and anxiety. These are feelings that can negatively impact family relationships and contribute to family dysfunction and violence. And ultimately, as previously noted in this report, situations that can result in children losing parental care.

Children and young people told us they are very aware of challenges families are facing in terms of issues related to poverty. This includes families not having enough financial resources and lacking basic necessities such as food, (even 'starvation' and 'going to sleep hungry'), shelter and clothing. Below are examples of the answers provided by children and young people in relation to issues of poverty (Figure 26).

Figure 26. What makes children and young people feel worried or unhappy when they are at home (as answered by children and young people)

What makes adults in the family feel worried or unhappy when they are at home? (as answered by children and young people)

poverty

lack of financial resources

financial instability

loss of the breadwinner

when they don't eat because there is no food

starvation

they are sad when there is no food to eat at home going to sleep hungry

they have no clothes

high cost of living

lack of basic needs

when we don't have a bed and enough food and shelter

lack of school fees

lack of a good shelter

lack of furniture at home

lack of medication

illness we cannot afford

²⁶⁵ Please see: [https://www.worldbank.org/en/topic/poverty/brief/multidimensional-poverty-measure#:~:text=The%20Multidimensional%20Poverty%20Measure%20\(MPM,the%20%242.15%20international%20poverty%20line](https://www.worldbank.org/en/topic/poverty/brief/multidimensional-poverty-measure#:~:text=The%20Multidimensional%20Poverty%20Measure%20(MPM,the%20%242.15%20international%20poverty%20line)

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unemployment in the family
lack of work in the community
jobless family especially parents
lack of a well-paying job/ a job

The answers of children and young people correlate with the list of concerns provided by adult family members in relation to poverty. Below are some of the answers adult family members provided when asked what makes adults worried or unhappy when they are at home (Figure 27). Many of their answers related to issues of poverty signifying this is a major concern in their lives.

Figure 27. What makes families worried or happy when they are at home (as answered by adult family members)

What makes families worried or unhappy when they are at home? (as answered by adult family members)

poverty
low income
lacking money
no financial support
lack of basic needs
lack of basics in the home makes children go to the streets
lack of provisions for the family
cannot afford food
lacking food
no food in the house this makes violence
lack of clothing
contaminated water
no shelter
when we must sleep outside
lack of rent
loss of property
loss of jobs
unemployment
no business
poor housing
sickness and cannot help
when children are sick
lack of health
children cannot afford to go to school

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lack of clothes
financial constraints
cannot give children what they need
pressure and stress because of life's challenges

As with the children and young people, lack of food was a concern mentioned numerous times. Not being able to afford medical costs if anyone falls sick is also a significant worry along with lack of stable and well remunerated employment and not being able to afford to send children to school. Lack of shelter, or adequate shelter, is also concerning.

Interviewees referred to the issue of poverty as being a driver associated with separation of children from parents. Below is a selection of their answers when asked about reasons children are placed in alternative care,

"poverty, poverty, poverty, there is a lot of factors."

"we have very high rates of poverty so high poverty levels is one of the contributing factors, actually the major contributing factor according to me"

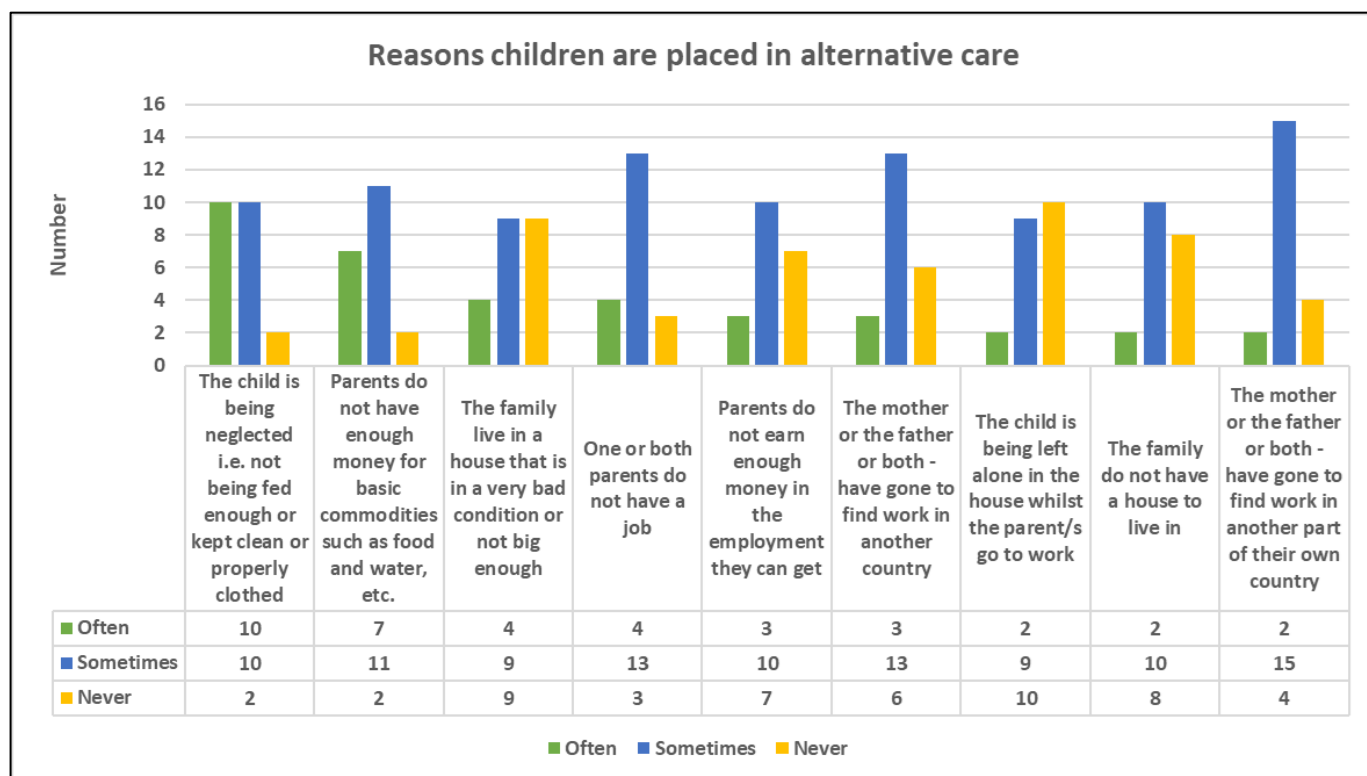
"Poverty. They are very poor, in fact in Mombasa the poverty is so high, people maybe they have a house here but they cannot grow food in that chamber. They can do nothing because of the heat. There is nothing that can be done. They are so poor that they cannot even go to school. Once they are poor and have children, what happens to those kids. They are even willing to sell those kids, say take those kids of mine. So, poverty is another factor which has led to those kids been separated from their families. "

"The parents, most of them are very poor. With that it makes some children to run away from their families. They lack food, they lack even maybe clothing, some don't get from their parents, so they think, say that it is better to live outside than living with a father or with parents, when the suffer. If they are going to suffer let them suffer without their parents, you see their parent cannot provide and they are just there."

In our online survey, 22 respondents answered questions about reasons children are separated from parents and placed in alternative care. As noted in Figure 28, many think different issues related to poverty lead to this situation. For example, almost half of all respondents think children who are neglected, i.e. not being fed enough or kept clean or properly clothed, are 'often' placed in alternative care.

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Figure 28. Reasons children are placed in alternative care



The cost and/or lack of access to health services has been identified in a Government of Kenya report as a 'driver for child institutionalization.'²⁶⁶ It was especially noted how access to support for single mothers, divorced women and widows should be improved. According to the governments household survey of 2022²⁶⁷, only one in four people (26% of females and 27% of males) have some form of health insurance. The Government of Kenya also issued a report showing how, in 2017, the majority of the population lived 'on low and insecure incomes'²⁶⁸ and around 80% of the population could be considered as being 'poor' or 'insecure'.²⁶⁹ The report went on to say that more than two-thirds of children were experiencing deprivation in at least two dimensions based on their right to health care, adequate food and nutrition, housing, drinking water, sanitation, education, information and knowledge of health issues.

Government welfare programmes include some payments for vulnerable households including those specifically for OVCs and people with disabilities. However, one interviewee explained that no new recipients had been accepted into these programmes for the last eight years:" *the last time we did registration for the households with severe disabilities, it was the year 2015. We are now 8 years down*

²⁶⁶ Republic of Kenya 2022:128

²⁶⁷ Kenya Bureau of National Statistics 2023

²⁶⁸ Ministry of Labour and Social Protection 2017:10

²⁶⁹ Ministry of Labour and Social Protection 2017:10

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the line, we have not renewed anyone. The ones that are in the programme at the moment are the ones that started like 2010 up 2015. Because we used to do it on a yearly basis but after 2015, I think also resources started dwindling from the government and there has not been any new registration." The situation of OVCs has been a particular focus for USA Government Funding and further information on funding and policy for OVC support programmes in Kenya can be found on the USAID website.²⁷⁰

Interviewees raised an important issue regarding certain aspects of life specifically occurring in rural areas and how this may lead to family separation, migration to the cities and ultimate vulnerability of children and their parent/s. This included those wishing to escape poverty in rural settings and the pull of the city where it is thought there will be more opportunities. However, according to research participants, many end up living in far more vulnerable situations, especially single women with children. Interviewees also suggested that breakdown in personal, family, and community relationships, leads people, and single women in particular, to leave their villages and seek a different life in urban settings. Running away from abuse as well as stigmatisation connected to HIV/AIDs, was also mentioned,

"so they have migrated to Mombasa or the coastal region, because of various factors. We know the migration push and pull factors...And the other thing that I have also observed most of them do not really relate very well with their families of origin or their biological relatives. There are family issues which actually pushed them out of their homes, their home counties, so they opt to stay in a place which they consider is giving them some sort of peace. They are running away from family issues and this mostly affects women, most of them are coming from broken marriages..."

"It is for some, they will actually tell you they run away because they are stigmatised by their families. If a woman lost her husband maybe through the process of the sickness and all that the relative discovered that the husband was HIV positive, the assumption that the women will be affected, which is not always the case, and then in the African culture if there is HIV in the family, it is the woman that has brought the HIV, so it is to be blamed on the woman. So to avoid the wrath of the family sometimes they opt out and they want to go to a totally new place. So they will go and start a new life where nobody knows them so they will not talk about their HIV status, so we say it is a push factor.

"Uncles and fathers are on their girls a lot, so they impregnate the girl, the child that is born out of an incestuous relationship is an outcast in that community. So what

²⁷⁰ Please see:

http://www.healthpolicyplus.com/archive/ns/pubs/hpi/Documents/1347_1_OVC_Global_Fund_Kenya_FINAL_Sept_2010_acc.pdf

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the girl is advised to do, rather is to push the baby out, they look the other way, so they don't set the eyes on the child and the child is taken away and given up for adoption. If she goes home with the child, the child will be killed the child is a bad omen to the family so I realised women who have had such cases in their homes, they also run away and they come with their daughters. Even if the abuse never led to pregnancy, to avoid their girls that been abused continuously they also run away with their girls and come to the city."

Furthermore, whilst families in rural areas are identified as being in need of support, one interviewee noted how support services are more highly concentrated in urban areas,

"The rural areas that is where poverty is so so real that most of the organisations will just focus of the urban areas. I really don't understand how it works, maybe as a development partners one day we need to open our eyes maybe we can even have discussion that [my agency] can go to this region. I hope that they are supported by the government."

Although families are experiencing situations of multi-deprivation, there are mixed views about coordination and inter-sectoral approaches to providing services and support with some believing coordination is good but others thinking it could be improved:

"As an organisation we will say we have generally the coordination is not there. In fact it is poor. It is very poor because there is so much duplication of services. There is so much each person wanting to do their own thing. There is also the government not taking full charge or not having the good-will to work with the children and leaving the issue of children without parental care to the NGOs. "

"I would say there are NGOs that work hand in hand with the government, they will not start any project without involving the government... but we also have organisations that just set up...."

"Yes I can say for me in general there is good coordination."

"And there is also say the issue of competition. Sometimes NGOs see themselves as competitors as they will compete with each other who will do best, even we end up with the issue of duplication of services. You might go to a community and find that [name of organisation removed] is there as well as another organisation. So you ask what are you doing in this area, they say we are doing household economic strengthening, we are also doing the same."

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"I would say in terms of coordination I would say in some cases the government does not even know they [NGOs] exist. The ones that have good intentions will always go to the government offices to introduce themselves and tell them what they are all about and even show up at partners and at the networking meetings. So I would say that the coordination is not good because of limited human resources in the government. "

"Yes. Duplication of services is finding that there are 5 NGOs within the same sub-county doing the same thing with very minimal impact individually not willing to come together to create a greater impact. So, people are doing this instead of looking where the biggest need is you just stick to what you want to do. For example, if there is an area where amongst children is very needy you will find that nobody is addressing that. Like there is a lesser need area where 10 partners are just pumping efforts and resources into it which might not even be a priority. So, people do so many things with not much impact."

11. A correlation between issues related to poverty and family dysfunction and breakdown

As previously indicated in this report, our research findings illustrate how some children are at risk of placement in alternative care as a direct consequence of the negative impact poverty can have on families. In this respect, we believe there is a correlation between the ability to cope with such daily challenges as providing food, adequate shelter, paying bills, keeping children in school, and finding adequately remunerated employment etc., and stress and tension within households. These ongoing challenges exacerbate feelings of distress, anger, poor mental health, and for some, an inability to cope. This in turn is diminishing resilience and impacting the ability to maintain strong relationships in the household with outcomes that include, family dysfunction, poor parenting ability, and even violence. All reasons children in Kenya can lose parental care and end up living in alternative settings.

According to interviewees, stresses experienced by family members are also seen to be manifesting themselves in the poor ability, or even absence of, a parent/s due to substance abuse and/or mental health issues. Some are turning to crime as a coping mechanism and leaving children behind when imprisoned. Interviewees suggested stress coupled with the lack of good communication in some families is contributing to breakdown of marriages and divorce which, as previously noted, can also result in children being rejected or custody battles resulting in activation of the courts to child protection referrals and placement into care.

Interviewees, when asked why children lose parental care and are placed in alternative care, made direct references to the issues of poverty and how this relates to family breakdown. They said,

"So the issue of dysfunctional families is also the issue of poverty."

"The poverty, because someone is not able to provide for the family and some misunderstandings come up, maybe they fight, they separate, and the children are left with no one, and they end up in the children's homes or some end up on the streets"

"Because of their poverty. Because of their [parent's] distress...Mental health is also an aspect."

As noted previously in this report, a few interviewees highlighted the specific hardships facing families with members who have a disability: *"people living with disabilities are prone to the level of poverty [that] can be severe for such people compared to than normal people"* (interviewee). In an article by Hunt et al., households in Kenya with a disabled member were found to be poorer than those

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without a disabled member.²⁷¹ They also found that parenting stress of those caring for a child or an adult with a disability was higher than that of non-disabled caregivers.²⁷²

These findings are particularly concerning when also considering results of previous studies that illustrate linkages between poverty, violence and family breakdown in other parts of the world.²⁷³ Overall, we conclude that issues related to poverty and insufficient access to basic and specialist services are contributing to the breakdown of family life in Kenya and as a result, children are becoming separated from their parents separation and placed in alternative care.

It is important however, to also acknowledge that there are families living in very difficult circumstances, including coping with poverty, who are supportive and caring of one another. Parents living in poverty who are creating a safe and loving environment for children. This illustrates how strong loving relationships are an important factor in helping families stand up to the impact of poverty and other shocks experienced by households. Furthermore, interviewees also noted how people with sufficient financial resources also abuse their children: *"So we can't just say that the issue family separation happens only to the low-income family it cuts across."*

²⁷¹ Hunt et al. 2021

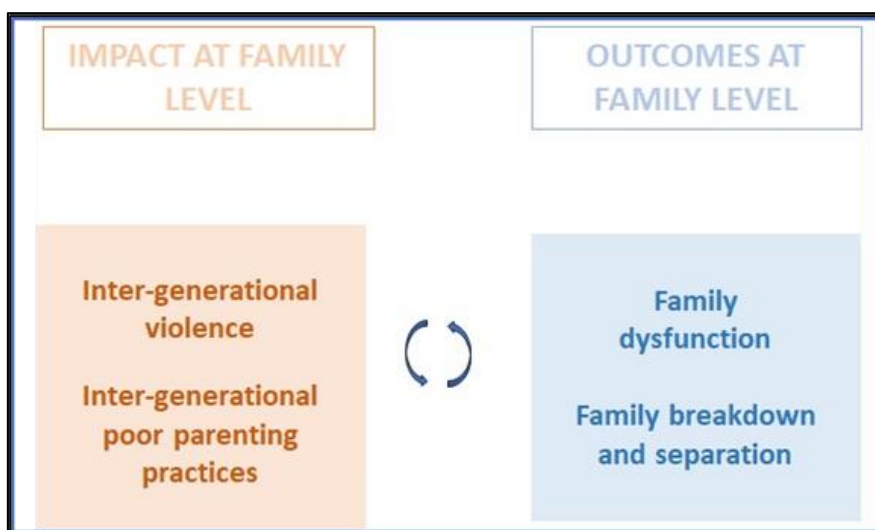
²⁷² Hunt et al. 2021

²⁷³ See for example: Babatope et al. 2022; Berger 2005; Lau et al. 1999; Lodder et al. 2020; Malley-Morrison 2004

12. The phenomenon of inter-generational violence and inter-generational poor parenting capacity

It is evident from the findings above that multiple and interconnected factors contribute to the circumstances within the family home that may lead to children's placement in alternative care. When examining these circumstances further, a specific theme has emerged in relation to the perpetuation of dysfunction and breakdown within, and separation of, families. This is the inter-generational aspect of violence, inter-generational poor parenting capacity, and the connection between the two (Figure 29).

Figure 29. Inter-generational violence and poor parenting ability and family separation



Many interviewees believe the lack of ability to adequately parent, and the presence of violence in the home, are interconnected and inter-generational phenomena. Whilst discussing parenting skills and issues of positive bonding and attachment, they referred to the negative childhood experiences of parents that have subsequently impacted their ability to parent well. In this way, impaired relationships between children and their parents, violence, and family dysfunction is being repeated from generation to generation. It is believed that unless addressed, the cycle of violence within families in Kenya will continue and as a result, children will be separated from parental care as a consequence.

The absence of positive emotional bonding between children and parents and poor parenting skills were identified traits in those families who are at risk of separation. When asked why some families are not able to function well whilst others can, one interviewee said, the "way they [parents] were brought up is also important. Because of maybe the way they were brought up. Maybe they were brought up in a harsh family and the others were brought up with love. So, the other one says that my

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parents were beating me all the time so if you want to just disappear, they don't care. But this other one is where the children they have been nurtured properly."

Interviewees also said,

"Because you realise that they don't actually understand what they are doing to their children and to the children's children. So it become inter-generational"

"I think maybe prior experiences of the same parent. If such a parent maybe saw how some suffer. How the child suffered without their parent or they lost their parent and their experiences. They would imagine I don't want to subject my children to have those experiences so let me be with them. Maybe they have not had such experiences."

"We need to treat children as children. We need to allow our children to be children and we need to appreciate that children can only thrive in an inclusive environment otherwise you bring up animals in the name of children. Because like for the children who tolerate violence and partners who tolerate children, and they insist on staying, of course you bring up violent children"

With this information in mind, when considering circumstances that contribute to the ongoing presence of violence and family dysfunction, it is important to understand how such behaviour, and the inability to parent well, can be passed down from one generation to another.²⁷⁴ In this respect studies show how, through 'observation, learning and imitation'²⁷⁵ of adults, and/or being a recipient of violence, physical neglect, or lacking in love and affection, can lead to children growing up to repeat such negative behaviour.²⁷⁶ In this way, children's experiencing or witnessing violence, and reacting to adverse childhood experiences (ACES),²⁷⁷ can contribute to learned behaviour that may be repeated in later life when also becoming parents.²⁷⁸ Dong et al. have described ACEs as a 'complex set of highly interrelated experiences that may include childhood abuse or neglect, parental alcohol and drug abuse, domestic violence, parental marital discord, and crime in the home.'²⁷⁹

A Government of Kenya report also recognised this issue saying children who are 'exposed to violence have a higher likelihood of normalizing violence and becoming perpetrators or victims of

²⁷⁴ Moore and Ramirez 2016; Moylan et al. 2010

²⁷⁵ Contreras & del Carmen Cano 2016:44

²⁷⁶ Contreras and del Carmen Cano 2016; Bevan & Higgins 2002; Kim et al, 2022; Tarabiah et al. 2015

²⁷⁷ SOS Children's Villages International and CELCIS, Centre for Excellence for Children's Care and Protection, University of Strathclyde 2022

²⁷⁸ Moylan et al. 2010

²⁷⁹ Dong et al. 2004

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violence in adulthood.²⁸⁰ Furthermore, Ngunjiri noted how research suggests that 'not only do family structures have an immediate effect on children's well-being, but they may also be responsible for the intergenerational transmission of racial, gender, and economic inequalities'.²⁸¹ The concern is, children in Kenya have, and continue to, witness and experience violence in the family, and places they learn and socialise. This along with lacking love and care can result in the ongoing cycle of inter-generational family dysfunction, breakdown, separation, and the placement in alternative care.

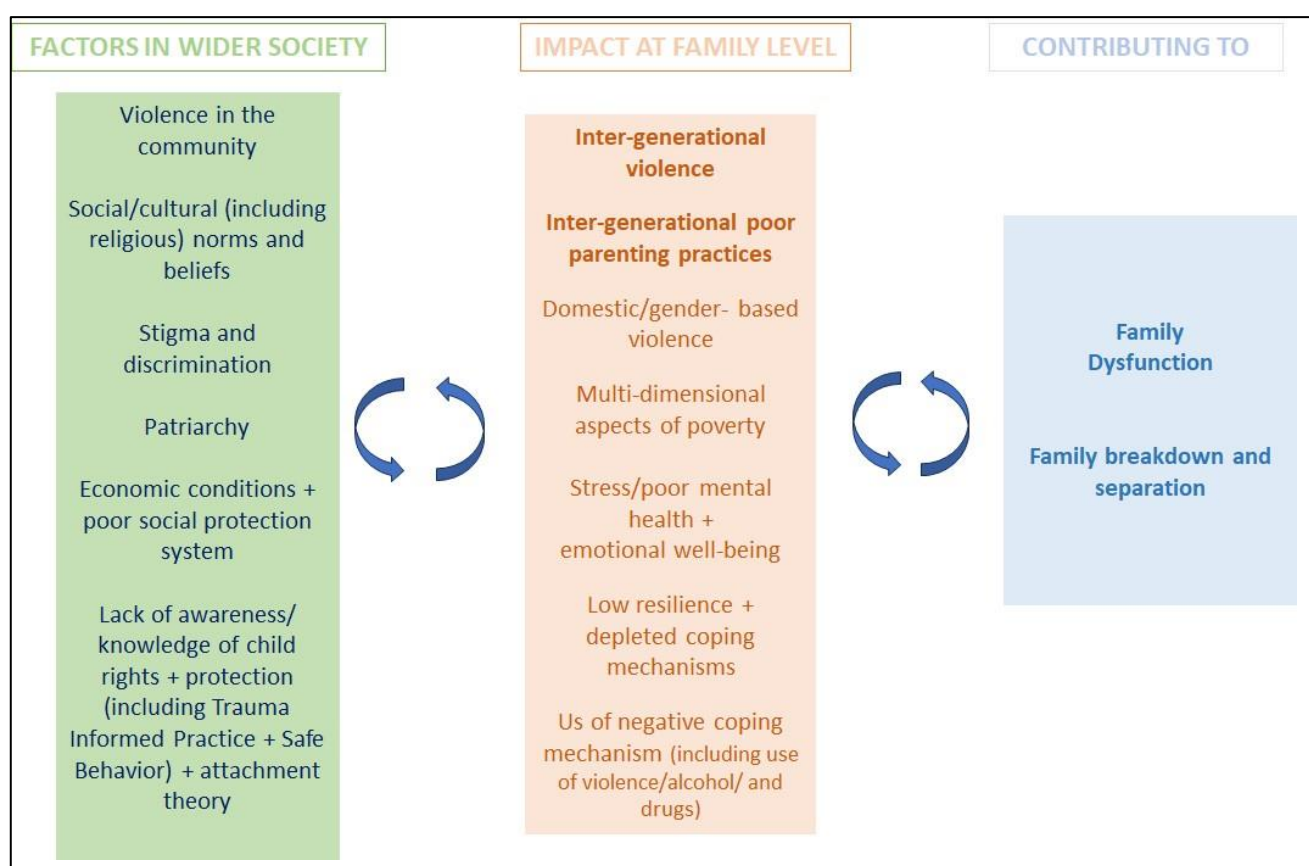
²⁸⁰ Ministry of Labour and Social Protection 2019:15

²⁸¹ Ngunjiri 2019

13. Factors in the wider society that contribute to vulnerability within families

When considering ways to address prevention of child-family separation, our research shows a need to also understand how external factors can affect a family. To this end, utilising a socio-ecological model to inform the research framework, consideration was given to factors in the wider society that can contribute to inter-generational violence and other issues impacting parenting ability, and family breakdown and separation (Figure 30). The findings are explored in this section of the report.

Figure 30. Factors in the wider society contributing to vulnerability within families



13.1. Living in a macho/patriarchal society and domestic and gender based violence

UNICEF has defined patriarchy as a 'social system in which men hold the greatest power, leadership roles, privilege, moral authority and access to resources and land, including in the family.'²⁸² Patriarchy has further been described as 'a system of relationships, beliefs, and values embedded in political, social, and economic systems that structure gender inequality between men and women.'²⁸³

²⁸² UNICEF Regional Office for South Asia 2017

²⁸³ Nash 2020:43

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Attributes seen as “feminine” or pertaining to women are undervalued, while attributes regarded as “masculine” or pertaining to men are privileged.’²⁸⁴ Macho is defined in the Collins Dictionary²⁸⁵ as behaviour that is ‘denoting or exhibiting pride in characteristics believed to be typically masculine, such as physical strength’ or, ‘an overly assertive, virile, and domineering man’ demonstrated through a sense of power.

Interviewees in Kenya spoke about living in a society where they believe there is still widespread acceptance of a patriarchal system and a culture of male dominance in the household. They also recognise the persistence of domestic and gender-based violence,

“It is both. Both the domestic violence between husband and wife making the environment toxic and also the violence of the parents towards their children. So, both of them have worked hand in hand.” (when asked about reasons children are placed in alternative care)

“The culture is dominantly men that are egocentric and as a woman you have no value you have no voice you are supposed to submit. You are supposed to obey when I say this way it should be that way and so when it becomes a contrary, and that is when fights arrive.... [women] are trapped, they cannot get out. Some of them are crying and some of them have nowhere to go so they are just holding on to them. Because you don’t have a solution...[to] the poverty levels so you bet on the man because he is the breadwinner. So you don’t have a change, a choice”

“...because people nowadays kill each other with domestic violence.”

The Protection Against Domestic Violence Act 2015 criminalizes domestic violence in Kenya.²⁸⁶ The Act recognises domestic violence can be committed by women and men jointly or individually. Interviewees for our research also noted how domestic violence and domination can be experienced by men although they suggested this is less common. They said not only do difficult economic circumstances place stress on men but can also result in women berating them if they don’t provide for the family as expected, and ultimately contribute to family separation.

“You know these days life is too hard. The men when they go to work, they are not employed, when they go to work and when they come home they have not brought anything, the wife becomes angry. When she became angry and she starts talking very bad words to the husband and the husband will automatically beat her, the woman.”

²⁸⁴ ibid.

²⁸⁵ Please see: <https://www.collinsdictionary.com/dictionary/english/macho>

²⁸⁶ National Gender and Equality Commission 2016

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"the man is the head of the household as the provider...in some cases the woman actually walks away as she says he is not man enough he cannot provide for the children. So, there is a belief that the man should be able to provide. He is not able to provide that is already a big issue."

Some women are thought to be remaining inside violent relationships with their children because they are unable to gain financial independence. And when domestic violence leads to marital/partner separation, particularly when they lack support from family, friends or community networks, female headed households, as previously noted in this report, are left struggling to raise their children alone. If they are unable to cope, this puts them at risk of losing their children into alternative care.

"Yes they are losing their support networks"

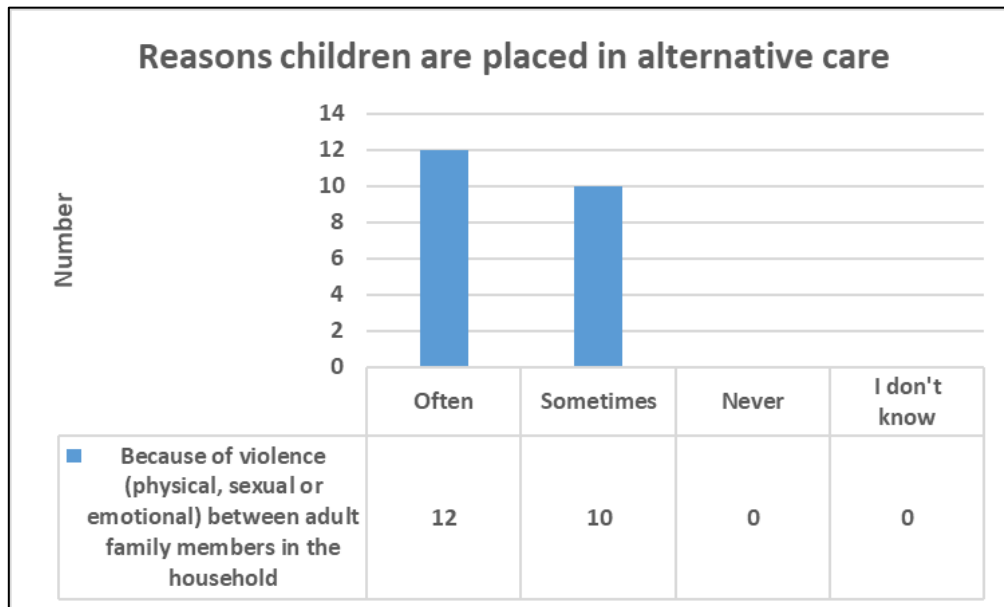
"And Mombasa is one of those cities in Kenya, so that brotherhood spirit, is not there anymore. We still have some communities that are still very close knit but it is slowly dying off."

During our research, a significant number children and young people wrote about witnessing violence between their parents with some mentioning issues of *"domestic violence"*, and dominance of a particular adults, usually the father, as a feature of the household environment (Please refer back to Figure 12). Family members and interviewees spoke about living in a society where it is the norm that men are recognised as the head of the household and, a correlation between this domination and domestic violence and abuse, especially perpetrated against girls and women.

In the online survey respondents were asked whether violence between adult family members a reason for child-parent separation and placement in care. Of 22 respondents, over half (12) said this was 'often' a reason (Figure 31).

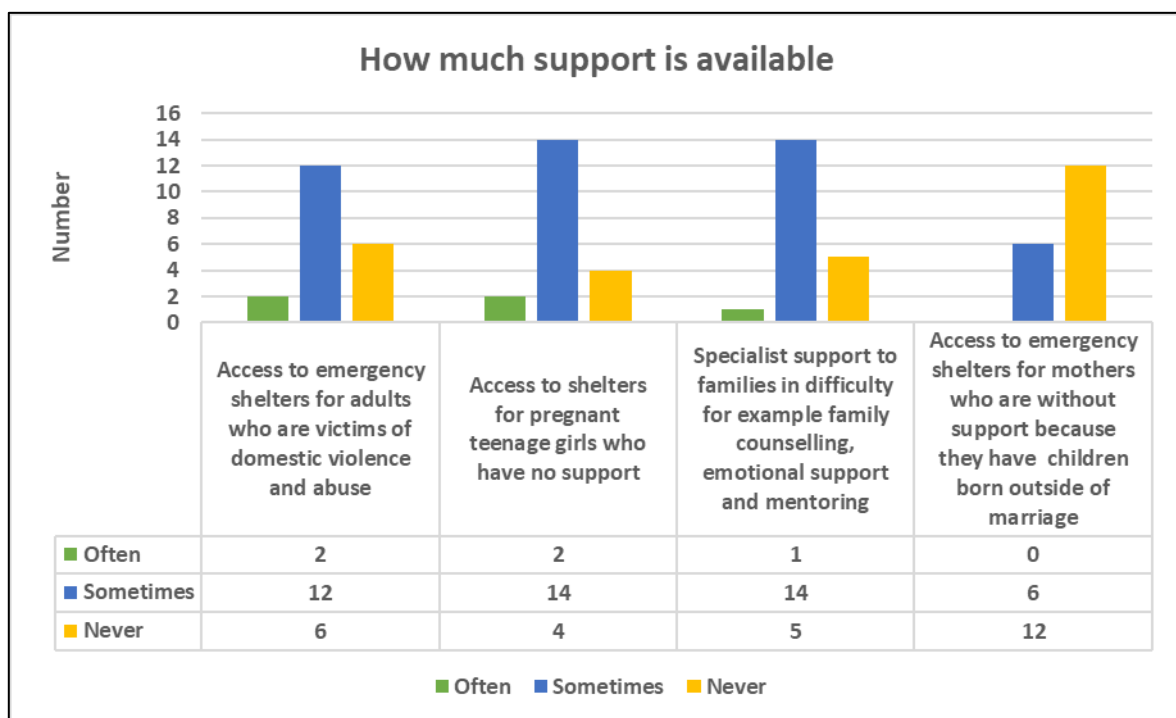
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Figure 31. Reasons children are placed in alternative care violence



Survey respondents, when asked about support available to address issues of domestic and gender based violence, overwhelmingly they said help is only available 'sometimes' (Figure 32)

Figure 32. How much support is available



Reports have noted some of the progress being made in Kenya with regard gender equality. For example, in 2016, the Kenyan National Gender and Equality Commission listed many of the laws that protect women and girls from gender-based violence and promote equality.²⁸⁷ However, the report, as with others, also noted issues of gender-based violence, domestic violence, and discrepancies and gaps in gender parity to be ongoing.²⁸⁸ A 2021 study on the impact of COVID-19 on domestic violence suggested there had been a 56% increase in domestic violence.²⁸⁹ This included intimate partner violence and violence against children. Reasons for the increase included stress and tension due to loss of employment/income, increased alcohol and substance abuse and conflict over child care and housework responsibilities.

13.2. Violence in the community

Children and their families are growing up in some areas of Kenya where there are ongoing fears of violence in the community. Such lack of security and fear of violence, including the presence of guns, was specifically raised by adults in workshops in Nairobi. They said such anxiety and '*insecurity*' was particularly high for those living in the informal settlements (slums).

The UNODC website²⁹⁰ contains details of a survey that found 'muggings, robberies, murder, and defilement of children were the most committed crimes' in an area of Nairobi that has a large informal settlement. In 2023, Sila and Masiga²⁹¹ wrote of a higher prevalence of 'criminal activities hotspots in urban slums than in planned residential estates in Nairobi City County, whereby muggings, carjacking, bank robberies, assaults, to mention but a few, has been on the rise.' They also comment on information from Kenya National Police Reports that 'indicates the main stream of Nairobi city County inhabitants lives in continual fear of insecurity'.²⁹² Sila and Masiga also spoke of the proliferation of slums in which inhabitants, faced with limited opportunity for legal employment feel 'helplessness and hopelessness',²⁹³ drives 'individuals to theft and robbery'.²⁹⁴

The population of Kenya has also been affected by years of terrorism attacks.²⁹⁵ This included the politically motivated bombings following the independence of Kenya in 1975. Attacks on Jewish and Israeli owned property also followed the occasion when the Government of Kenya helped end the siege of an Israeli plane that had landed in Entebbe airport in Uganda, in 1976. In 1980, a Jewish-owned hotel was attacked by the Palestine Liberation Army.²⁹⁶ In 1998, the US embassy in Nairobi

²⁸⁷ National Gender and Equality Commission 2016

²⁸⁸ National Gender and Equality Commission 2016. Please also see: <https://icj-kenya.org/news/gender-12th-parliament-shows-kenya-deeply-patriarchal/>; Kwarazuka et al 2019; Mkutu et al. 2020

²⁸⁹ Gottert et al. 2021

²⁹⁰ Please see: <https://www.unodc.org/unodc/es/urban-safety/kenya.html>

²⁹¹ Sila and Masiga 2023

²⁹² National Police 2021

²⁹³ Sila and Masiga 2023, page 149.

²⁹⁴ Sila and Masiga 2023, page 149.

²⁹⁵ Please see: https://en.wikipedia.org/wiki/Terrorism_in_Kenya#References

²⁹⁶ *ibid.*

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was bombed as well as an Israeli-owned hotel in Mombasa in 2002. In 2013, the Somali jihadist group al-Shabaab killed 67 people at Nairobi's Westgate Shopping Mall. Even as recently as February 2022, thirteen people were killed in a roadside bomb in the north-east of the country.²⁹⁷ Today, international travel warnings still report terrorist threats.²⁹⁸ For example, the UK Foreign Office warns against threats from extremists linked to Al Shabaab in Somalia that has issued threats because of Kenya's military intervention in Somalia.

Interviewees also spoke of the impact of insecurity in the community on families and children,

"We might not be affected as a county recently, we used to have a lot of issues with terrorism, when, terrorism has happened in Kenya we used to have most of the attack in Nairobi and Mombasa...But currently what we are struggling with are organised gun, for us in the children sector for a lay person they might not link it to childcare and protection, but for us that are doing child care and protection work we know that it does have an adverse effect on families. When there is a lot of insecurity, people are not able to go out and engage themselves in economic activities. So that means somehow to go down to the family that will affect the family and when the family is affected the child is affected. So I would say that the issues of insecurity and in some of our counties here in Kenya."

"Yes very there is a lot of violence... we also have this thing called violent extremism where by you know violence graduates, graduates to the next level, and when it gets to the next level they begin and look for a way that they can become extreme. They will even want to go and buy a gun. So, there are a lot of guns out of violent extremism. Domestic violence grows into extremism, and they want to be extremist. Extremists in such a way that they will now want to kill other people, they will want to go at night they want to do a lot OF violence during the night with other people. So, it forces again insecurity issues in the communities."

In light of information relating to violence experienced and witnessed in communities in Kenya, consideration must be given to way this will also pervade the lives of children, and young people, as well as the adults who hold responsibility for them, and what impact it may have on their well-being, the stresses that households must cope with, and any resultant negative reactions.

²⁹⁷ *ibid.*

²⁹⁸ Please see: <https://www.gov.uk/foreign-travel-advice/kenya/terrorism>

13.3. Violence in schools

Whilst considering violence that happens outside a child's own home, abuse in schools is a significant issue. Particularly, as explained in this report, it is possible that experience of violence in childhood can manifest itself in abusive behaviour throughout someone's life.

In 2018, Njagi et al. wrote about student violence in Kenya being 'a common phenomenon'.²⁹⁹ A 2020 study examining violence in primary schools found of the children surveyed, 68% of girls were more likely than boys (32%) to have experienced some form of school-related gender-based violence.³⁰⁰ This included bullying, verbal abuse, physical violence and sexual harassment. It is not clear however, whether the study is focusing just on peer to peer violence or also includes abuse in schools inflicted by adults. A Plan of Action to Combat Violence against Children launched in 2019, reported on teachers using corporal punishment in schools.³⁰¹ The document contained study results that had been gathered with the aim of informing the Plan. It found high levels of acceptance for abuse in schools. In addition, of all the children who participated in the study, more than half thought corporal punishment by teachers was necessary.³⁰²

13.4. Social and cultural norms and practices and lack of awareness of child rights and protection mechanisms

Different negative social and cultural norms and practices that can contribute to concerns about protection and other situations that lead to the placement of children in alternative care have been previously noted in this report. This includes stigma and discrimination against persons with disabilities as well as norms in society that allow for gender inequalities and the perpetuation of domestic and gender based violence. Social and cultural norms and practices are also placing children at risk as for example, the ongoing use of FGM/cutting, early and forced marriage, and the belief that children with disabilities are associated with witchcraft.

²⁹⁹ Njagi et al. 2018:8

³⁰⁰ Otieno 2020

³⁰¹ Ministry of Labour and Social Protection et al 2019

³⁰² *ibid.*

14. Decision making and the national child protection system

As previously noted, we consider the decision to place a child in alternative care to be influenced by two particular factors: the circumstances they are living in, and the decision making of those with responsibility for children, their safeguarding, and judgements about placement in alternative care. To this end, the research framework for this study included a focus on decision makers and factors influencing their decision making. Most especially consideration has been given to decision making within the context of a national child protection system (please see Figure 2).

Gatekeeping mechanisms and alternative care should be an integral component of a national child protection system. An effective system requires a holistic view of childhood, mitigation of the multi-sectoral factors placing children at risk and families in difficulty. It also needs effective partnership working between the State, families, communities, and NGOs amongst others, to build a protective environment that prevents violence and placement in alternative care. The laws, strategies and policies that mandate for the operating of a national child protection system must contain everything needed to protect the rights of children with prevention of unnecessary child-parents separation amongst primary aims. Likewise, effective functioning of Ministries and other bodies responsible for oversight and delivery of the system should place safeguarding alongside prevention of separation as a high priority.

We have taken all these important objectives and principles into account when developing our research framework and reviewing the child protection system in Kenya. We have used a research focus that seeks evidence and understanding of how 'gatekeeping' works in the country, steps to prevent unnecessary separation, and the support available to children and families when experiencing difficulties. Note has been taken of how gatekeeping is described in a 2020 Government of Kenya document³⁰³ as being 'a process for referrals and admission of a child to all types of alternative care settings'. The information provided in this section of the report is predominately the result of our desk review in relation to the national child protection system and alternative care provision in Kenya.

The literature review for this study reveals a significant investment in laws, policies and strategic guidance has been made in recent years by the Government of Kenya. This includes aims and objectives that would meet many international standards for child protection. However, investment in implementation of the normative framework has been identified as lacking both in terms of financial resources but also the provision of a highly trained workforce that are employed in sufficient numbers across the country. Our research only allowed for two weeks in-country field work and it has not been possible to complete a fully accurate assessment of how well child protection case management tools are currently being used by child protection agencies. However, initial findings suggest there

³⁰³ National Council for Children's Services 2020:vii.

are gaps in the rigour and use of applying such gatekeeping mechanisms. In addition, the current child protection system remains reactive rather than preventive with a well-established reliance on residential care. In this sense, support services and other interventions do not sufficiently address the underlying causalities that are resulting in child-parents separation and, in particular, the drivers contributing to violence. All these factor are we believe, contributing to the ongoing unnecessary placement of children in alternative care.

14.1. The Normative Framework

In line with the Convention on the Rights of the Child, national laws, bylaws and regulations, policies and statutory guidance should guarantee children's right to protection from all forms of violence, abuse, neglect, and exploitation. They should reinforce the primary responsibility of parents for the care and protection of children, obligate the State to support families, and allow for intervention if and when necessary to support and protect a child.

International conventions and treaties

Table 3 lists a number of international conventions and treaties that have been acceded to, or ratified, or signed by the Government of Kenya.

Table 3. International Conventions ratified by the Government of Kenya

International Conventions and Treaties	Year signed/ratified /acceded
Convention on the Status of Refugees	1966
International Covenant on Economic, Social and Cultural Rights	1972
International Covenant on Civil and Political Rights	1976
United Nations Convention on the Rights of the Child (UNCRC)	1990
Convention on the Elimination of All Forms of Discrimination against Women	1984
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	1997
ILO Convention on employment age (No.138)	1979
Optional Protocol to CSR on the Status of Refugees	1981
Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	2000
African Charter on the Rights and Welfare of the Child	2000
African Charter	2000
ILO Convention on the worst forms of child labour (No.182)	2001
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (signed but not ratified)	2002
African Charter on Human and Peoples' Rights on the Rights	2003

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of Women in Africa July 11, 2003	
Convention against Transnational Organized Crime and Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children	2005
Convention on the Rights of Persons with Disabilities	2008

A National normative framework for child protection and alternative care

Decision making is influenced by the national legislation and policies of a country. Provisions of particular relevance to children's rights and child protection are found throughout various Laws, Acts, Decrees and policies in Kenya. These include, but are by no means limited to, the legislation and policies listed in Table 4.

Table 4. A national normative framework for child protection and alternative care in Kenya

National Legislation and Policy	Year
Personal Status Law	1951
Adoption Regulations	2005
Sexual Offences Act – includes procedures for sexual offences involving children, prevention, protection of children from harmful and unlawful sexual acts, and penalties	2006
Persons with Disabilities Act No. 14 of 2003	2003
Free Primary Education Policy	2003
Child Care Institution Regulations	2005
National Early Childhood Development Policy Framework	2006
Employment Act – prohibits employment of a child in any activity which constitutes worst form of child labour	2007
Free Secondary Education Policy	2008
The Constitution of Kenya	2010
National Child Policy	2010
Counter-Trafficking in Persons Act - provides for prevention, suppression and punishment for trafficking in persons including children	2010
The Prohibition of Female Genital Mutilation Act – it is illegal to perform or practice all forms of FGM on anyone, regardless of age or status.	2011
Social Protection Policy - provides for various forms of social assistance, social security, and health insurance	2011
Framework for the National Child Protection System for Kenya	2011
Penal Code with amendments - protects children by classifying acts and omissions which amount to child abuse as punishable offences	2012
Matrimonial Causes Act revised 2012–protects children by providing for maintenance and custody of children whose parents' marriage is dissolved.	2012

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Persons with Disabilities Act - children with a disability have the right to be treated with dignity and accorded appropriate medical treatment, special care, education and training free of charge or at a reduced cost whenever possible	2012
Social Assistance Act - outlines different forms of social assistance for orphans and vulnerable children, older persons (over 65 years), unemployed persons, persons with disabilities, and widows/widowers	2013
Education Act	2013
National Plan of Action for Combatting Human Trafficking: Strategic Framework 2013–2017	2013
National Standards for Best Practices in Charitable Children's Institutions	2013
County Child Protection Systems Guidelines	2013
National Guidelines for the Alternative Family Care for Children	2014
Guidelines for Alternative Family Care for Children in Kenya - include proposals for provision of psychosocial support, respite services, supporting parents with disabilities, supporting children with disabilities and services for children born in custody (i.e. when their mother is in prison).	2014
National Health Policy 2014-2030 – including treatment of substance use disorders	2014
The Protection Against Domestic Violence Act	2015
National Plan of Action for Children	2015
Guidelines for the Formation and Operation of Area Advisory Councils	2016
Suspension of Registration of New Charitable Children's Institutions (CCIs)	2017
Health Act	2017
National Disability Mainstreaming Strategy 2018– 2022	2018
Social Protection Strategy 2018-2022	2018
Kenya Vision 2030 - long-term national strategy that focuses on investing in people and reducing poverty and vulnerability	2018
National Case Management for Child Protection Reunification and Reintegration Guidelines	2019
Guidelines for Child Protection Case Management and Referral in Kenya	2019
Caseworker's Guidebook and Caseworker's Toolkit on Case Management for Reintegration of Children into Family or Community Based Care	2019
Vision 2030 is Kenya's long-term national strategy that focuses on investing in people and reducing poverty and vulnerability.	
The Children's Act 2022	2022
National Care Reform Strategy for Children in Kenya 2022 - 2032	
Revised Sexual Offences Bill (of 2006)	2023
Standard Operating Procedures for the Alternative Family- based and Community-based Care Of Children in Kenya	2023

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As noted, in the table above, most especially in recent years, the Government of Kenya has invested significantly in a plethora of new legislation and policies that mandate for the protection of children and oversight and regulations for prevention of separation and use of alternative care. Below is a short precis of just two of the many laws considered relevant to child protection.

The Constitution of Kenya recognises the right of all children to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhumane treatment, punishment, and hazardous or exploitative labour. The Constitution defines family as the natural and fundamental unit in society that should have recognition and protection by the State. Furthermore, the Constitution recognises the important of parental care and protection, including equal responsibility of the mother and father to provide for the child, whether they are married to each other or not.

The Child Act is a principal child protection law in Kenya that was revised in 2022. It identifies children in need of care and protection and eligible for consideration of child protection through a process of case management. The Act contains a comprehensive list of those deemed in need of protection including children who are orphans, abandoned, and have parents in prison. It includes children whose parents are not or are 'unable or unfit to exercise proper care'. Children who are subject to FGM/Cutting, forced male circumcision, child marriage, recruited into unlawful gangs, participate in child labour, or impacted by any other 'customs and practices prejudicial to the child's life, including physical, psychological and social development, education and health, are also offered protection. In addition, children living in a child-headed household, are exposed to trafficking, prostitution, or any other form of physical, sexual violence, and those who live or work on the street are provided protection of the State.

The Child Act 2022 details parental responsibilities to care for and protect children. It also allows parents to temporarily assign these responsibilities to someone else. It is made clear that poverty, disability, or provision of education, should not be 'the driving factor' for removing a child from their family and placement in alternative care. The Act calls on the Court or the Cabinet Secretary to determine if separation from parental care is in the best interest of the child. It does however, allow placement in alternative care both by a formal or informal decisions on 'the initiative of the child, his or her parents or primary caregivers, or independently by a care provider in the absence of the child's biological parents.' In our opinion, this clause seems to allow for an initial act of voluntary relinquishment of children by parents or other legal caregivers into alternative care even though the Act also details a requirement for this decision to be made through a court order (in a Children's Court). Removal of a child from their family must be as a last resort, temporary and in the best interest of the child.

Forms of alternative care provision outlined in the Act include kinship and guardianship. Guardians are recognised as individuals who are appointed to 'exercise care and control' of a child. The Act also

provides detailed guidance about when and how foster care and adoption should be applied and who can become foster carers or adoptees. Children can also be cared for under kafalah.

Policy, strategy and statutory guidance

In addition to new legislation, in recent years, the Government has developed a range of policies, statutory guidance, regulations, and standards for child protection case management and gatekeeping. These developments have been informed by various assessments including an evaluation of the child protection system entitled 'Taking Care to the Next Level' in 2015,³⁰⁴ and the 'Kenya National Care System Assessment' in 2020.³⁰⁵ Developments in terms of strategic plans and guidance include the:

- 'Framework for the National Child Protection System for Kenya (2011)
- 'Country Child Protection Guidelines' (2013)
- 'National Standards for Charitable Children's Institutions' (2013)
- 'National Psychosocial Support Guidelines for Orphans and Vulnerable Children in Kenya' (2015)
- 'Guidelines For Child Protection Case Management and Referral in Kenya (2018)
- 'Caseworker's Toolkit: Case Management for Reintegration of Children into Family or Community Based Care (2019)
- 'Caseworker's Guidebook: Case Management for Reintegration of Children into Family or Community Based' (2019)
- 'Guidelines for Child Protection Case Management and Referral in Kenya' (2019)
- National Prevention and Response Plan on Violence against Children in Kenya 2019 - 2023
- Standard Operating Procedures for the Alternative Family-based and Community-based Care of Children in Kenya' (2023)

A significant development is the **National Care Reform Strategy for Children in Kenya 2022 - 2032**.³⁰⁶ The Strategy has a three-tiered focus including, prevention of separation and family strengthening, provision of suitable alternative care, and family reunification/transition to family and community based care/ ageing out of care.

The Government recognises the 'multiple challenges, of preventing the use of institutional care and the need to address such drivers of child-parent separation as 'orphanhood; violence, abuse and neglect; poverty; abandonment; and lack of access to education'.³⁰⁷ It is an ambitious strategy that includes a wide ranging set of multi-sectoral indicators and targets. It recognises that prevention of separation and family strengthening require a range of multi-sectoral support measures and services including education; health care; social protection; food security; livelihood support; positive

³⁰⁴ Republic of Kenya 2015

³⁰⁵ National Council for Children's Services 2020

³⁰⁶ Republic of Kenya 2022

³⁰⁷ Republic of Kenya 2022:30

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parenting; psychosocial support; day-care facilities; community-based rehabilitation services for children with disabilities; employment support; and support for child-headed households. The Strategy incorporates ambitions to create a stronger social services workforce and use of campaigns to address harmful beliefs, social norms, attitudes and behaviours as well as raising awareness about the harm of institutionalising children and importance of keeping families together.³⁰⁸

Guidance on prevention of unnecessary separation of children from parental care and provision of relevant support and services is also provided in many of the other policies and strategies listed above. For example, in the 2013 National Standards for Best Practices in Charitable Children's Institutions, clear instructions say 'all actors should support children to remain with, and be cared for by, their family. Removing any child from his/her family should be a measure of last resort'.³⁰⁹ The Standards also say, 'Financial and material poverty, or conditions directly and uniquely attributed to such poverty, should never be the only justification for the removal of a child from parental care. Instead, such conditions should be seen as a signal for the need to provide appropriate support to the family'.³¹⁰

According to UNICEF Kenya, 'The Government has developed a strong legal and policy framework to protect children'.³¹¹ However, the Government has also identified a need for further improvements to legislation that will help address protection risks and prevention of separation. There is also a recognised need to divert funds from what are described as 'well financed'³¹² institutions, to support for families that will help prevent unnecessary separation.³¹³ Some of these concerns are addressed in the 2022-2023 National Care Reform Strategy.

It is clear that over the past 10 years or so, there has been considerable investment in legislation and strategic planning that focusses on child care reforms in Kenya to bring them in line with international standards. Our concerns however, include the need for adequate investment to ensure reforms are well financed and implemented as well as being sufficiently well disseminated and understood.

When asked about legislation and policy, interviewees said,

"We read but sometimes it has a lot of legal jargon that we do not understand, and we need it simplified. So they do not and they have no capacity. The Children's Department and services who is the one who should coordinate that, but up to now

³⁰⁸ Republic of Kenya 2022

³⁰⁹ Republic of Kenya 2013:19

³¹⁰ *ibid.*

³¹¹ Please see: <https://www.unicef.org/kenya/child-protection#:~:text=The%202010%20Constitution%20of%20Kenya,and%20hazardous%20or%20exploitative%20labour.>

³¹² Republic of Kenya 2022:75

³¹³ National Council for Children's Services 2020; Republic of Kenya 2022

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it has not happened, so it is trial and error for them. And some of them do not even know the new provisions within the Children's Act."

"More training is needed about the laws that govern the children's rights."

"Yes, they need training a lot of it. They don't know about it the law. It is only in the papers."

There is also a worry that repetition and overlapping of different guidance and standards, and either duplication or ongoing revision of operating procedures and case management guidance in just a very short period of time, may be causing some confusion amongst the workforce. An evaluation of this situation was not included in our research.

14.2 Structures for child protection system delivery, co-ordination, and oversight

The National Council of Children Services

Key bodies and agencies responsible for protecting children and decisions being made about their lives in Kenya include the National Council of Children's Services. The Council is an inter-ministerial body working in coordination with non-governmental and international organisations. The responsibilities of the Council are contained within the Child Act of 2022. They include general supervision, control, planning, financing and coordination of children's rights and welfare activities.³¹⁴ Other responsibilities include advising the Cabinet Secretary on the establishment of Children's Recue Centers and an official obligation to oversee compliance of alternative care policies including regulating, registering, approving, evaluating and monitoring the implementation of programmes proposed by Charitable Children's Institutions (CCIs). The Council operates at a local level through **Area Advisory Councils**. Oversight of the **County Children Advisory Committees** also falls under the Council's mandate. These Committees have responsibility for all matters relating to children within their jurisdiction.

The Department of Children Services

The Department of Children's Services is pivotal in as it holds overall responsibility for the implementation of child protection and alternative care services. The Department sits within the Ministry of Labour and Social Protection. Responsibilities include the establishment, promotion, coordination and supervision of services and facilities supporting the wellbeing of children and their families. In 2008, in response to research findings, the Department established a Section to work on family strengthening and alternative care.³¹⁵ The Department contracts out much of its provision of alternative care to NGOs and CBOS, including faith-based organisations as well as implementation of

³¹⁴ National Council for Children's Services 2020

³¹⁵ UNICEF and the Way we Care 2021

other forms of service delivery. This includes Charitable Children's Institutions i.e. residential care institutions, as well as foster care.

14.3. Provision of Alternative Care

Decisions on whether or not to place a child in care is also influenced by the availability of alternative care places and how much of an accepted and/or promoted practice is it to utilise such provision.

Under the Child Act 2002, alternative care can be provided in emergency shelters and institutions as well as supported independent living and child-headed households. The Act provides for Children's Rescue Centre (CRC) which temporarily accommodate children in 'need of care and protection pending placement in alternative care or other interventions'. A child should not remain there for a period exceeding 6 months.

The 2022 Child Act defines a Charitable Children's Institutions (CCI) as a,

'children's home or institution established by any person, either alone or in association with others, or by a civil society organisation and which has been duly registered with the Council [National Council for Children's Services] for the purpose of managing programmes for the care, protection rehabilitation and re-integration or control of children'.

This does not include rehabilitation schools' or other establishments connected to juvenile justice, nor does it include health institutions. However, in 2022, the Government recognised that 'justice system institutions ... contain many children who are not in conflict with the law.'³¹⁶ The Child Act details the management and operation of CCIs. In February 2020, the Government fast-tracked assessments and renewal of certification of existing CCIs.³¹⁷ It understood that it is no longer possible to establish, register or certify new CCIs or boarding schools.³¹⁸

According to the Government of Kenya, in 2020, there were an estimated 45,480 children living in over 845 CCCIs run by NGOs but overseen by the Directorate of Children Services.³¹⁹ It was also estimated that between 1,000 to 1,200 children were living in a further 28 Government run Statutory Children's Institutions, including rehabilitation, remand, reception, and rescue centres. The reported breakdown of children's placement in residential institutions prior to and following COVID-19 in 2020 can be seen in Table 5.³²⁰ The chart does indicate however, that a significant number of children, over half, were sent 'back to families' during the COVID crisis. Unfortunately it has not been possible to

³¹⁶ Republic of Kenya 2022:29

³¹⁷ Hope and Homes for Child, Lumos and Changing the Way we Care 2020

³¹⁸ Please see: <https://www.kenyanews.go.ke/plans-to-phase-out-childrens-homes-and-orphanages-start/>

³¹⁹ Republic of Kenya 2022: i.

³²⁰ Republic of Kenya 2022:28

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obtain further and more current disaggregated data that would provide us with details about children currently living in alternative care and the reasons they were placed there. We also have not been able to ascertain how many children returned to institutions at the end of the COVID-19 pandemic.

Table 5. Number of children in residential institutions (2020)

Facilities	Number
Number of CCIs in Kenya prior to COVID-19 in 2020	850
Number of children in CCIs prior to COVID-19 in 2020	45,480
Number of children in CCIs following Government COVID-19 directives in March 2020 for children to be released from institutions back to families	26,198
Number of Department of Children's Services managed Statutory Children's Institution in 2020	30
Number of children in Department of Children's Services managed Statutory Children's Institution prior to COVID-19 in 2020	1,428
Number of children in Department of Children's Services managed Statutory Children's Institution following Government COVID-19 directives in March 2020 for children to be released from institutions	1,101
Percentage of children in Department of Children's Services managed Statutory Children's Institution having never committed an offence	Almost 80%
Number of Probation and Aftercare Service-managed probation hostels	6
Estimated number of children in Probation and Aftercare Service managed probation hostels prior to COVID-19 in 2020	300

(Source: Republic of Kenya 2022:28)

Data from 2015 shows there to have been 830 CCIs with between 40,000 to 42,000 children residing in them.³²¹ If these figures are accurate, this means the number of such facilities had increased (to 845+) by 2020. Writing in 2020, Chege & Ucembe said 'the philosophy of institutional care for children deprived of parental care'³²² remained 'prevalent.'³²³ Attention has also been called to the lack of accurate and comprehensive data on institutions and that 'the true scope and scale of institutionalization in Kenya is largely unknown.'³²⁴ This is in part due to the understanding provided by interviewees that some alternative care providers still evade registration.

Under the law, decisions whether or not to place a child in a CCI, has to be taken by 'an authorised person'³²⁵ either as an action for emergency interim protection with an interim care order or a longer term decision to offer protection. Furthermore, no child should be admitted into a CCI without first receiving a Court committal order. This decision should be informed by a report given to the court by

³²¹ Republic of Kenya and UNICEF 2015

³²² Chege and Ucembe 2020:3

³²³ *ibid.*

³²⁴ Republic of Kenya 2022, page i.

³²⁵ Republic of Kenya Child Act 2022

a designated Children's Officer from the Department of Children's Services. We learnt from interviewees however, that some alternative care providers are accepting children without such procedures having been completed.

Foster care is defined in the Child Act 2022 as 'the 'placement of child with a person who is not the child's parent, relative or guardian and is willing to undertake the care and maintenance of the child.' A 2021 report³²⁶ indicated government estimates of the number of children in foster care placements per year was around 4,000.

Provision in the Child Act 2022 for **informal kinship care** is slightly confusing. As well as allowing this to be on the initiative of parents, other caregivers or children themselves, it can also be a decision by the court which, under international guidance, would render it formal alternative care. The practice of **Kafalah** has also been formalized in the 2022 Child Act. Guidelines for Kafalah can also be found in the 2014 Guidelines for Alternative Family Care for Children in Kenya. However, an interviewee said this guidance had not been well followed until formally legislated for in the 2022 Child Act. It is understood new guidance will be issued on Kafalah.

The legal steps to secure **adoption** are also covered in the Act. A 2021 report³²⁷ indicated government estimates of domestic adoption to be around 800 per year. The Government does not allow international adoption.

14.4. Reintegration

Due to the current lack of a national child protection data base it has not been possible to find annual data that relates to children returning to the care of their parents. In addition, very few interviewees spoke about return of children to their parents care from alternative care. Some do not think many children return to their families. This is due to lack of effort being made by social services and care providers as well as a lack of resources that are needed to support families to a point it is thought they can safely care for their children. One interviewee also said it is difficult to reintegrate children when they have been looked after in a care setting that provides a much higher standard of living than of the households the children came from. This is because they do not fit back into the family well and they themselves wish to be taken back to the care facility. Also some spoke about how the family "*will see that the child has changed and say that we don't need that child you can keep that child.*"

The Child Act 2022 provides instructions on the termination of a care placement and the decision 'to reunite a child with his or her biological parents' based on the principle of the best interest of the child. Furthermore, the Republic of Kenya's 2013 National Standards for Best Practices in Charitable Children's Institutions clearly instruct CCIs to make all efforts to reintegrate children back to their

³²⁶ UNICEF and The Way we Care 2021

³²⁷ UNICEF and The Way we Care 2021

families. The Standards requires all children to their needs assessed and plans formulated that include efforts to return them to their families as soon as possible and, if in their best interest. The Standards adhere to the importance of children being encouraged to maintain contact with their family whenever possible and efforts to address the situation that led to initial separation.

In 2019, the Department for Children's Services issued the 'National Standards of Practice for Case Management and Reintegration'. The Standards were accompanied by a 'Caseworker's Toolkit: Case Management for Reintegration of Children into Family or Community Based Care' also issued in 2019. Together the two documents, as with other statutory guidance, include tools for the assessment of a child and family circumstances, care planning and monitoring of care placements including the closure of a case. However, a 2020 report found 'support after reunification is less frequently available.'³²⁸ Overall, our research findings suggest the law and statutory guidance is not being implemented.

14.5. Decision making and pathways into care

There are different decision makers, and different pathways into alternative care, in Kenya. This is discussed in further detail below.

Reporting children for whom there is a protection concern

The first people responsible for making decisions about concerns regarding children are those deciding whether or not to report their worry about a child either to statutory authorities or an NGO. Under the Child Act 2022, anyone who has reasonable cause to believe a child is in need of care and protection should report this to an 'authorised officer'. Interviewees suggested this is usually family members, neighbours and teachers. One interviewee said,

"The community, the chiefs, the school, even the neighbours, the neighbour can come and report that a child is been violated by the mother or even by the guardian."

There is also a helpline, Childline Kenya',³²⁹ established in 2006 that children and adults can use. In 2015, the helpline was receiving up to 3,000 calls a day of which, approximately 1,000 required direct intervention from the child protection authorities.³³⁰ In the 2019, the annual report of Childline Kenya documented the number of child protection cases received that year. Physical abuse was the highest reported violation (245 cases) closely followed by sexual abuse (241 cases) and child neglect (230 cases).

³²⁸ National Council for Children's Services 2020:3

³²⁹ Childline Kenya 2019. See also: <https://childlinekenya.co.ke/>

³³⁰ Republic of Kenya and UNICEF 2015

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During our research a small number of interviewees raised a concern regarding members of society seeing children lacking care as being a norm and as a result, being less likely to report a child in need of protection,

"When you rescue a child that has been repeatedly abused, or violated you will hear a neighbour say it has been happening, we have been hearing the child screaming and we thought the child screaming was ok.... We need to educate our communities, when you hear a child screaming don't just say that it is ok. If it is their father, you need to ask yourself what is happening to this child... So we still need to do a lot of awareness creation on child rights within the community, and positive parenting."

"Another thing that I have realised because again the level of knowledge in the community and to some extent the level of ignorance most of cases are not reported. What is reported is a tip of them, most of the cases of abuse or cases of children that need care and attention are never brought to the attention of the officers."

"If for instance if you look at a child who is at risk, even in a school or a teaching or learning institution there are those teachers that will look at this child to be addressed and they want that child to look at it normal. So it is how someone is socialised how you think, your perception, the way you look at your things, so it is very easy to compromise, to think is this child at risk or not at risk so it is how you do it will depend how you are socialised and how you grew up and how you look at issues."

Interviewees said some families and members of the local community do not report cases of child abuse to the authorities as they want to resolve any issues themselves. This in part, is due to the belief that intervention of an external authority brings shame to the family and a family's reputation should be maintained at all costs. Our concern is these attitudes and actions mean children do not receive the protection and justice they are entitled to as well as remaining in harmful settings.

14.6. Child Protection Case Management and the role of the social services workforce

Amongst primary decision makers in Kenya, and users of child protection case management procedures, are teams of Children's Officers – the equivalent of children's social workers in other countries. They are employed at national, regional, county and sub-county levels by the Department for Children's Services. The work of Children's Officers is supplemented Assistant Children's Officers and trained Child Protection Volunteers. NGOs also employ social workers. Data in Tabel 6 is taken from a 2022 Government report indicating numbers of those holding a responsibility for child

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protection and welfare within different Government agencies.³³¹ As the child population of Kenya in 2023 was reportedly³³² 24,428,416, this implies a very low ratio of Children's Officers to the number of children in Kenya.

Table 6. Number of child protection and child welfare workers (2022)

Role	Number
Number of Department for Children's Services employed Children's Officers working as field officers at the county and sub-county levels	410
Number of Department for Children's Services recruited Child Protection Volunteers operating at the county and sub-county levels	421
Number of Department for Children's Services employed Children's Officers working in Department for Children's Services -managed SCIs	117
Number of Department of Social Development employed Social Development Officers working at the county and sub-county levels.	388
Number of Department of Social Development recruited Social Development Lay Volunteer Counsellors working at the county and sub-county levels	1800
Number of Disability Officers working at the national and county levels	57

(Source: adapted from Republic of Kenya 2022, page 28)

In 2018, the Government of Kenya released the 'Guidelines for Child Protection Case Management and Referral in Kenya'. Then in 2019, the Government published another edition of the Guidelines. The Guidelines describe case management tools to be used by government and CSO workers in a process to assist, 'a child (and their family) through direct support and referral to other services for comprehensive intervention in risky situations.'³³³ There are detailed instructions for case managers holding responsibility for coordinating service delivery and, case workers, including the local authority Children's Officer. This includes responsibility for intake, assessment, case planning and implementation, follow-up/monitoring and review, and case closure. In all cases, including those initiated by an NGO worker, a local authority child protection worker must be involved

The diagram below has been reproduced from the 'Guidelines for Child Protection Case Management and Referral in Kenya' and illustrates the child protection case management process (Figure 33).³³⁴

³³¹ Republic of Kenya 2022:28

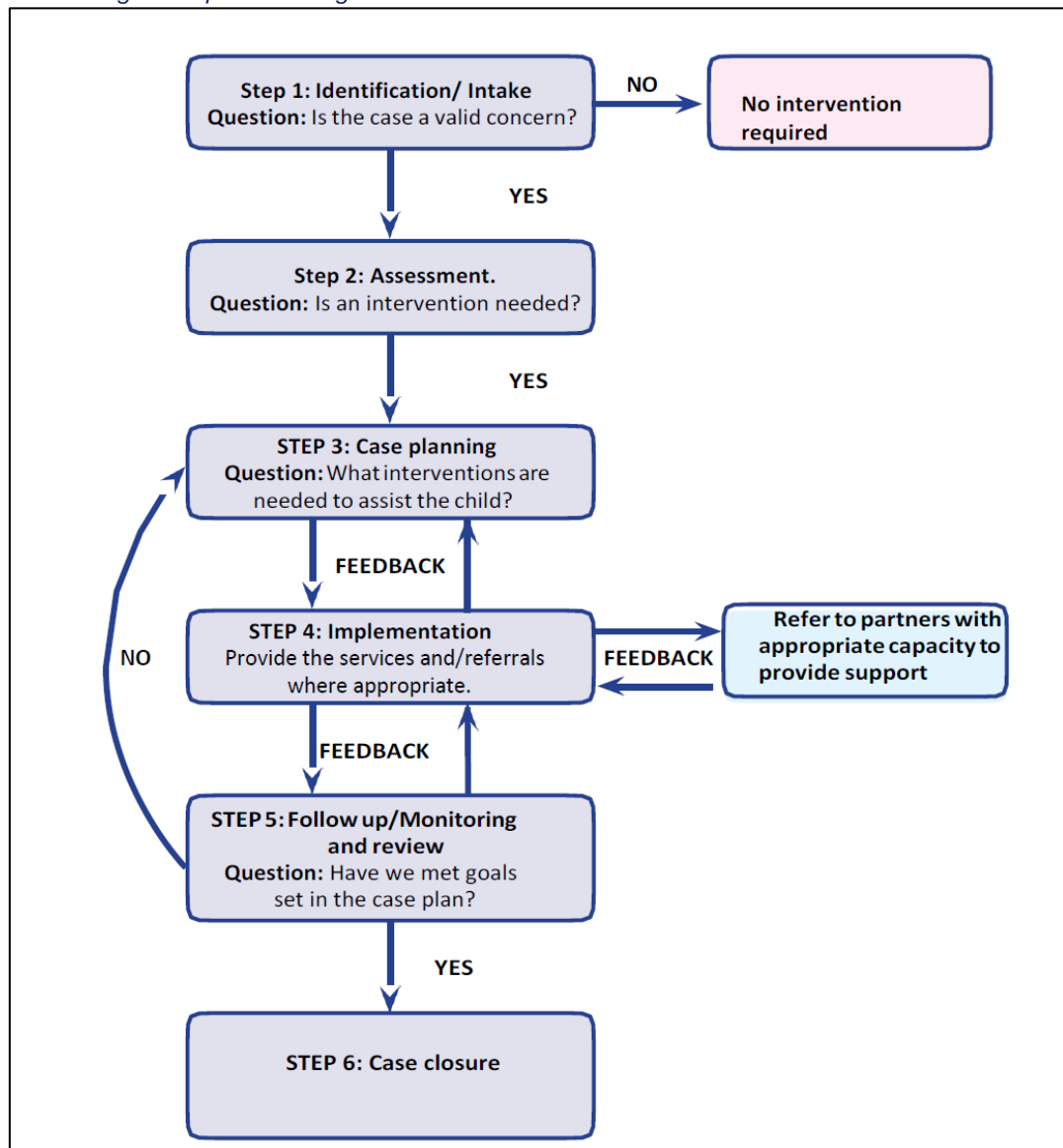
³³² Please see: <https://data.unicef.org/how-many/how-many-children-under-18-are-there-in-kenya/>

³³³ Republic of Kenya 2019:16

³³⁴ Republic of Kenya 2019

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Figure 33. Case management process/stages: flow chart



(Source: Republic of Kenya 2019:26)

The Guidelines contain different case management forms to be completed, a comprehensive assessment tool to be used with multi-sectoral stakeholders, and a detailed list of information to be collected from different professionals and the child and their family, during the assessment process. There are also instruments for case planning, monitoring and case closure as well as a section on ethics and principles. These tools are meant to assist child protection case workers in decision making and consideration of the different 'interventions'³³⁵ that can be used including placement in alternative care. It is clearly stated that poverty should never be a reason for separating a child from parental care. Although containing details of information that should be considered, in our opinion,

³³⁵ Republic of Kenya 2019:96

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the Guidelines still lack sufficient guidance to case workers on how to analyse assessment findings, including an understanding risk thresholds, that would help with decision making.

The Kenyan 'National Standards for Best Practices in Charitable Children's Institutions' require a case management process to be completed by 'a qualified and professional trained person such as a social worker'³³⁶ before any admission of a child into alternative care. Admissions must be authorised in the first instance by the local authority and a court judgement must be sought. Reasons why admission is the best option for a child should be recorded and the consent of a parent or guardian also be provided. In emergency cases a pre-admission assessment is also necessary.³³⁷ Steps should be taken to first explore the possibility of supporting the child's biological family and kinship care before admittance. Those that can make emergency placements include the local authority Children's Officer, the police, other social workers, emergency rescue teams, and additional staff from government and NGOs.³³⁸

All the interviewees we asked about the intake of children in residential facilities do understand there is a formal process that must be followed although no-one referred to any particular set of guidelines that have been issued by the Government,

"So when a child referred to me I will go to the home, and I will visit that home and maybe the home is not welcoming I will look for the parent and summon them to my office.... So, I will go there and make a visit and summon then summon the parents to my office here we talk. And find out and if it possible we make it, and if beyond, I normally refer to a Children's Officer. If there is an arrest to be made with make an arrest if there is a child to be rescued, we make rescue the child."

"For the ones that have been abused we take the child out with the help of a children's officer, then we call the officer to then look for a placement for that child...Yes it has to go to court, through it has to pass through a Children's Officer. The police is involved then the Children's Officer plus that investigator, and then they go to the court and then that person is jailed if guilty."

It is understood that some governmental and non-governmental staff have received training on the use of child protection case management³³⁹ but no further information on the numbers of trainees or the quality of training was provided.

³³⁶ Republic of Kenya and UNICEF 2013:45

³³⁷ Republic of Kenya and UNICEF 2013

³³⁸ Republic of Kenya and UNICEF 2013:46

³³⁹ National Council for Children's Services 2020

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A question put to all interviewees was the efficacy of initial assessments and decision making by staff in child protection departments and whether the right decisions for children were being taken in relation to placing them in care. There were mixed opinions but overall it is thought that the quality of assessments and decision making is not consistent and there should be improvements. Interviewees think emergency decision making is probably the most accurate. Below are some of the answers they provided,

"Yes and No. I would say first yes because there are some serious issues that you find that these children need to be removed issues of sexual abuse you know the child can never stay in the family as long as the abuser is within the family...so where the abuser is still there and previous abuse, physical or sexual, those are instances that I would say they are making the right decision."

"Some yes some no. Because for me I would comment this way some have a limited knowledge and they are not able to comprehend of the whole thing, they are not able to comprehend... And even if possibly, you might not know what the law say, you might be missing, you may be at risk in different laws not the current one."

"From my interaction with Children's Officers, I think most of the time they make the decisions based on the best interest of the child...They understand their mandate very well and they also understand the law. So when a case is presented to them, they know where to place it and how to handle it. Yes, they are doing a good job."

I will talk about our cases ok. I remember there was a case we referred to them [Government child protection staff] and then we were not expecting them just to take the action of arresting the mother and taking the children to the institutions. And I remember we came out we said no we were not expecting this. We were only expecting your support for 1, 2, 3. One we don't expect the children to go to an institution. Second this is a mother who is not mentally well, why are you arresting her? To another prison. And I remember we had a bad clash with the government because of that and they said are you going to show us how we are going to work. Then why are you referring the cases to us. So, in a way I can say our government the way they work, their way is not something that we like or love. They are very hard very harsh".

Although one interviewee, a government child protection worker, felt there are now sufficient child protection employees, overall others think there are low numbers of Children's Officers and other child protection personnel. This brings with it, pressure of high caseloads, lack of time and other resources, that would help them achieve higher standards of work. Some believe poor assessments

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and decision making is particularly impacted by a shortage of well-trained and staff including Children's Officers,

"What I know is that they are overwhelmed and seriously understaffed especially in the children's department, most of the sub-county Children's Officers there is only one Officer. We work in a sub country, that has a myriad of challenges... If you go to their offices, they receive new cases, you will find people lining up."

"I say again I talk about the limited staff that the government has, the government officers might not be able to go to every corner to find out to find out what is happening in Mombasa. So some of them will exist for years...and before the abuse is discovered a lot of children will have suffered, a lot of them will have suffered. So it takes coordination and the government does exist we are partners, we are complimenting what the government is saying."

Government reports also identify the limited ability of government child protection personnel to execute their duties due to 'insufficient human and financial resources.'³⁴⁰

Findings also suggest there are pressures placed on decision makers due to the lack of options in terms of what they can offer children and families,

"And then we request them, can you try to require any other alternative care within the families, within the family setup... They just tell us we don't have a budget for that, the government doesn't give us a budget. So we don't have any other choice we are going to place them in an institution. So, I can say that our government for me I see them using like a short cut way which is just good for just them to move that case in front of their eyes. They don't want to go their own way making sure that we are even integrating these kids back into the community."

"Because for example when a child is in need of care and protection it is the duty of the Children's Officer to look at the alternatives. Sometimes alternatives is to take this child into rescue as the permanent decision has been made. But you always find that there are insufficient rescue centres from the government. In a county where we have 47 counties there are only 5 rescue government centres within the country, so if the Children's Officer does not know what else to do, they will recommend that the child be put into an institution because they have no other option. Not because this was in the best interest of the child... So the Children's Officer, because they don't want to be seen as they have failed they have a child, they don't know what to

³⁴⁰ National Council for Children's Services 2020:14

do with them and the government has no money...So what is the last option, to take them to an institution."

In terms of NGO workers respecting the law and strategic guidance and standards of the country, a number of interviewees said residential organisations continue to accept children that have not gone through a formal process. Others said they think this practice has ceased. One interviewee thinks there are many organisations like this but is hopeful the care reforms will eventually close them down:

"Yes it does happen. It has happened. But the care reforms are really addressing those loop holes. I will call them loop holes because I don't think it is just ok just to receive a child...I know that there are organisations that do that. But if your care strategies are implemented and implemented properly such organisation would cease to exist. I think these are some of the gaps that I think the government wants to see reduced...The government officers do actually share in our meetings when we are with them that they do not have accurate data on the number of organisation and individuals who are taking care of vulnerable children. They only have data on registered systems. But unregistered are more than the registered. So there are so many people who are squandering as philanthropists, I am here to help. But they are actually enriching themselves and they will take photos send them to their donors and say this is what we are doing. But they are actually abusing children."

14.7. Other decision makers

Role of the judiciary

Judges are important decision makers in Kenya. The judiciary, play an essential role in making decisions about children including during custody cases, when there are protection concerns, and whether to use alternative care. The court should receive the details of an assessment and recommendations made by a Children's Officer. They can also make a child assessment order to be carried out by someone appointed by the Court. Judges based in Children's Court then have different options when deciding what is in the best interests for a child. They can make an order that the child remains in the care of their parents or other primary caregivers. This might be subject to a supervision order. A judge can also decide to issue a family assistance order which provides advice, counselling and guidance to a child, their parents, custodian, guardians, relatives or anyone else who has the 'care and control' of the child.³⁴¹ Children can be placed in drug rehabilitation centres for 'treatment or professional counselling'.³⁴² A judge can issue a provisional child care order by which a child is placed with 'any fit person or institution' pending further court orders. The ultimate decision whether or not to issue a care order and place a child any form of alternative care also lies with a judge. Courts also

³⁴¹ Republic of Kenya Child Act 2022

³⁴² Republic of Kenya Child Act 2022

makes decisions regarding custody of a child, and maintenance orders, in cases of parental separation.

Only a small amount of information was provided by research participants when asked about the competency of the judiciary and decision making,

That is a tough question, but I would want to rate it here in Kenya, the judicial cases, I believe that they have improved because there has been a lot of shouting and outcry on decision making on the judiciary magistrates, on the children courts. So yes. So the NGO the human rights have also been looking into it at depth so at times you can go to courts. I have gone to courts several times for the protection of children, and you realise some of the times when we are making decisions you realise that there are issues that needs to be looked into and if you are not a very aggressive person you may lose and you can actually see the way they have been run and the way they have made a decision on that case. And some of them are fair and they do their duties very well and some of them are biased.... But some of the cases are not going very well that is what I would say/”

”The children get to say what they want. But that aspect of best interest of the child, sometimes it is over rated. You see the child has no full capacity to decide. They can be easily swayed. Sometimes it is considered but sometimes it is overwritten by the judge and the decision of the Children’s Officer and their report.”

A common perception is judges rely heavily on the child and family assessments they are provided. Mention was also made about the delays when waiting for courts and the decisions regarding children’s care.

The role of police

Very little information was provided by interviewees, or found in the literature, as to the role of police and children at risk. According to interviewees, police can be the first to respond to reports of child protection concerns and they think their involvement in decision making when called to emergency cases are usually the correct ones. Only one interviewee commented on the training of police,

”That is a very key area in need and I guess, if I am not wrong, I think there are only two organisations known for training police officers on children rights and the rights of the child in the juvenile justice system... We have ensured that here in Nairobi the officers that are manning the children’s desk have at least been trained. But six months they are transferred and a new one comes. So, there is always a gap around training police officers. In fact, sorry to say some of them, maybe be the major ones who harm the children within the judicial system. You will find that the children are put

together with adults in the same cells and other staff because they do not even know it is wrong. And where even if they know, there are no facilities to keep children for that time before they are taken to the courts. So there is a big gap."

The role of alternative care providers and NGOs/CBOs and UN agencies

The vast majority of residential care is provided by non-governmental service providers, whether not-for-profit NGOs and CBOs, faith-based organisations, or private businesses. They play a significant role in deciding which children they accept into their care and whether or not they first require official procedures to have been finalised that determine whether or not a child could remain safely in the care of their parents or wider family or not. By law, they should be registered with the Ministry of Labour and Social Protection and must abide by all Government legislation and regulations.

As previously noted, residential care providers should not accept and keep children who are relinquished directly into their care by parents or other legal/primary caregivers without going through official child protection case management procedures. Those working in alternative care provision, said their organisations carefully follow all procedures. They also said some agencies are making efforts to improve their practices and are now reorientating use of funds to support rather contribute to the separation of families. They recognise that child care reforms now promote more family-based alternative care which should help reduce the current dependence on residential facilities. They also understand however, that not all care providers are adhering to the law or to gatekeeping procedures.

Of concern are reports signaling children are allegedly being trafficked into and out of residential institutions. This includes mention in the Government of Kenya's 2022-2032 strategy for child care reform of how 'child trafficking and institutionalization intersects'³⁴³ and that 'orphanage trafficking is happening in Kenya'.³⁴⁴ This is a very serious issue that confirms children are being accepted into residential care institutions without due judicial and administrative process, and therefore, without assessment informed decision making and other gatekeeping procedures. It has not been possible to assess just how many residential facilities are being run purely as an opportunity to earn money. In 2020, the National Council for Children's services also realised the need to raise awareness as to 'the harms of residential care'³⁴⁵ and to make budgets available for advocacy campaigns. It was not possible to assess the degree to which this aim has yet been realised.

In the online survey over half of all respondents think providers of residential care 'sometimes' persuade parents to relinquish their children into alternative care. (Table 7).

³⁴³ Republic of Kenya 2022:30

³⁴⁴ *ibid.*

³⁴⁵ National Council for Children's Services 2020, page 37.

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Table 7. Reasons children are placed in alternative care

Reasons children are placed in alternative care	Often	Sometimes	Never	I don't know
Because someone from an alternative care facility has persuaded the parents that it would be best to put their child in that facility	3	15	3	3

NGOs, including faith based organisation, are also a significant provider of child protection services, work with OVCs, and family strengthening and parenting programmes in Kenya. In general, it is understood this work is undertaken in collaboration, and under the oversight of, the Department for Children's Services.

Staff of UN bodies and NGOs are also influential in the development of government policy and strategic guidelines as it is understood they are frequently consulted by Government bodies and departments. UN bodies and NGOs are also influential in terms of the decisions they make regarding how and where they invest their expertise and funds in child protection and welfare programmes. They also lobby for change to government legislation, policy, and practice, and can influence the general public through the messages they promote in their advocacy programmes.

Traditional community child protection mechanisms

The Government of Kenya recognise many, 'of Kenya's traditional communities and cultures have their own traditional community approaches to care which are still practised, or else they influence approaches for managing informal kinship and foster care placements.'³⁴⁶

One interviewee spoke about concerns that child protection decisions are being made by, and within, the family or community,

"Those men are never bought to book they never report, and some of them that fight for the rights for the rights of their daughters, it was settled at home and not reported to relevant authorities. They are encouraged to maintain the family name, do not spoil the name of this family and yet the child is being abused by their biological father. So for women who cannot stand that abuse they opt to run away with their daughters...For us as a country we have laws to protect children but when it comes to sexual abuse you don't settle it at home."

³⁴⁶ Republic of Kenya 2022:132

14.8. Data collection and management information systems

The UN Guidelines for the Alternative Care of Children³⁴⁷ advise States on 'development and implementation of coordinated policies. Such policies should be based on sound information and statistical data. The necessity of accurate and systematic data collection for information on characteristics and trends of child protection and alternative child care is crucial for the development and application of appropriate and evidence-based policy, practice and services.

It has been reported that a data management system for child protection called the 'Child Protection Information Management System' has been developed that has input from government statutory institutions and CCIs. According to UNICEF,³⁴⁸ by 2017 the system had only been piloted in 13 of the 47 counties. According to Chege and Ucembe³⁴⁹, by 2020, full roll out had not been achieved. Furthermore, as recently as 2020,³⁵⁰ it was also acknowledged that there are no multi-sectoral forums that are sharing and reviewing data that would help inform decision making in relation to child protection policy and programming.

Our findings show there is a recognition that the causes of family separation in Kenya are diverse, complex and multifaceted. However, to develop effective prevention strategies, more systematic collection of data is needed to identify and understand the drivers of family breakdown and separation. Although studies have been completed containing data on violence against children, our desk review did not produce any up-to-date disaggregated data on children in the child protection and alternative care system. A lack that was also recognised by the National Council for Children's Services in 2020.³⁵¹

14.9. Training for decision makers

It has not been possible to conduct an in-depth assessment as to the understanding and competency of child protection workers, nor the quality of higher education or other training opportunities that would provide them with the necessary skills. Some information collected during interviews shows mixed opinions regarding training for those working in child protection,

"Yes, definitely there is also lack of awareness among the Children's Officers. You realise that in Kenya there is no children courses, they cannot go to a university or a college to learn something specific on children. So the people that are Children's Officers are from diverse fields... They do not also have the background knowledge about children or about the best interest of the children. And you will find as like a

³⁴⁷ UN General Assembly, Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly, 24 February 2010, A/RES/64/142, available at: <https://www.refworld.org/docid/4c3acd162.html>

³⁴⁸ UNICEF 2018

³⁴⁹ Chege and Ucembe 2020

³⁵⁰ National Council for Children's Services 2020

³⁵¹ National Council for Children's Services 2020

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NGO, even the ones that are training the Children's Officers, that are training the on the best interest of the child or even the new Children's Act, they do not have a clue of to what it is about because the government has no money to bring them together and to train them...So I wrote of gaps and capacity building for the children's actors we are doing that but of course the impact is so small we can only do so much."

"What I know, the government looks at minimum education. Sometimes they don't always look at your degree, or your degree in what, but maybe they are changing...I don't know whether these days if they are more specific, because some of my class mates in campus are probation officers, some of them are immigration officers others are teachers...So these days whether they have changed their criteria. But in those days it was just a minimum requirement was a degree. It is just a degree from a recognised university." (interviewee when asked if Government Children's Officers have to have a social work degree)

"Not all. I would say 80% understand, not 100%. There has been training on the new law. I underwent one in March. I don't know the numbers that have been trained. "

"But most of them [child protection workers]...maybe they joined employment with the minimum requirements, maybe a degree in social work, in community development... The government Officers also trained a lot. But very few, the government officers, the Children's Officers, are also trained, continuously trained. But very few, so they might not reach every case."

"There is a gap. A big gap..."

In 2020, the National Council for Children's Services particularly acknowledged the contribution made by UNICEF in helping to strengthen the social services workforce for child protection.³⁵² The Council also recognised the 'overall lack of availability of training'³⁵³ and said, of the training that did exist, 'none of it is sufficiently reaching relevant staff.'³⁵⁴ Training was thought to be sporadic and also consisting of just short term, sometimes only a few days, of learning.

Our findings suggest there is a considerable amount of what might be described as 'ad-hoc training being made available to child protection and other social services workers. Furthermore there is a gap in the training of other relevant professionals from different sectors in the topic of child protection and the use of child protection case management tools.

³⁵² National Council for Children's Services 2020

³⁵³ National Council for Children's Services 2020:4

³⁵⁴ *ibid.*

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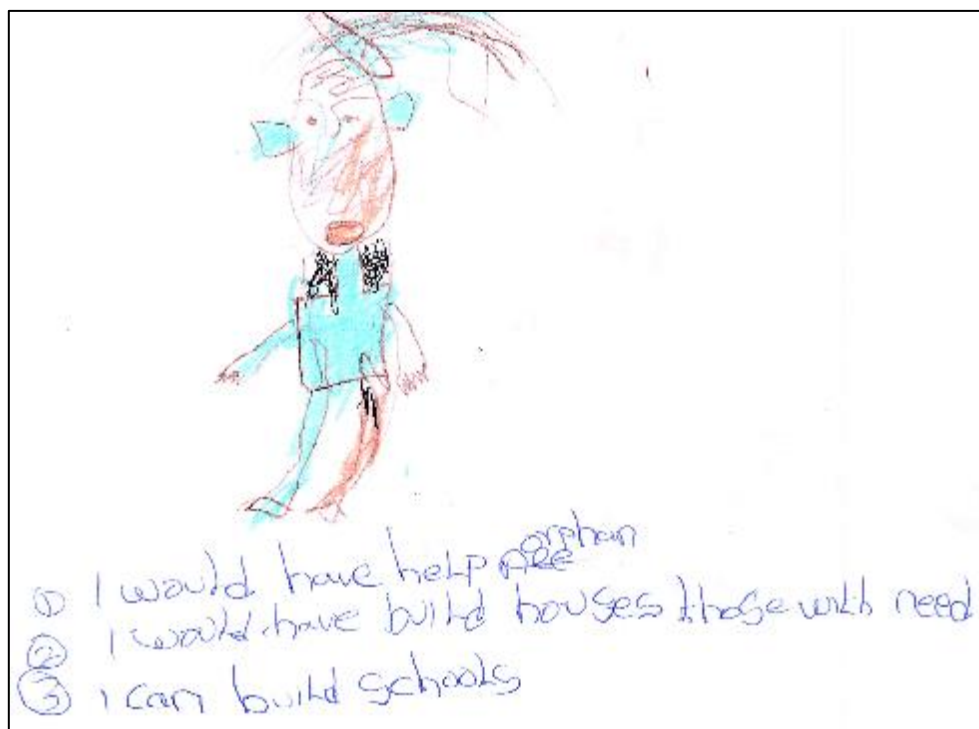
We recognise that only partial information was collected during this research relating to the topic of social services workforce decision making, along with analysis of the efficacy of delivering the child protection system and those working within it. It is suggested this topic requires further investigation. Overall our findings suggest that decision making that is always in the best interest of the child is being hampered by insufficient investment in the social services workforce as well as the gatekeeping tools and processes they use. Furthermore, the ongoing existence of residential institutions contributes to decision making that continues the placement of children in institutional alternative care.

15. Solutions to challenges provided by research participants

It was very important to ask children, young people and family members who participated in our research workshops for their ideas regarding solutions to the challenges families are facing.

To do this, during the research workshops children were asked to draw themselves as superheroes and write the three things they thought most important to change for families using their superpower (an examples is shown as Figure 34). As each child provided their own answers, there was no overall ranking. They wrote about using their super powers help children go to school, provide families with food and good houses and employment. Children being safe at home, healing the blind, helping orphans, and being good, were also solutions children said they could achieve with their superpower.

Figure 34. Examples of a super hero drawn by children



In the two of the four workshops with young people, participants broke into groups to think about solutions to the challenges that families are facing. They grouped and ranked the topics in the order they thought they should be addressed. Stopping violence in the home is a priority and two thirds of their solutions related to the support needed to help improve family relationships and increase trust, respect, and better communication. Young people also wrote about the importance of tackling economic problems. Improving access to employment is seen to be important as is education, less expensive health care, and financial and material support to families.

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When considering solutions, it is important to also consider the things that help make children and young people happy. We were told that children and young people are happy when there is no violence and they feel loved, protected, and there is a sense of family unity. They are happy when they are not discriminated against by other family members, when their views are respected, and they feel their parents support and understand them. Having a loving, peaceful and happy family atmosphere is important. In particular many children and young people want more family time together, as for example time spent having meals together and pursuing recreational activities. Young people want to have self-esteem and their privacy respected. They want to be allowed to be themselves.

Adults attending the family workshops were also asked about solutions they thought would help address the challenges they had raised. They want an end to violence, and that families should be *‘on good terms’* and that there should be *‘love’*. They particularly want the *‘violence to stop’* against children and women. Access to counselling that would help with *‘educating on parental skills’* and *‘counselling for parents’* to help with their *‘relations with their children’* were suggested. In addition they want improved access to stable and well remunerated employment, to be able to feed their families, and to have *‘good health’*. They also want help in accumulating *‘savings’*. In this respect, improved access to basic services including better and free local health services, and education that is completely free so they can send their children to school, is very important. Many called on the government to uphold its responsibility and improve support in all areas to families, especially to those that are *‘vulnerable’*. One participant said the *‘government should do the same programmes as NGOs and not leave it to NGOs’* and another that *‘government should stand and give attention to the ground not just when they want to be elected’*. One parent wrote, *‘I need help to protect my family and to be given help for a way forward’*.

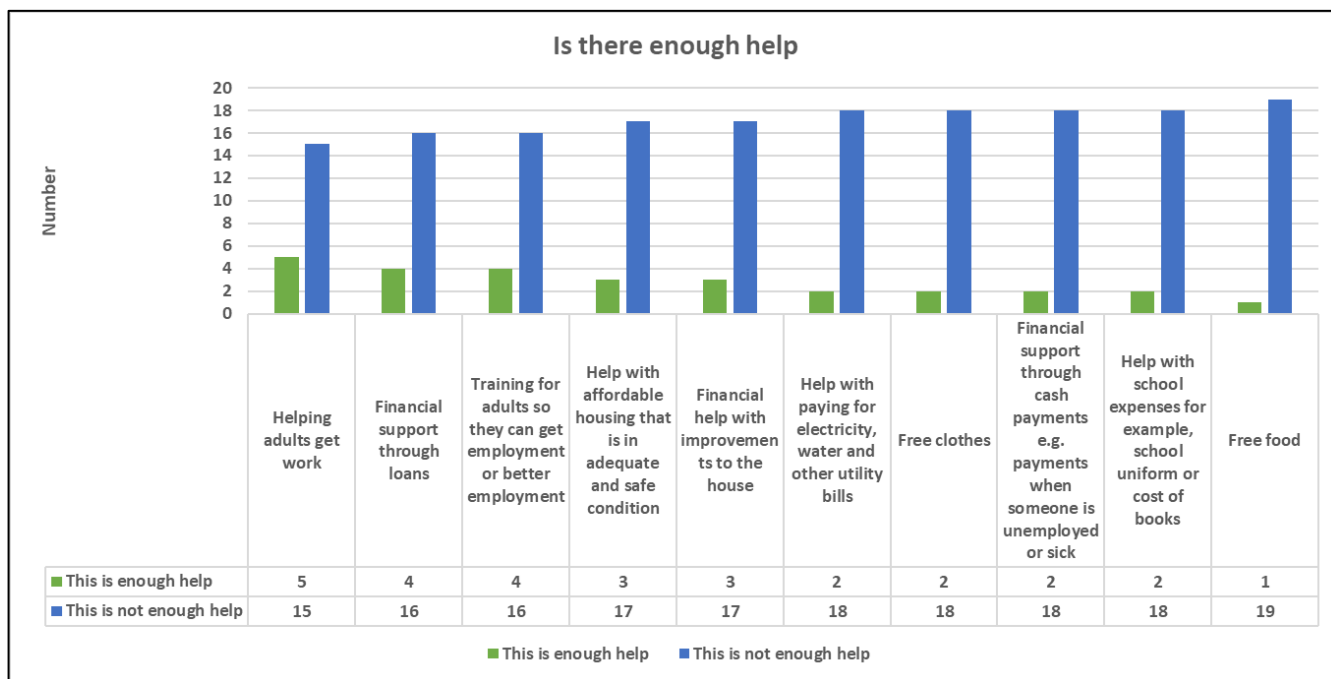
Interviewees were asked for their recommendations regarding actions and services that could help improve the situation for families and prevent child-parents separation. They stressed the need for more investment in parenting programmes that promote positive parenting skills and improve family relationships. These programmes should focus on building trust, communication and unity in the family, improving understanding and tolerance between family members, and strengthening emotional bonds. They should raise awareness as to the importance of emotional care for children and how loss of parental care can have a detrimental impact on the development of a child. They said it was important to start awareness of positive parenting skills even during pregnancy and early childhood. They recognise violence in the home and in the community is greatly impacting the lives of children and their families and to help prevent this, it is suggested that there should be improved programmes of violence prevention, as for example built into the school curriculum Sex education programmes should be strengthened and messages about family planning should be increased. A further need is support for families with children with disabilities. Not just in terms of access to support services but also in building awareness that would tackle stigma and discrimination, both within families and amongst the general population. Some believe awareness raising campaigns amongst the general public that highlight the importance of providing a protective environment for

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children will be helpful as well as providing support to local communities so they can support each other in a positive manner.

Respondents to the online survey think that all forms of basic and specialist services and support for families who are at risk of separation is insufficient (Figure 35).

Figure 35. How much support is available to families



One interviewee spoke of the Government's social welfare programme that helps self-help groups with start-up grants upon submission of a small business proposition but it is unclear just how many families this currently reaches. In addition, some NGOs, are providing family strengthening and support programmes that incorporate both direct resource provision and capacity building. However, information gathered during our research, including responses to the online survey, highlights the need for far more support. It is understood some agencies are running programmes on positive parenting and family guidance services but this is also an area of work needing much more investment across the country, and especially expansion into rural locations.

16. Conclusions and Recommendations

The recommendations in this section of the report have been informed by the information children, young people, and adult family members provided during research workshops. These findings have been triangulated with the knowledge and understanding provided by professionals holding responsibility to protect children and support families in Kenya, as well as information gathered during a desk review.

The research framework, analysis of findings, and development of recommendations have been guided by the UNCRC and the 2019 United Nations General Assembly Resolution, 'The promotion and protection of the rights of children' as well as the UN Guidelines for the Alternative Care of Children. Recommendations are therefore addressed in reference to children's rights. Although these rights are indivisible, and all are essential to the well-being of children, we have chosen to develop recommendations based on a certain number of rights thought most applicable to the findings of the research and prevention of child-parents separation.

With regards such guidance, it is the responsibility of States Parties, along with other bodies and organisations, to address drivers of separation and do everything possible so that children can remain with their parents in a safe and caring environment. This requires a society that is free from violence. It means combatting stigma, discrimination and marginalisation that individuals and families face on the basis of such issues as ethnicity, gender, disability, sexual orientation, and birth status etc. It requires a strong national economy with programmes of poverty alleviation. The safety and security of all citizens, and systems and delivery of a range of basic and specialist services such as education and health as well as utilities, employment, and adequate shelter are also important. There should be a social protection system that provides for individuals and families when in need of such support including unemployment, sickness and disability benefits, pensions and other social safety nets. Furthermore it requires a strong child protection system, including the systematic application of gatekeeping mechanisms and a well-resourced and trained social services work force. It is also incumbent on governments to develop the necessary normative framework for child protection and family support. Programmes should be informed by the regular and rigorous collection, analysis, and use of, data. Overall, this approach is grounded not only in the fundamental spirit of the UNCRC but also in many specific UNCRC provisions, such as a right to health (Article 24), education (Article 28), support for the role of parents (Article 18), conditions for separating a child from parents (Article 9), right to social security (Article 25), rights for children with disabilities (Article 23), and protection from discrimination (Article 2).

We recognise that responsibilities to address drivers of child-parents separation and prevention of placement of children in alternative care is primarily that of the Government of Kenya through the provision of national and local socio-economic programmes and service provision. This is a

significant responsibility. Our research has not included an in-depth analysis of all these different aspects of government responsibility but has tried to consider some of the gaps in provision. We also recognise that UN and other international bodies play a significant role in service provision alongside national and international NGO, CBOs, faith-based organisations, and private enterprises, and these differing roles and responsibilities should be a consideration when reading the conclusions below.

In terms of findings relevant to differences between rural and urban settings, there was no clear indication of differences. However, we only conducted workshops with children and young people in one rural location. Interviews and workshops with adult family members were conducted in two urban settings and this may have impacted the findings.

The remainder of this section of the report contains a significant number of recommendations and this may appear daunting. However, partnership working between government and non-government agencies can bring about change when responsibility is shared and each organisation works to its own strengths and expertise.

Protection

Articles of the UNCRC that afford children the right to protection include, safeguarding from violence, abuse and neglect (Article 19 and Article 37(a)), from sexual exploitation and abuse (Article 34) and, from sale, trafficking and abduction (Article 11, Article 35, Article 36, Article 39).

In particular, Article 19 requires:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Recognition is given to the efforts of the Government of Kenya which, over recent years, has invested in the development of legislation, policy and strategic plans that aim to end violence against children. However, a conclusion of our research is that the continuing physical, sexual and emotional violence against children is a driver of family breakdown and their placement in alternative care. Children and young people, along with other research participants, identified the presence of violence within families, and their communities. They specifically wrote about experiencing and witnessing violence in the home. Violence in the home is also resulting in children running away from their families or placing them in positions that could activate a referral to social workers and child protection officers, or contact with the police. This includes children who run away from untenable situations in the home and become street connected, are involved in child labour and gangs, exposed to drugs and alcohol, and other situations that place them at risk.

The high prevalence of violence against girls and women is a concern and particularly sexual abuse which was specifically mentioned many times by research participants, including children and young people. This is in part, is attributed to a culture of male dominance in many households. Domestic violence, which is predominantly experienced by women, is contributing to risks of children being placed in alternative care. Not only is the violence itself placing children at risk, but placement is occurring when as a result, parents separate and a child/children are not kept with either the father or mother or, are not accepted by new partners. Domestic violence is also leading to women becoming the head of households and all the stressors this entails. Especially when they have no-one to turn to for help, e.g.. no familial or social support network. Research shows how female-headed households face specific challenges in terms of poverty, lack of employment opportunities and child care, and the anxiety and worry of coping alone. This can deplete a parent's ability to adequately care for their children and situations that result in poor and broken relationships between children and caregivers. Children are becoming direct victims of domestic violence thus prompting child protection authorities to respond and remove them from parental-care.

It should not be overlooked that some men are also struggling within the family home, especially with societal expectations that place responsibility on them to adequately provide for their families. This can affect their mental health which, as previously mentioned in this study, can result in violence against children and partners. Men also need support that will help them maintain strong and caring family relationships.

Inter-generational violence is a particularly worrying phenomenon in Kenya. It has been recognised that violence can be a learnt behaviour³⁵⁵ through 'observation, learning and imitation'³⁵⁶ of adults, and/or being a victim.³⁵⁷ Our perception is, with each generation in which families in Kenya repeatedly experience and witness violence, and lack strong attachment to each other, family dysfunction and breakdown will continue. It means within each generation there is the concern of an ever weakening ability to parent in a loving and caring and protective manner in some households.

Although not always directly related to issues of violence and neglect, children are also living in alternative care because they are orphans and without any other family members who are willing or able to look after them. Although it is also recognised that there are thousands of children in Kenya who are living in informal kinship care. Children with disabilities are also being placed in alternative care when parents are unable, or do not want to, provide the care they need.

Recommendations

³⁵⁵ Moylan et al. 2010

³⁵⁶ Conteras & del Carmen Cano 2016:44

³⁵⁷ Conteras & del Carmen Cano 2016; Bevans & Higgins 2002

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- There is an urgent need for investment in violence prevention programmes for adults and for children to help break the inter-generational cycle of violent behaviour. These programmes should be systematically applied in an ongoing and sustainable manner. To this end, provision of violence prevention programmes that reach children at an early age could be built into the school curriculum and comprise not just one-off 'civic' lessons, but continuous learning that promotes positive messages and behaviour throughout a child's school life. Violence prevention could also be built into family strengthening programmes that work with all members of the family.
- Article 2 of the UNCRC guarantees children protection from discrimination. Violence prevention programmes should include efforts to combat factors that contribute to the presence of abuse and exploitation including discrimination, stigmatisation, harmful cultural and social norms, and lack of equality. They should incorporate clear messages that promote tolerance and understanding. Issues of gender equity, ending discrimination against persons with disabilities or from different religious, ethnic, or other specific backgrounds, and acceptance of those identifying as LGBTQI+ are examples of topics such programmes should include.
- To help inform policies and programmes that promote safe and united families, all professionals who hold responsibility for the well-being of children would benefit from a better understanding of the factors that are contributing to violence in the home, and in the community, in Kenya.
- In order to help break the cycle of inter-generational aspect of poor parenting ability, professionals would benefit from a better understanding of such topics as attachment theory, including the impact of separation from loved ones that children face when placed in alternative care, the negative impact of adverse childhood experiences (ACEs),³⁵⁸ and trauma-informed practice. (TIP).³⁵⁹ These topics should also be incorporated into programmes for parents and other caregivers as prevention of violence also requires sustained actions working closely with families to bring about an understanding of the harm being created when they use violence and finding ways to address such abusive situations.
- Those living in situations of domestic violence and gender-based violence, most especially girls and women, need someone to turn as for example, access to counselling and psychosocial services provided within a caring and safe environment. When rejected by extended family and the wider community, and with no-where else to go, specific programmes including access to crisis shelters, and other support services, for women and their children could offer immediate protection. This could also help prevent situations from deteriorating to the stage where children may be separated and placed in alternative care. Access to child day care and after school clubs would also provide some respite for women living in chaotic and stressful households. The building of stronger supportive social networks is also important.

³⁵⁸ Please see: <https://www.eif.org.uk/report/adverse-childhood-experiences-what-we-know-what-we-dont-know-and-what-should-happen-next>. See also: SOS Children's Villages International and CELCIS, Centre for Excellence for Children's Care and Protection, University of Strathclyde 2021; SOS Children's Villages International 2022

³⁵⁹ SOS Children's Villages International 2022

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- Men should be actively involved in family strengthening and other programmes that help them understand the importance of, and how to maintain, strong and caring family relationships. This should include awareness on issues of gender parity and prevention of domestic violence.
- Article 42 of the UNCRC requires States Parties to make the principles and provisions in the Convention 'widely known, by appropriate and active means, to adults and children alike.' Efforts to increase the awareness of child rights amongst the general public as well as the harm to children when they lack love, affection and are victims of violence can help strengthen the protective environment in the home and community. Messages might also include information about risk of violence and exploitation children face as for example, if spending time on the streets, engaged in child labour, and being exposed to drugs and alcohol.

Adequate standard of living and well-being

Article 27 of the UNCRC requires States Parties to recognise the right of every child to a 'standard of living adequate for the child's physical, mental, spiritual, moral and social development.' The Article also calls on States Parties to take appropriate measures to support and assist parents with their responsibility toward children and 'shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.' Other articles within the UNCRC also include a right to health (Article 24), education (Article 28 & 29) and survival and development (6).

The 2019 United Nations General Assembly resolution³⁶⁰ on the 'Promotion and Protection of the Rights of the Child' calls on States to 'improve the situation of children living in poverty, in particular extreme poverty, deprived of adequate food and nutrition, water and sanitation facilities, with limited or no access to basic physical and mental health-care services, shelter, education, participation and protection' (Article 1). Furthermore, the resolution clearly says that,

financial and material poverty, or conditions directly and uniquely imputable to such poverty, never should be the only justification for the removal of a child from the care of his or her parents or primary caregivers and legal guardians, for receiving a child into alternative care or for preventing his or her reintegration, but should be seen as a signal for the need to provide appropriate support to their family, benefiting the child directly.

We have observed how issues related to poverty are a driver contributing to children's placement in alternative care in Kenya. Poverty is an inter-generational as well as a multi-dimensional issue with measurements of poverty taking into account not only financial means, but other factors that

³⁶⁰ United Nations General Assembly Resolution 'Promotion and Protection of the Rights of the Child', December 2019 'A/74/395

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contribute to well-being.³⁶¹ Concerns raised by children, young people and adult family members during our research signalled many areas of their lives in which they are struggling with issues related to poverty. Our research findings also suggest a correlation between the ability to face such daily challenges as providing food, adequate shelter, paying utility bills, sending children to school, and finding adequately remunerated and stable employment etc., with stress and tension found within households. Costs of medicines and health services are also contributing to worry and concern. We have also been told that the social protection programmes that do exist are not sufficient and are not reaching all the people that need such support. This is compounded by the absence of adequate access to basic and specialist services for many and challenging living conditions as for example in the informal settlements in urban conurbations. Persons with disabilities face multiple challenges including issues of exclusion and stigmatisation that further compound their ability to access already scarce basic and specialist support services. As a result of all the aforementioned circumstances, the ongoing challenges facing parents can exacerbate feelings of distress, anger, poor mental health, and for some, an inability to cope. This can lead to deterioration in family relationships and may even lead to violence against children.

Findings also suggest the need for greater support for families and communities in rural areas. It is understood that violence and the breakdown in marriages/partnerships and family relationships in villages, is resulting in some women fleeing with or without their children, to the cities where they end up facing additional hardships. They move to cities, particularly when lacking support from family and community networks, with the belief they will find more opportunities in larger urban conurbations. This is often not the case however with their exposure to hardship and violence even increasing. In this respect, one concern is the focus of some NGOs on more reactive programmes that are based in urban settings rather than preventative services in rural areas.

Although we have seen how issues related to poverty contribute to family breakdown and the presence of violence, nevertheless, it is recognised that there are families living in very difficult circumstances who are supportive and caring of one another and do create a safe environment for children. This illustrates how strong loving relationships are an important factor in helping families stand up to the impact of poverty and other shocks experienced by households.

It is clear not one agency can respond to all the multi-dimensional aspects of poverty leading families into crisis. However those in the child protection sector, as with other sectors, very often work in a silo rather than in partnership with other professionals (and indeed, alternative care is often seen as a separate issue/sector to child protection). The Government of Kenya has recognised this in the many policies and strategies that have now been developed with a view to family strengthening and

³⁶¹ Please see: [https://www.worldbank.org/en/topic/poverty/brief/multidimensional-poverty-measure#:~:text=The%20Multidimensional%20Poverty%20Measure%20\(MPM,the%20%242.15%20international%20poverty%20line;https://ophi.org.uk/video-poverty-in-el-salvador-from-the-perspective-of-the-protagonists/](https://www.worldbank.org/en/topic/poverty/brief/multidimensional-poverty-measure#:~:text=The%20Multidimensional%20Poverty%20Measure%20(MPM,the%20%242.15%20international%20poverty%20line;https://ophi.org.uk/video-poverty-in-el-salvador-from-the-perspective-of-the-protagonists/)

prevention of child-parent separation. However, there appear to remain gaps in the funding and other resources necessary to achieve such important aims and objectives. Furthermore, a need has been identified to strengthen coordination and service delivery between Government and non-governmental bodies and agencies including those responsible for education, health, security, social protection and social welfare, justice, and child protection. Once again, steps to address this are highlighted in Government policy but are still not sufficiently addressed in practice.

Recommendations

- It is beyond the remit of this report to provide detailed recommendations as to government efforts to strengthen the country in terms of financial investment and other aspects of national monetary policies. It would be possible however, for different actors to come together and instigate advocacy for change, including the gathering and sharing of information that would help government policy makers, and others, gain a clearer understanding of efforts needed to improve services and programmes that prevent children's placement in alternative care. Especially information that takes into account the multi-dimensional and inter-generational aspects of poverty and the impact this has on families. This requires awareness raising that informs the establishment of an evidence based multi-sectoral and family-centred approach to the design, development and delivery of support to families with the understanding it is often more than one pathway or issue that contributes to family breakdown. One specific focus of such advocacy should include the development and availability of fully functioning social protection systems that reach all those in need of safety nets.
- Helping families address the many challenges they are facing requires closer multi-sectoral cooperation and improved coordination between Government and non-governmental bodies and agencies, UN entities, academics, faith-based leaders, the private sector, and donors, including those responsible for education, health, security, social protection and social welfare, justice, and child protection. There should be a concerted effort together, and within each organisation, body, or department, to assesses and recognise where each can most effectively contribute: whether it be direct service provision, advocacy to effect change, signposting so that families know how and where to receive the support they need, fundraising, or even leading/supporting such coordinated response. Organisations should also look at the breadth of their outreach to ensure they are reaching vulnerable families everywhere.
- Families need informed and coordinated access to service provision in a way that will address all the inter-related challenges they face. This should be available universally to address the concern that support often comes too late and so that vulnerability of families might be prevented. To this end consideration should be given to providing families with signposting to basic and specialist services as well as ensuring receipt of joined-up provision in a way that overcomes barriers of access. One example would be providing access to all support that is coordinated in one location

rather than family members having to move from agency to agency to resolve their problems. In some countries for example, this is sometimes called a 'one-stop shop'.³⁶²

- Supporting families to undertake the responsibility of adequately providing for all in the household could include programmes that help increase access to sustainable income generation schemes and in obtaining stable, well remunerated employment. This should be linked with easily available and free adult education programmes and other capacity building and training opportunities for both women and men. Such economic and training programmes require highly skilled facilitation and should be undertaken by organisations that have the particular focus and specialism to implement them.
- Article 18 of the UNCRC requires States to 'take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.' Affordable, or preferably free, day care for children would help women in particular find their way into the work force. It could also provide respite for those struggling with the stress of household responsibilities and overwhelmed by challenges of everyday life. In this way such provision would help in alleviating any pressure building up within families. This should include day care for infants as well as after-school provision.
- Increased efforts are needed to provide readily accessible psychosocial and mental health services and counselling programmes. The latter should also be a consideration in the delivery of family strengthening programmes.
- Children should not be placed in alternative care solely for the reason of poverty. Alternative care should only be used when absolutely necessary for children in need of protection. There is also a need for further in-depth investigation and the use of evidence applied to implementation of legislation, policies and strategies that eliminates the use of residential institutions and refocuses the funds currently used to run these facilities toward programmes that allow children to remain in their own homes. Any Government plans for the elimination of all residential institutions in Kenya requires the adequate expertise and resources to ensure they are enacted.

Support with parenting

The preamble to the UNCRC states that the 'family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community'. This requires States to provide parents, and other primary caregivers, with the support needed so that children have the best protection and opportunities in life.

Children and young people feel happy when they have parents that love, respect and understand them. They want to feel cared for, trusted, have better communication within the family, and to live in an environment where there is unity, support, and happiness. When asked why families reach a

³⁶² Please see: <https://www.undp.org/botswana/news/undp-supports-establishment-one-stop-shop-public-services-botswana> And: <https://www.undp.org/kazakhstan/stories/one-stop-shop-window-problem-solver-people-difficult-life-situations>

situation where placement of children in care is a consideration, interviewees drew attention to lack of harmony and to dysfunction in the family due to what they consider to be 'poor' parenting skills. They see the lack of parenting skills as a significant factor related to deterioration of child-parents relationships which can ultimately lead to violence against, or serious neglect of, children.

Interviewees also identified how lack of positive parenting skills is not only impacted by socio-economic circumstances as described above, but can be an inter-generational phenomenon. Findings in our research indicate the negative experience some parents had during their own childhood is impacting their own ability to parent, as well as having a detrimental effect on other aspects of their life. One outcome being an inability to maintain harmonious, unified, supportive relationships in the home leading to family breakdown and violence.

Many of the recommendations in this report will contribute to supporting those parents who are struggling with their role to better protect and care for their children. Below however, are additional specific recommendations towards achieving this objective.

Recommendations

- As with previous recommendations, actions are needed that will break any inter-generational cycle of poor parenting and violence. This requires consideration of parenting programmes that take a holistic and family-centred approach and incorporate such topics as attachment theory, the negative impact of adverse childhood experiences (ACEs),³⁶³ and trauma-informed practice.
- It is important that professionals working with families are in receipt of training, knowledge and understanding that prevent them taking decisions based on negative social and cultural norms and beliefs. This also requires a deeper understanding of the different factors impacting parents and their ability, family dynamics, what is necessary to maintain harmonious, unified, supportive relationships in the home, and ways to build on existing resilience and coping mechanisms.

Disability

Children with disabilities have the right to enjoy 'a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community (Article 23 of the UNCRC). Also contained within Article 23 of the UNCRC is provision of special care and assistance to ensure children with disabilities have, 'access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities'.

All the issues covered in this research report, and in this conclusion and recommendation section, apply equally to children with disabilities. However, there are additional risks that persons with disabilities in Kenya face. This includes serious concerns regarding the impact of stigma and

³⁶³ Please see: <https://www.eif.org.uk/report/adverse-childhood-experiences-what-we-know-what-we-dont-know-and-what-should-happen-next>. See also: SOS Children's Villages International and CELCIS, Centre for Excellence for Children's Care and Protection, University of Strathclyde 2021; SOS Children's Villages International 2022

discrimination and harmful social and cultural norms such as the belief by some that disability is associated with witchcraft. As a result, and also due to lack of sufficient investment, they face additional barriers when accessing already scarce basic and specialist services. In addition, other risks that are heightened in the case of children with disabilities include those of violence, abandonment or relinquishment into residential institutions. Children whose parents are disabled are also vulnerable to placement in alternative care

Recommendations

- Family support programmes should ensure the inclusion of families that have members with disabilities.
- Violence prevention programmes, as previously mentioned, should inherently incorporate the subject of protection of children with disabilities.
- Advocacy and awareness raising programmes should promote an understanding and acceptance of disability, both within families and amongst the general public. Public information campaigns should speak about fair and respectful treatment of people with disabilities, the harm of stigmatisation, and topics that would help prevent violence and exclusion. Advocacy programmes by, and with, people with disabilities are important and help bring a specific focus to improving services, opportunities, and support.
- Inclusion in local schools should be available to all children with disabilities and not just offer an equal opportunity to receive an education, but also ensure they are a place of safety.
- Children with disabilities, as with other children, should not be placed in residential institutions. Consideration should be given to any specialist support necessary to prevent the placement of children with disabilities, or children whose parent/s have a disability, in alternative care.

Education

Article 28 of the UNCRC requires States Parties to 'recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity'. States Parties must also 'take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.' Furthermore, Article 23(3) recognises education should be provided free of charge in a manner that responds to the special needs of a disabled child. Article 24 of the United Nations Convention on the Rights of Persons with Disabilities³⁶⁴ calls on States Parties to 'recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an 'inclusive education system at all levels and life long learning'.³⁶⁵

³⁶⁴ United Nations Convention on the Rights of Persons with Disabilities 2006

³⁶⁵ *ibid.* Article 24

Our research suggests there are many children missing out on education due to associated costs e.g. uniforms, books etc. This places them at much higher risk of such situations as child labour and early marriage. Situations that can then lead to placement in alternative care.

Not only is school education necessary for future well-being, as for example, gaining employment and becoming an engaged member of society, but previous research also suggests that higher educational achievement may also be related to positive parenting, not least because of an increased understanding and skills to relate to, support, and communicate with others, including children.³⁶⁶

Recommendations

- Investment is needed in high quality and provision of free public education, including being free from costs of fees, materials and uniforms and other associated expenses, that is available in all local communities for all children.
- No child should be placed in a residential institution for reasons of gaining access to education.

Play and leisure

UNCRC Article 31 of the UNCRC directs States to the right of children to rest and leisure and encourages access to cultural, artistic, recreational and leisure activity. This right is highlighted in this report, not just because of the importance to children's development, but also the opportunity recreational pursuits can play in strengthening family life.

Children wrote about the importance of time spent in recreational activities and eating together with parents and other family members. A sentiment repeated by young people and family members who highlighted the importance of spending time as a family.

Time spent together contributes to family unity and may also help provide a respite from the stresses they may be facing. There might be parents who are doing their utmost to provide for the family by working hard and long hours but do not also realise the benefits of spending some time pursuing joint activities with their children and how this can help forge closer bonds.

Recommendations

- Activities that address important aspects of family unity and spending time together would add value to parenting and family strengthening programmes. This would include raising awareness amongst parents and professionals as to the important benefits of time spent as a family and how this can help forge closer relationships.

Addressing harmful social norms, attitudes and practices

³⁶⁶ See for example: Fruehwirth and Gagete-Miranda 2019; Sutin et al. 2017

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Article 42 of the UNCRC requires States to make the principles and provisions in the Convention 'widely known, by appropriate and active means, to adults and children alike.'

Children and young people in Kenya want all violence to end. They do not want to flee their homes because of violence, or to be forced into early marriage, or subjected to FGM/Cutting. They want parents to understand they need love and kindness and for sexual abuse and physical and emotional violence to stop. However, our research notes the need for further national awareness raising and advocacy campaigns that would address such harmful social norms, attitudes and practices.

We also note the ongoing discrimination against girls and women. In this respect, we believe there are still insufficient efforts to raise awareness with the aim of preventing gender based violence. Furthermore, the research revealed other harmful beliefs, such as those of witchcraft, that pose risks to children and parents, and especially those with disabilities.

Recommendations

- Advocacy and awareness raising campaigns are needed to help eradicate harmful social and cultural norms and beliefs that place children and women at risk of harm. Such campaigns would greatly benefit from meaningful participation of children, young people and other primary stakeholders.

The child protection system and capacity of professional decision makers

Article 1 of the 2019 UNGA resolution on the 'Promotion and the protection of children's rights', calls on States Parties to ensure,

adequate and systematic training in the rights of the child, including by encouraging States to take the Guidelines for the Alternative Care of Children into account for professional groups working with and for children, including with children without parental care, including specialized judges, law enforcement officials, lawyers, social workers, medical doctors, care professionals, health professionals and teachers, and coordination among various governmental bodies involved in the promotion and protection of the rights of the child

Guidance relating to decision making and 'gatekeeping'³⁶⁷ is outlined in a number of international documents including the UN Guidelines for the Alternative Care³⁶⁸ and accompanying Handbook³⁶⁹. This guidance includes the use of case management tools that allow for rigorous multi-sectoral and

³⁶⁷ For further explanation of the term 'gatekeeping' please see: Csaky & Gale 2015

³⁶⁸ United Nations General Assembly 2009

³⁶⁹ Cantwell et al. 2012

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participatory assessments upon which careful and well considered decisions can be taken. These decisions should always be in the best interest of the child.

Decision making by professionals is not only influenced by such factors as their personal understanding, beliefs and experience, but also the strength of the national child protection system they work in and the statutory and other guidance they receive. Decision making, although ideally objective and undertaken within a structure of national legislation, policy and statutory guidance, are at risk of being too subjective with personal social and cultural beliefs becoming influencing factors. It is important therefore, that sufficient training is received and social work and child protection personnel have the knowledge and experience necessary to make the correct safeguarding decisions. This requires wide dissemination and support in the understanding of laws, policies, and tools that guide and facilitate the work of professionals and help with well-informed decision making that meets the best interests of a child.

It is noted that much investment has been made in Kenya to develop legislation and child protection policy and strategic plans that are in line with the UNCRC and other international standards. However, our findings suggest there is a need for substantial investment in the implementation of the normative framework and details as to how this will be achieved. For example, we consider the 2023 National Policy for Child Protection is lacking sufficient clear guidelines and details as to the individual roles and responsibilities of the different stakeholders responsible for its implementation.

Our research suggests that, although there are many people dedicated to their work, the social services workforce would benefit from improved coordination, and to meet government policy aims and objectives, facilitation of a more cohesive and comprehensive multi-sectoral approach that is truly focussed on prevention of child-parent separation and family support. This means shifting their approach to being more preventative than reactive. Furthermore, a need has been revealed for the workforce to have a better understanding of how to apply rigorous child protection case management procedures. A further contributing factor to what some believe is lack of time and effort spent undertaking child and family assessments and support, is the insufficient numbers of social services personnel.

It has not been possible to assess the amount of training different government and NGO/CSO personnel have received on the use of child protection case management tools, or whether there is sufficient understanding of how to evaluate the risks a child might be facing through any assessment findings. The evidence we have collated does suggest however, that further investment in the social services workforce is needed. An assessment of the quality of social work training in higher education institutions is also missing from our research.

Recommendations

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- There is a need for further in-depth review of the resources needed to implement child protection and family strengthening legislation and policies in Kenya. Furthermore, legislation that requires the gradual elimination of all forms of large residential institutions should be urgently applied. This requires investment in human and other resources to ensure all residential institutions are identified and a plan that carefully monitors their closure in a timely manner.
- To inform the development of future training and capacity building, it is recommended that an assessment of the quality of social work training in higher education institutions is undertaken along with a review of provision and standards of in-service capacity building. This should be coupled with a study of current skills, knowledge and capacities of all those responsible for making decisions about protection and care of children including social workers, police, judiciary, health and education workers etc. This should consider their understanding of child protection assessments, the use of risk thresholds in relation to protection, and how to apply the principle of the best interest of the child.
- Training of those working in residential institutions may not only help alleviate some of the opposition to those employed in such settings, but also contribute to re-skilling. If sufficiently trained, they could be offered new roles in family strengthening programmes and, if family based care settings are further developed, they might become providers. In addition, training on how to re-focus the use of funds towards family support programmes, and family based alternative care when necessary, would be aided by the undertaking and application of a cost benefit analysis.
- Steps should be taken to address the lack of resources available to members of the social services workforce to effectively carry out their roles and responsibilities.

Data management systems

Legislation, policy, statutory guidance, planning and programme delivery, should be informed by evidence. The 2019 UNGA Resolution, highlights this by calling on States Parties to,

improve data collection, information management and reporting systems relating to children in Improving data collection, information management and reporting systems related to children without parental care in all settings and situations in order to close existing data gaps and develop global and national baselines.

In the first instance, the Resolution is referring to data related to children in alternative care, including the reasons for placement. It is further necessary to continue to collate evidence that includes consideration of the following:

- What is the situation of children affected by the issue of child-parents separation
- What are the main drivers of child-parents separation, and how are these influenced by various factors, e.g. gender, age, ethnicity, socio-economic circumstances, and access to services etc.

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- How are children at risk of separation officially identified and recognised (e.g. in official data).
- Which child protection and social protection services are available to children at risk of child-parents separation and what are the gaps.
- What are the ideas and proposals of children, and other key stakeholders, about responses to the issue of child-parents separation and how they could be improved.

Our findings suggest there is a need for investment in more regular collection and analysis of disaggregated data that gathers such as information as pathways into alternative care and reasons for placements, length of stay, reintegration etc. This data should be publicly available.

Recommendations

- Ongoing development of local, regional and national child protection data management systems that provide clearer definitions and understanding of all the issues impacting children's protection and well-being including a more comprehensive explanation as to the reasons children are separated from parental care.

Participation

Article 12 (1) of the UNCRC requires,

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Our research suggests that children in Kenya are not participating in the process of completing a form of assessment in relation to their situation, or in decisions being made about their lives, including placement in alternative care.

Recommendations

- Children should be supported in a way that allows their full and meaningful participation in any decision making processes that will affect them, including their placement in alternative care.
- All children should be acknowledged as active citizens and afforded equal opportunity to contribute to their society. In this respect, policy makers and programme designers and implementers may need help understanding that children are experts in their own lives. This will require challenging any negative assumptions regarding children's capacities to engage and participate and providing them with opportunities that allow them to build and demonstrate such capability.

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