

**COUNTY CHILD PROTECTION SYSTEMS
GUIDELINES**

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Foreword

The Government of Kenya working together with non-state actors have over the years made efforts towards child protection systems development and strengthening. The systemic approach aimed at changing perspectives on how the needs of children and families can be effectively addressed through more sustainable and holistic models of governance and service delivery.

The right of every child to safety and protection is guaranteed by the Constitution of Kenya 2010. The public therefore expects high quality preventive and response services that are well coordinated and delivered by accessible, well trained and competent government staff, professionals and other actors.

These guidelines have been developed in response to the challenges and limitations of issue based, thematic and fragmented approach to child protection work still being experienced in different part of the country. The guidelines have drawn a lot experiences from ongoing child protection systems strengthening work in the African region and specifically in Kenya.

The Child Protection Systems Guidelines set out an agenda for coordinated action at county level and provides work practice direction for all formal and informal actors so that they are able to deliver more coordinated and professional services within the realm of child protection systems thinking. This is to guarantee more sustainable actions and responses towards children and their families.

The role and responsibility of government to provide both statutory and non statutory guidance and coordination of child protection work is affirmed by the guidelines. The guidelines will therefore support government, practitioners, communities and families to each play their part while being accountable to each other.

It is my belief that the County Child Protection System Guidelines provide future direction to further develop and strengthen child protection systems in all the 47 counties in the Republic Kenya.

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Specific mention goes to Department of Children Services at national and county level, county government representatives, Investing in Children and their Societies (ICS), Kenya Alliance for the Advancement of Children (KAACR), Childline Kenya, Children's Legal Action Network (CLAN), and APHIA-(Busia county) who were part of the technical team developing the guidelines. A special thank you to the consultants who worked together with the technical team to develop the guidelines

The guidelines have also drawn a lot experience and technical input from child protection systems work that has been done by UNICEF, Save the Children and World Vision globally and regionally.

We acknowledge all the government departments at national and county level and all national and local NGOs and CBO who provided their valuable input and experiences that enriched the guidelines.

Finally we express our gratitude to Investing in Children and their Societies (ICS) for their generous financial support.

Abbreviations

AAC	Area Advisory Council
ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
APHIA	AIDS, Population and Health Integrated Assistance
CAAC	County Area Advisory Council
CBO	Community Based Organization
CCPP	County Child Protection Plan
CPS	Child Protection System
CPU	Child Protection Unit
CPWG	Child Protection Working Group
CSO	Civil Society Organization
CTIP	Counter Trafficking in Persons
DAAC	District Area Advisory Council
DCS	Department of Children Services
FBO	Faith Based Organization
HIV	Human Immune-deficiency Virus
ILO	International Labour Organization
KAACR	Kenya Alliance for the Advancement of Children
MOU	Memorandum of Understanding
NCCS	National Council for Children Services
NCPF	National Child Protection Framework
NGO	Non-Governmental Organization
ODI	Oversees Development Institute
OVC	Orphans and Vulnerable Children
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund

INTRODUCTION

Overview

This section provides a brief background of a child protection system, its components and principles. The section further outlines the objectives of child protection systems guidelines; who the guidelines are intended for; and, how to use the child protection systems guidelines.

1. Understanding child protection systems

The overall purpose of any child protection system is to promote the well-being of children through prevention of and response to violence, discrimination, abuse and exploitation. A child protection system has certain structures, functions and capacities, among other components that have been assembled in relation to a set of child protection goals (Save the Children, 2009, UNICEF, 2008). A child protection systems approach starts with a purpose or goal. This is because both formal and informal actors are joined through a sense of common purpose. A child protection system can be defined as a set of laws, policies, regulations and services, capacities, monitoring, and oversight needed across all social sectors, especially, social welfare, education, health, security, and justice to prevent and respond to protection related risks (UNICEF, 2010). A child protection systems approach moves away from small scale, vertical projects that only target high visibility, at-risk categories of children. The foundations of the Child Protection Systems are premised on the State's human rights obligations to children under the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC), both of which Kenya has signed and ratified, together with Chapter 4 of the Constitution of Kenya, 2010. Child protection systems thinking emphasize the need of the different parts of the system to interact with issues within a given social, political and economic context. For the purposes of this guideline, the context will be a county¹.

2. Key components of a county child protection system

- **Legal framework:** This includes the laws and policies that are in place and have a direct impact on children and their families.
- **Structures:** How the different formal and informal actors and components interact and relate to each other. Actors include children, families, the community, the state and related departments and line ministries and non-state actors such as CBOs, NGOs, FBOs, private businesses, among others.

¹ There are 47 counties in Kenya which are envisioned by the Constitution of Kenya, 2010 as the units of devolved government

- **Functions:** The multi-sectoral nature of child protection denotes that within the systems thinking there should be clarity of roles among the different actors, clarity on governance and leadership within the system and clarity on how the roles of different actors are enforced.
- **Capacities:** The level of capacity of actors in the system should be commensurate with the child protection system goals. Capacity in this case is broader to include adequacy of the human resources; knowledge, skills, authority, and willingness among the actors; and, infrastructure and financial resources necessary to achieve the set goals.
- **Child protection services:** The main focus should be on prevention but at the same time, the child protection system should be able to identify and respond to children whose rights have been violated.
- **Quality service standards and regulations:** The process of identification and responding to children who have come in contact within the system should be guided by a set of quality service standards that should be put in place to guide the actions of every formal and informal actor.
- **Accountability and transparency mechanisms:** Even with all the above in place and proper functionality of the system, all actors should be held accountable for their implementation. Actors in child protection must be open to scrutiny by different stakeholders and the general public. Proper communication, research, data collection and enforcement of quality standards are important. Where failures and weaknesses are identified, the system should be able to address them and improve.

3. Principles guiding implementation of county child protection systems

The following principles will guide actions in every county-

Coordination mechanism: The government through the relevant ministry and or department should be in the lead at all levels within the county in coordinating the efforts of all actors in child protection.

Inclusiveness: The child protection system should serve all categories of children taking into consideration the diversity of backgrounds and circumstances.

Prevention: To avoid, reduce or minimize protection risks, the main emphasis should be on programmes and actions that aim at strengthening the family and the role of parents as the first level of protection.

Sustainable services: The starting point is that government through relevant ministries is responsible for providing child protection services and an adequate, skilled and motivated workforce up to the village level. Civil society works in support of government being able to fulfil their responsibility. The government should also ensure adequate financial resourcing of all the child protection services.

Quality services: Prevention and response services and related processes of care should be culturally sensitive and guided by a set of quality standards and regulations.

Meaningful child and youth participation: Children and youth are important actors in their own protection. Platforms to meaningfully engage children and youth should be strengthened at all levels in the county.

4. **Objectives of the county child protection system guidelines**

The guidelines will act as a comprehensive operational and practical reference document that will give direction to the processes and actions that need to be undertaken to ensure a functional child protection system at county level.

5. **How to use the guidelines**

The child protection systems guidelines are not to be used in isolation but together with International child rights standards, the Constitution of Kenya, 2010, existing laws and policies, existing minimum service guidelines and other service regulations. It is a reference document that is meant to guide different actors on how to undertake child protection inculcating a systemic approach. The guideline contains three main parts:

- a. **Guideline:** Introduction, principles and the guides to the different processes and actions to be undertaken.
- b. **Implementation framework:** Provides a checklist that will be used in implementation to ensure that the process is on track.
- c. **Annexes:** The legal and policy provisions that will act as references during implementation of the guidelines.

GUIDE 1: THE ROLES AND RESPONSIBILITIES OF ACTORS IN CHILD PROTECTION

Overview

A child protection system requires a mutual understanding of roles and responsibilities of all actors. It also requires that both formal and informal actors play their part in ensuring a protective environment for children. As such, a systems approach is not prescriptive in nature but rather functions well when there is symmetry between its goals; formal and informal structures; functions and capacities; and the normative context in which it operates (UNICEF, 2010). Guide 1 discusses both the formal and informal actors and their roles in child protection as well as the involvement of children, families and communities in the system.

1.1 The circle of actors

For a child protection system to be successful there should be a “Circle of Actors” who must work together in a coordinated manner to support child protection initiatives. The diagram below demonstrates how the actors surrounding children at different levels interact to ensure their care, protection and well-being. Each actor holds certain child protection responsibilities as outlined in the following sections of this guide.

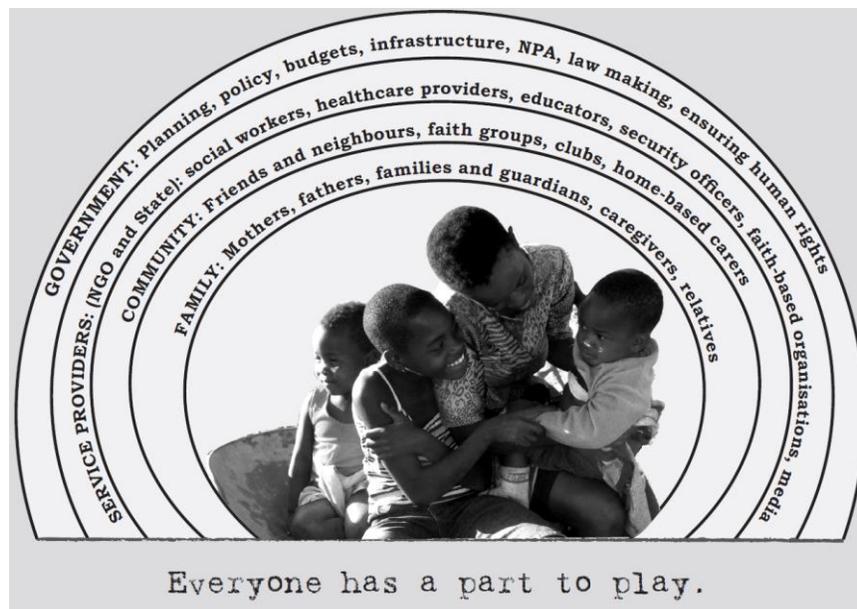


Figure 1: Circle of Actors

Source: *Child Protection Workshop Module II – H4: Circles of Support, Care and Responsibility*

1.2 Roles and responsibilities of formal actors: The government and civil society organizations

The government and civil society organizations form a major part of the formal actors in child protection. The government is the main duty bearer in ensuring a protective environment for children and therefore holds the primary responsibility in allocating resources and ensuring the availability of structures to offer preventive and responsive child protection services through various government departments, ministries, agencies and authorities. Government institutions are also charged with the responsibility of ensuring the implementation of laws and policies and taking lead in coordinating all work related to children. Civil society organizations and other non-state actors are responsible for complementing State action, and catalyzing change by mobilizing and increasing demand for public services such as education, child protection and healthcare, setting the agenda for best practice and influencing policy and practice.

1.3 Roles and responsibilities of informal actors

Parents, the extended family members and other members of the community largely provide protection for children through informal mechanisms.

1.3.1 The family

The family has a role to play in promoting child protection by:

- Ensuring registration of all children at birth to secure their identity and protect other rights. This will facilitate school registration, access to healthcare and avoid cases of trafficking, abduction deprivation of property, early marriage, sexual exploitation, child labour, recruitment to armed forces and criminal justice;
- Ensuring immunization of children against all preventable diseases;
- Creating homes that are free from violence and abuse through promotion of discipline, self-esteem and values;
- Ensuring that children are not left unattended and have safe adult supervision at all times;
- Ensuring that all school-age children attend school;
- Equipping children with life skills to identify and avoid risk;
- Creating a safe environment for children to openly discuss issues affecting them and to report incidences of violence and abuse;
- Inculcating positive values, a sense of nationhood and encouraging child participation in decision making and national building efforts; and,
- Reporting suspected/confirmed cases of abuse to relevant authorities.

1.3.2 The community and community based structures

The community also has a role to play in promoting child protection by:

- Creating communities where all forms of violence against children are taboo and the rights of children are broadly respected by custom and tradition. This involves eliminating / condemning attitudes, traditions, customs, behavior and practices that violate the rights of children, as well as respecting and promoting the rights of all children;
- Using available local resources to set up informal structures to continuously promote the well-being of children, facilitate dialogue and monitor the situation of children within the formal and informal structures;
- Mandatory reporting all identified/suspected incidences of child abuse, violence, neglect, and exploitation to existing formal structures such as the police, children officers and civil society organizations (CSOs); and,
- Institutions such as schools and faith based communities should have prescribed codes of conduct that guarantee protection and safety of children.

GUIDE 2: CHILD PROTECTION SERVICES

Overview

A comprehensive child protection system operates at both preventive and responsive levels. At the level of prevention, it aims to support and strengthen families to reduce social exclusion and minimize the risk of separation, violence, abuse, exploitation and neglect. At the responsive level, it provides recovery, rehabilitation and re-integration oriented social services for survivors of violence, abuse, exploitation and neglect. All preventive and responsive child protection services must be available to all children. A systems approach guarantees inclusion of all categories of children is protected regardless of their specific vulnerabilities as outlined in the Children Act. This guide describes a protective environment for children by detailing preventive and responsive child protection services that must be available for all children. The figure below illustrates the actors and services available at different levels.

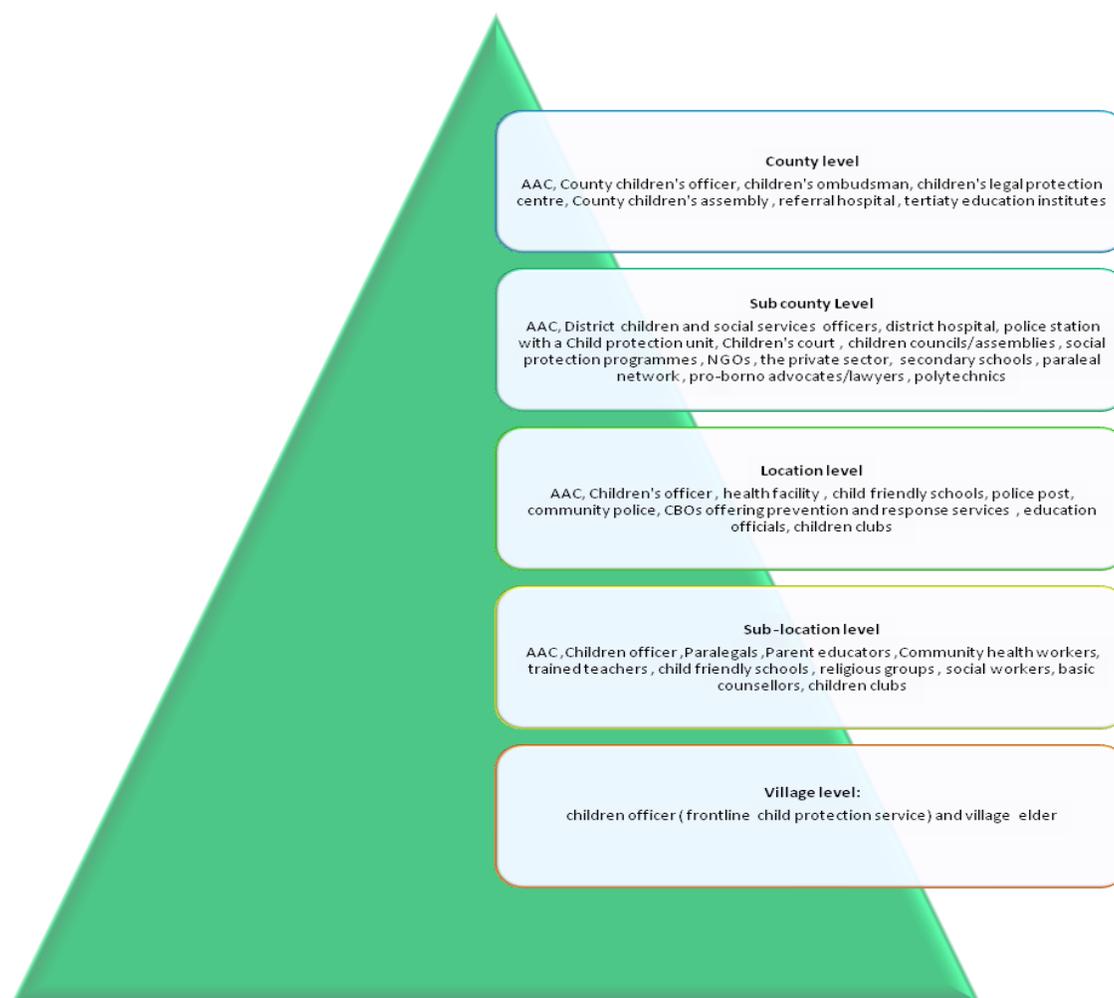


Figure 2: Child protection actors and services at county level

2.1 Preventive and responsive child protection services

2.1.1 Preventive services

Prevention entails the promotion of knowledge and skills as well as strengthening of the overall capacity and confidence of the family as well as all other stakeholders to raise children responsibly and to keep children safe. Preventive services ensure that the general public, parents, authorities and children are aware of and respect the rights of children together with the related legal framework and services. Preventive services include:

- (i) Sustainable parenting education and support programmes and services that aim at supporting parents and caregivers with the knowledge, skills and confidence to raise their children responsibly. The parenting programmes should promote cultural norms, behavior and societal attitudes that promote family cohesion and respect of the rights of children
- (ii) Early warning systems for child abuse and neglect at family, community and institutional level. Family members, caregivers and all actors should be trained to have the capacity to anticipate, identify and address child protection risks before abuse takes place
- (iii) Well managed social protection schemes such as orphans and vulnerable children (OVC) cash transfers, school bursaries, elderly fund, youth fund, women fund among others that cushion vulnerable families from further protection risks
- (iv) Child-friendly and safe schools and other institutions that are in contact with children. These institutions should have clear guidelines and procedures for keeping children safe
- (v) A supportive socio-economic environment that guarantees stable livelihoods for families to nurture children, and provide protection against the vagaries of poverty and extreme deprivation

2.1.2 Responsive services

Responsive services provide assistance in circumstances where a child is at risk of harm or has been abused, neglected, abandoned, exploited or is without appropriate family care. These services seek to reduce the possibility that harm will be repeated and to restore a child's well-being. These services include:

1. Accessible places of safety and response

All actors and services responsible for responding to child abuse allegations, suspicions and cases should be as close as possible to the communities to ease accessibility, to facilitate quick response and referrals. All these services and actors such as the children officers, provincial administration, police, social workers, legal officers, counselors, parent educators, health workers should coordinate their services through structured mechanisms with government taking the lead at all times. These services / structures should be devolved at the lowest administrative level. At county level, a child

protection coordination structure should be established to ensure that survivors of violence are able to get all services required with ease. In cases where children have to be removed from their families because of risk of further harm, adequate places of safety including government coordinated children homes, remand homes, rehabilitation homes should be available.

2. Early warning systems to detect and promptly prevent and/or respond to abuse

Identifying children whose rights have been violated requires skills and knowledge by people in contact with children to identify risk factors of violence, abuse and neglect in children. This aids in signaling danger and allows for early intervention strategies to be employed by parents, caregivers and other actors.

3. Child-friendly reporting services

Frontline child protection services such as help lines, Child Protection Units (CPU) at police stations, provincial administration, health units, schools, among others should have staff with the capacity (knowledge, skills, authority, commitment and willingness) to handle and / or refer children cases in a child-friendly way to encourage children and families to report cases of abuse. Community awareness campaigns on available reporting services should be intensified so that children and families are aware where they can report cases and get support. Mandatory reporting of child abuse cases by all service actors including community members should be emphasized in existing laws and regulations.

4. Case management and referrals

For quality service delivery and to ensure that all child protection actors handle cases appropriately and adequately, service standards and regulations on case management and referrals must be developed and all actors trained on them. Periodic follow ups by Area Advisory Councils (AACs) should be done to ensure compliance to service standards and guidelines. Case management and referral guidelines that includes but not limited to: Assessment; Development of a care plan by a multi-disciplinary team; Referral mechanisms; Access to confidential counseling, investigation, treatment plan, reintegration plan; and, linkages to additional support services.

5. Other child protection services

- a) **Alternative family care services:** For children without parental care foster care, guardianship, kinship and adoption should be promoted within the same community.
- b) **Child protection during emergencies:** A response plan should be developed by all actors involved. This should be coordinated by the relevant government agency to ensure that special measures be put in place to ensure that child rights to shelter, education, play and

leisure, information, participation and protection are met during and after emergencies. The minimum standards for child protection during emergencies developed by Save the Children provide detailed instruction on child protection during emergencies.

- c) **Services to respond to children in conflict with the law and children under four years accompanying their mothers to prison:** For children in contact with the law, diversion and probationary programmes that are rehabilitative should be emphasized. Those children under four years accompanying their mothers to prison must have their rights to shelter, education, play and leisure, information, participation and protection guaranteed and respected.

2.2 Linkages in a child protection referral system

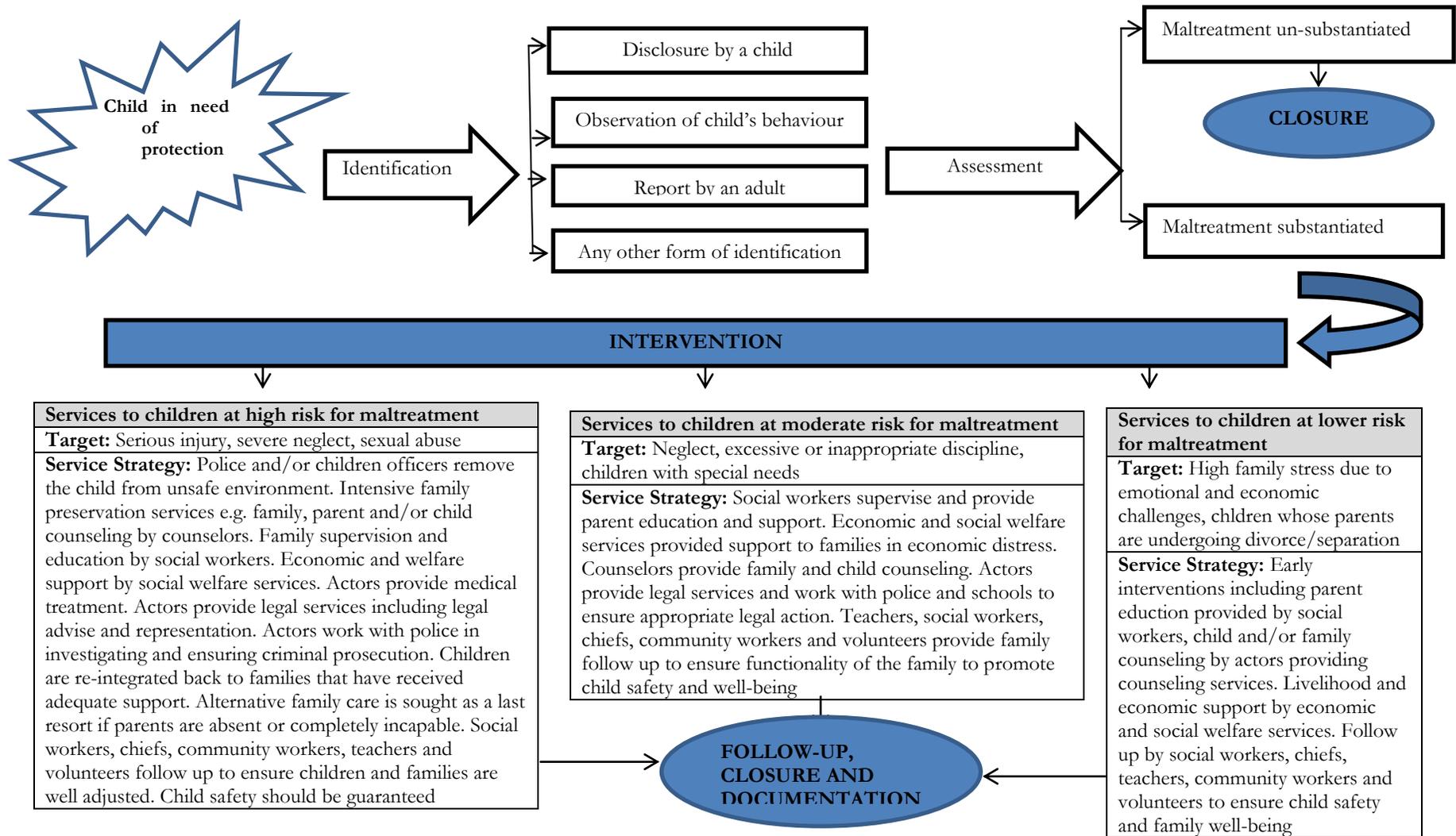


Figure 3: Linkages in a child protection referral system

GUIDE 3: STANDARDS OF OPERATION IN PROVISION OF CHILD PROTECTION SERVICES

This guide outlines minimum standards that actors in the child protection system must adhere to in providing preventive and responsive child protection services.

3.1 Knowledge of and adherence to laws, policies and guidelines for establishment and operation

Government departments , institutions, and organizations that provide child protection services should be knowledgeable on and must adhere to policies, legislation and guidelines for the establishment and operation of such institutions² including The Minimum Standards for Child Protection Workers.

3.2 Staff availability, competence and training

Minimum levels of qualification should be established for professionals in contact with children including children's officers, social workers, medical officers and legal officers. For positions involving direct or unsupervised contact with children, officers must have relevant child care, psychological or social qualifications. Thorough recruitment process which use careful interviewing, criminal disclosure, reference qualification and identity checking must be in place. Informal actors such as paralegals, parent educators, and community health workers should also undergo minimum prescribed trainings before engagement. A capacity assessment and capacity development plan should be developed and financed and implemented to ensure that both formal and informal actors continuously improve on their skills. All government departments responsible for children should be devolved to the lowest administrative unit to ensure accessibility of services. In addition, mechanisms such as staff counseling, de-briefing and rest should be in place to ensure staffs receive the care and support they need to deal with the effects of working directly with children and families that have suffered abuse, violence and neglect.

3.3 Organizational child protection policies

Organizations providing services to children shall prove their commitment to upholding child protection standards by developing child protection policies. A Child protection policy prescribes the code of conduct and provides a framework for dealing with allegations, suspicions and abuse at institutional and organizational level. All staff, whether in direct or indirect contact with children, shall be issued with a copy of the child protection policy. They shall sign a statement of commitment to child protection as part of their employment contracts. These shall include police officers,

² Annex 1 provides legislation, policies and regulations guiding the establishment and operation of institutions to provide services for children in Kenya.

teachers, doctors and nurses, all other state and non-state actors (NGOs, CBOs, faith communities) coming into contact with children in the line of their duty.

3.4 Quality service guidelines

Quality service delivery by all actors is very important. Therefore, all formal and informal actors should have standards/guidelines and regulations to guide their work and actions. This will ensure that all child protection actors handle cases adequately and in an appropriate manner.

3.5 Accountability structures among actors

An effective accountability mechanism is necessary to ensure that actors within the child protection system adhere to the minimum standards. This involves mechanisms to acknowledge the compliance of actors to set minimum standards as well as their suitability to provide services for children. A supervisory structure should be in place to ensure that individual actors meet the minimum required standards. At organizational and institutional level, performance appraisals among all actors must also include a review on how well they are applying the service guidelines. Support should be provided for actors within the system that do not meet the required standards and accreditation. In extreme cases of non-compliance, disciplinary action should be taken.

3.6 Confidentiality

All child protection service providers must observe utmost confidentiality while dealing with cases involving children.

GUIDE 4: COORDINATION OF CHILD PROTECTION ACTORS AND ACTIONS

Overview

A fully operational coordination and accountability mechanisms is very key for the effective implementation of a child protection system. This guide provides details of how the different state and non-state actors and structures should work together to ensure multi-sectoral and interagency collaboration. The Government department responsible for children services should take lead in coordination all child protection work at all levels.

4.1 Coordination structures established by law

Coordination between national and county government and coordination between and among governmental departments and non-state actors at the national level through the National Council for Children Services (NCCS) is of great importance to ensure the successful implementation of a child protection system right from the National level. The Children’s Act, 2001 establishes the Area Advisory Councils at various levels to coordinate and monitor children activities and initiatives at the various levels. This is further reflected in the National Child Protection Framework (NCPF) which has provided for the County Area Advisory Council (CAAC), District Area Advisory Council (DAAC), Local Area Advisory Council and Sub-Location Area Advisory Council to handle and coordinate children concerns at the various levels.

4.1.1 Area Advisory Council (AAC)

Section 32 of the Children’s Act provides for the functions of the National Council for Children Services (NCCS). One such function of the NCCS as found under Section 32(2) (q) thereof is to *“Establish Area Advisory Councils to specialize in various matters affecting the rights and welfare of children”* within the specific area. The AAC as a structure provides a good coordination mechanism at different levels and if functional, they can contribute to child protection systems’ strengthening. AACs shall meet 4 times in year and all members to the AAC shall be duly appointed to serve in the AAC. The agenda of the AAC shall be developed by the secretary in close consultation with the members.

4.1.2 Child Protection Working Group- subcommittee of the AACs

The AAC guidelines provide for the establishment of technical sub committees to provide technical advice and implement actions that are required necessary by the AAC. To coordinate child protection systems strengthening work, a subcommittee of the county AAC shall be established. The Subcommittee shall be named the Child protection working group (CPWG). The membership of the CPWG shall be determined by the AAC. The members of CPWGs shall include all state and non-state actors implementing child protection programs within the County, Sub County, Location and

Sub-Location. Each stakeholder shall designate a competent officer capable of making decisions at coordination meetings without having to first seek guidance of their managers, to consistently represent the organization in the working group activities.

CPWG shall provide technical input on child protection systems work and advice the AACs on key actions that need to be undertaken to realize a functional child protection system. The CPWG shall hold monthly meetings at the initial stages of systems strengthening work and its chairperson shall be the designated children officer. All issues discussed in the CPWG shall be brought to the attention of the AAC for deliberation, and further action.

The specific tasks of the CPWG shall include:

- (i) Develop the goals and objectives of the child protection system in the county with clear targets to be achieved within a clearly defined timeframe
- (ii) Source and document possible child protection system strengthening models that can be adapted within the county
- (iii) Define rules of engagement of the different key stakeholders in the child protection system
- (iv) Coordinate capacity building efforts that are linked to the Child protection system development / strengthening and functioning
- (v) Facilitate linkages with other relevant systems / structures in the county and at national level
- (vi) To provide a forum for a sharing of knowledge and experience by professionals on child protection at county level

4.2 Enhancing child participation within the AAC and CPWG

Meaningful participation of children is important in child protection systems work. To ensure that children meaningful participate and contribute to their own protection, efforts shall be made at county level to establish or strengthen platforms where children can engage with each other and with other actors. These platforms include County Children assemblies, children councils and clubs in schools and children and youth groups at community level. Establishment of these platforms shall facilitate avenues for AACs and CPWG to structure dialogue and involve children and young people. The Child Participation Guidelines in Kenya provide detailed guidance on enhancing child participation in programs involving children.

4.3 Guiding principles for coordination of child protection programs

Coordination in child protection refers to a mutually beneficial and well-defined relationship entered into by two or more organizations to achieve common goals. It entails the unification, integration, synchronization of efforts of group/organization members to provide unity of action in pursuit of common goals. Coordination facilitates effective processes and response to child protection concerns. The following principles will guide collaboration and cooperation among various actors:

- (i) **Coordination:** The coordination structure should be led by government, that is, the Department responsible for children services and should include all stakeholders with shared goals, and vision. To make this functional, members must treat each other with respect and integrity so as to build a trusting relationship
- (ii) **Meetings:** Meetings should be convened quarterly with clear agenda and minutes of the proceedings well documented. To strengthen this, the coordinating partners may rotate the hosting of meetings so as to empower the weaker members in the circle to build their own capacities, voice and the sense of equality
- (iii) **Information gathering and sharing:** The actors should develop a common system of information gathering and sharing well linked in all administrative units within the County to and national levels and vice versa. This should also include joint data collection tools with similar indicators and possibly the same reporting timelines
- (iv) **Representation on the coordination structure:** Representation on the coordination structure should be all inclusive with representation across and representative of all interest groups as well as multi-sectoral in nature involving children, state actors, non-state actors and the community
- (v) **Approach to work:** The actors should embrace a joint approach to work processes such as facilitating joint service delivery; case management; referral mechanisms; mapping of service providers; establishing gaps on specific child protection issues in specific areas; joint assessments; joint training including training gaps analysis; joint advocacy; and, community education.
- (vi) **Commitment -** The child protection stakeholders must agree to implement a common child protection strategy, that is a County Child Protection Plan (CCPP) and the roles of each actor in the plan made clear

4.4 Memorandum of Understanding

Agencies implementing child protection programs in any county should sign a Memorandum of Understanding (MOU). An MOU is a technical arrangement between agencies that lays out mutual goals and strategies for accountability and coordination. Although not legally binding, it carries the moral force of the agencies' signatures and serves as a public record of the roles and responsibilities of the partners in the county child protection strategy and plan.

4.5 Interaction with other sectors

The multifaceted nature of child protection work demands cross sectoral linkages. A comprehensive child protection system should interact meaningfully with other systems and coordinate joint actions and planning in order to guarantee child protection within counties. Already actors in the other systems are part of the AAC structures.

4.5.1 Interaction with the education sector

The education system is key in protecting children as they spend more than half of their waking hours in school. Interaction with the education sector should guarantee:

- The right of every child regardless of race, gender, social status, religion or disability to free and compulsory basic education;
- Child friendly and safe school environments for all categories of children including those with special needs. Guidelines for child-friendly schools developed by UNICEF provide further instruction.
- Promote accessibility to social protection support for school bursaries, cash transfers for vulnerable children.

4.5.2 Interaction with the health sector

The health system plays a key role in protecting children by providing preventive and curative health services. Interaction with the health sector should guarantee:

- A reliable system of qualified and motivated health workers at all levels up to the community level who can promote and facilitate: Available, accessible and affordable pre-natal, delivery and post-natal services; registration of all children at birth as the first institution in contact with the child; all children are immunized against preventable diseases; and, children are kept healthy through proper nutrition and healthcare by creating awareness to caregivers
- A responsive health care system which can prevent and respond timely to children who are sick and abused through awareness creation and treatment. The system should also facilitate legal requirements in reporting abuse including the completion of the P3 form and collecting evidence, as well as facilitate counseling for children and their families.

4.5.3 Interaction with the economic and social welfare sectors

The economic and social welfare sectors play a critical role in child protection by providing services that target children and families experiencing difficulties in order to change their situations before they cause actual harm to the child. These include strategies to tackle poverty and provide support to families in challenging and/or unique situations such as single parent families, child and grandparent-headed households through:

- Economic strengthening through livelihoods support and initiatives to provide empowerment against poverty
- Social protection initiatives including cash transfers to provide safety nets to households with orphans and other children made vulnerable by factors such HIV and AIDS or extreme poverty and loss

- Moving beyond cash transfers to promote a cash plus approach through interventions such as the elimination of school fees, parenting training or linking families to micro finance insurance schemes and social security schemes
- Support to families facing difficulties such as alcohol and substance abuse, domestic violence, family breakdown, and inadequate parenting
- Maintenance of an operational civil registration system providing accurate data on births, deaths, marriages and divorces, alternative family care placements and other essential data

4.5.4 Interaction with the justice and probation system

Children come into contact with the judicial system as suspects, defendants, offenders, victims, witnesses or party to proceedings. The child protection system, the judicial and probation systems should thus take a multi-disciplinary approach to ensure the best possible outcomes for children before, during and after proceedings. A child-friendly judicial system should ensure:

- Children are informed and advised on proceedings, and that proceedings are conducted in a child-friendly language
- Legal representation and counsel, as well as safety and privacy for children and their families
- The right for children to be heard and express their views, taking their best interest into account
- Follow-up and appropriate after-care services including counseling and essential social welfare services

GUIDE 5: IMPLEMENTATION CHECKLIST FOR THE COUNTY CHILD PROTECTION SYSTEMS GUIDELINES

Overview

This section focuses on the actions to be undertaken in rolling out the County Child Protection Systems guidelines. It provides a checklist on how to implement and operationalize a systems approach in counties.

5.1 Establish a common understanding of a child protection system at county level

For there to be an effective child protection, there must be a proper and common understanding of child protection systems at all levels and by all implementing partner agencies right from the County Coordinator of Children Services, the District Children's Officer, chiefs, police, NGOs, etc.

Checklist item

- (i) **What is the partners' understanding of a child protection system?**

5.2 Context analysis: Securing / consolidating information of child protection

Information is key to a child protection system. This should commence by undertaking a baseline because in order to assess the progress of the child protection system and the success, it would be important to develop or set up a comprehensive baseline with both qualitative and quantitative data from the county where the child protection system will be piloted. The baseline information will clearly bring out the situation of child abuse within the county. Thereafter, that data that will be collected by all implementing partners will be used to assess progress. The baseline information will provide data on how many children have accessed the child protection services *vis-a-vis* how many children need to access the child protection system and also *vis-a-vis* the total number of children in the county. This data is important because an effective child protection system should indicate how accessible the services are and whether or not the child protection system is making a difference.

Further, the information will enable the partners to bring out the challenges that the beneficiaries face in accessing the child protection system and also what the implementation challenges are. Thereafter, the guidelines can be used as a comprehensive checklist for the partners need to go through in order to see whether they have all that is needed.

Checklist items

- (i) **Has a population census been carried out to determine the number of children, youths and adults in the county?**
- (ii) **Is there adequate data on the prevalence and type of child abuse within the county including physical abuse, sexual abuse, exploitation, neglect, psychological abuse?**

- (iii) **What is the number of vulnerable families and children in need of support services?**
- (iv) **What are the available services /projects in the county?**
- (v) **What are the required but unavailable services?**
- (vi) **What are the main challenges and risk factors within the county?**

5.3 Mapping partners: Knowing the partners and their capacities assessment

It will be important to undertake a mapping of all the actors in order to establish whether all the actors that are necessary to successfully implement a child protection system really exist within the county. The mapping should be accompanied with a needs assessment which will also bring out the capacity gaps among the existing partners and actors. Capacity gaps identified during the partners need assessment process should be followed by strategies to strengthen partners' capacities to effectively operate a child protection system within the county. Capacity building could also extend to other child protection issues, as well as facilitate the establishment of structures and facilities required to ensure a functional and efficient child protection system. This should include joint advocacy efforts to lobby for establishment of structures, facilities and personnel required to strengthen the child protection system within the county.

Checklist items

- (i) **Has there been a mapping of partner organizations?**
- (ii) **Has there been a capacity needs assessment?**
- (iii) **Have partner institutions shared their profiles with the coordinating government agency?**
- (iv) **Has a capacity development plan been developed and costed?**
- (v) **Have partner institutions shared their organizational work plans?**
- (vi) **Can partner institutions develop a joint work plan for child protection systems strengthening in the county?**

5.4 Develop a strategy for child protection systems strengthening

An effective child protection system also requires the development of a joint programme which will lay out the strategies to deal with child protection within the county. This will require a programmatic approach to the issue of child rights. By doing this, all partners will indicate what resources they have or what they are lacking and how it affects their ability to implement. The joint programme will also establish or map out what resources are available. Thereafter, the partners will agree on joint / coordinated interventions to address the issues that affect the children in the county. For this to work, the partners must agree to work together and ensure that when planning, strategic decisions are made on what shall be implemented. It is only then that a systems approach will work.

Checklist items

- (i) **Is there a clear and shared child protection systems' goals?**
- (ii) **Are there guidelines to assist in the roll out of the child protection system?**
- (iii) **Is there a costed work plan for actions that have been agreed upon?**
- (iv) **Have the lead actors been identified and roles of each actor clearly defined?**
- (v) **Are there adequate financial resources?**
- (vi) **Is there a clear follow up and monitoring plan?**
- (vii) **Are there clear standards and ethical guidelines to ensure quality of service delivery?**
- (viii) **Is there a plan to involve children involved as actors in their protection?**
- (ix) **Is there a plan to create community awareness on available child protection services?**

5.5 Establish the state of relationship between partners and proper feedback mechanism

An effective child protection system must ensure that there is an excellent working relationship between all the implementing partners and stakeholders. Presently, the working relationship and coordination between stakeholders is weak, and there are also no feedback mechanisms in place. In order for the child protection system to work effectively, there must be more a coordinated working relationship between the partners and a feedback mechanism. This will increase efficiency and effectiveness in dealing with child protection issues as well as minimize duplication. It will also ensure that the partners hold each other accountable for the cases that they refer to each other.

Checklist items

- (i) **Are there structured joint planning, coordination and sharing sessions for actors?**
- (ii) **Are programmes / services from different actors integrated?**
- (iii) **Is there a proper reporting framework for all actors?**
- (iv) **Are referral procedures and documents standardized and in use?**
- (v) **Is there a proper feedback mechanism in place?**
- (vi) **Is there a clear information management system in place?**
- (vii) **Is there a collaborative approach to service delivery?**

5.6 Coordination: Roles of and the linkages between the national and county levels

Even though the child protection system is generally governed at the national level, the programmes / projects at county levels are coordinated by the County Coordinator of Children Services. However, progress and achievement can only be realized if the government at national / county level provides adequate support by way of development of adequate policies, budgetary allocation, and provision of oversight. The county government should ensure that it undertakes an analysis of issues related to children within the county, customize the national / county policy to reflect the situation within the county and allocate financial and human resources to ensure the functioning of

the child protection system. Area Advisory Councils (AACs) should be established and strengthened at all levels so that they can provide coordination and discharge their responsibilities towards systems strengthening.

Checklist items

- (i) Are there functioning coordination structures (AACs) at county level and are members to the AACs duly appointed?**
- (ii) Is the government taking lead in coordinating child protection efforts?**
- (iii) Does the government have the adequate financial and human resources to provide the services required up to the village level?**
- (iv) Is there an accountability framework for all actors?**
- (v) Are there coordination platforms between national and county governments?**

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ANNEXURES

Annexure 1: Child rights, legal and policy framework on child protection

1.0 International and regional child rights framework

Kenya has ratified the United Nation Convention on the Rights of the Child (UNCRC) and also ratified the Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict; it has also signed Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography but not yet ratified the same.

Kenya has also ratified the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment,³ and other conventions including the Hague Convention; International Convention on the Elimination of All Forms of Racial Discrimination; ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (supplementing the United Nations Convention against Transnational Organized Crime); and Rome Statute of the International Criminal Court.

The regional Conventions that Kenya is a party to include the African Charter on the Rights and Welfare of the Child (ACRWC) and the African Charter on Human and Peoples Rights (ACHPR) together with its Protocols on the Establishment of an African Court on Human and Peoples' Rights. All the aforementioned international Conventions form part of the laws of Kenya through the provision of Article 2(6) of the Constitution of Kenya, 2010.

2.0 National legal framework

2.1 The Constitution of Kenya, 2010

This is the supreme law of the land. Chapter Four of the Constitution contains the Bill of Rights which provides for protection and safeguards the fundamental rights and freedoms for every person including children. The rights enlisted therein include the right to life, equality and freedom from discrimination, protection from slavery, servitude and forced labour, freedom of association, access to justice, fair hearing, among others.

The Constitution also provides for specific rights for children in Article 53 (1). This Article provides that every child has the right-

- (a) to a name and nationality from birth;
- (b) a right to free and compulsory basic education;
- (c) to basic nutrition, shelter and health care;
- (d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and protection from hazardous or exploitative labour;
- (e) to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not; and

³ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc. A/39/51(1984), entered into force June 26, 1987

- (f) not to be detained, except as a measure of last resort, and when detained, to be held for the shortest appropriate period of time; and separate from adults and in conditions that take account of the child's sex and age.

Article 53 (2) of the Constitution provides that a child's best interests are of paramount importance in every matter concerning the child. It can therefore be said that the Constitution of Kenya, 2010 embraces a holistic and systematic approach in promoting child rights and protecting the child from harm. This responsibility lies with the parents of the child and also the Government through its various Ministries, Departments and Agencies.

2.2 Acts of Parliament

In addition to the Constitution, Parliament has enacted various laws that seek to enhance the protection and well-being of children. These include-

1. The Children's Act, 2001

This is an Act of Parliament that makes provision for parental responsibility, fostering, adoption, custody, maintenance, guardianship, provision for children in need of care and protection; makes provision for the administration of children's institutions; and giving effect to the principles of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child and for connected purposes.

The Children's Act brings together in one law all requirements concerning guardianship, fostering and adoption, custody, maintenance, care and protection of children, administration of children's institutions, rights and responsibilities of a child, the role of parents and of the government in promoting and protecting the rights of the child, among others. It reiterates the principle 'of the best interest of the child', which shall always be considered before any decision or action concerning a child is made.

The Children's Act in Section 2 defines an authorised officer to mean a police officer, an administration officer, a children's officer, an approved officer, a chief appointed under the Chief's Act, a labour officer or any other officer authorised by the Director of Children Services.

Section 3 of the Children's Act creates a responsibility on the part of Government to allocate resources for realization of children's rights. The parents are required by the Children's Act⁴ to live with their children and provide for their needs including food, clothing, shelter, education, health care and protect their children from child labour, harmful cultural practices or any other form of abuse whether its physical, emotional, sexual, child neglect or exploitation.⁵

Section 119(l) of the Children's Act identifies children in need of care and protection to include a child:

- who has no parents/guardians or has been abandoned;

⁴ See Sections 6, 7, 8, 9, 13, 14, 15, 16 and 19 of the Children's Act

⁵ Sections 23 of the Children Act, 2001

- who is found begging or receiving alms;
- whose parents have been imprisoned;
- whose parents/guardians have difficulty in parenting;
- who is truant or is falling in bad company;
- who is not receiving education;
- who is subjected or is likely to be subjected to harmful cultural practices e.g. FGM, early marriage;
- who is exposed to domestic violence;
- who is pregnant;
- who is living with disability and is unlawfully confined or treated;
- who is terminally ill or whose parents are terminally ill;
- who has been sexually abused or is likely to be exposed to sexual abuse;
- who is engaged in work that is likely to harm his health, education, mental or moral development;
- who is displaced due to war, natural disasters or civil disturbances; or,
- who is engaged in the use of, or trafficking or any other substance declared harmful.

Section 120 of the Children’s Act provides that any person who has reasonable cause to believe that a child is in need of care and protection is required to report the matter to the nearest authorised officer who may intervene and:

- Take the child away to a place of safety e.g. a children’s home, police station, child protection centres, hospital, etc.;
- Take the child before a Children Magistrate or Court; or,
- Arrest without a warrant any person responsible for making the child to be in need of care and protection.

2. The Sexual Offences Act, 2006

This is an Act of Parliament that makes provision for sexual offences, their definitions, prevention and the protection of all persons (including children) from harm from unlawful sexual acts, and for connected purposes. Examples of sexual offences include; rape, defilement, sodomy, gang rape, pornography, sexual harassment, among others. The Sexual Offences Act seeks to protect children at risk of sexual abuse, from being subjected to sexual abuse or having to witness sexual acts. It also prescribed stiffer penalties for sexual offenders especially for the offence of defilement depending on the complainant’s age⁶.

⁶ Sections 8 provides that where the child is aged eleven years or less a mandatory sentence of life imprisonment, in instances where the child is aged between twelve and fifteen years old an accused person is liable upon conviction to imprisonment for a term of not less than twenty years and in instances where the child is aged between sixteen and eighteen years such a person is liable upon conviction to imprisonment for a term of not less than fifteen years.

Section 31 of the Sexual Offences Act allows the Court to declare any child who is a witness in criminal proceedings of sexual offences to be declared a vulnerable witness and to be protected through the following mechanisms-

- (a) Attend trial in camera,
- (b) Testify in the proceedings through an intermediary,
- (c) To give evidence through a protection box.

The Sexual Offences Act (S.40) also provides that it is only the Attorney General who can stop investigations of any complaint or charges relating to sexual offences.

3. HIV/AIDS Prevention and Control Act, 2006

This is an Act of Parliament that provides measures for the prevention, management and control of HIV and AIDS, to provide for the protection and promotion of public health and for the appropriate treatment, counseling, support and care of persons infected or at risk of HIV and AIDS infection (including children) and for connected purposes.

Section 32 of the Act provides that no educational institution shall deny admission or expel, discipline, segregate, deny participation in any event or activity, or deny any benefits or services to a person/child on the grounds only of the person's actual, perceived or suspected HIV status.

4. The Employment Act, 2007

This is an Act of Parliament that declares and defines the fundamental rights of employees, provides for basic conditions of employment of children, and to provide for matters connected with the foregoing. The Employment Act provides for the nature and conditions under which children can work. Section 56 prohibits employment for a child aged below 13 years, while recognizing that children aged between 13 and 16 years can be employed to do light work in as long as the work is not harmful to their health or prejudice the child from attending school or education training programs. But they cannot have a written contract or attend to any machinery.

Section 53 of the Act prohibits the employment of children in worst forms of child labour including domestic work, prostitution, engaging the child in drug trafficking, among others. The Act creates a duty on any person with information that a child is engaged in child labour to report to the police or labour officer who has a duty to investigate and provide a report within 7 days.⁷

The Employment Act under Section 58 further prohibits the employment of a child in any opencast workings or sub-surface workings that are entered by means of a shaft or adit and also prohibits children from working between 6:30 p.m. and 6:30 am.⁸ The Act also provides for creation and maintenance of a register for all children in employment that shows their date of birth, date of entering and leaving employment.

⁷ Section 54 Employment Act

⁸ Section 59 Employment Act

Section 62 mandates an authorized officer to order medical examination of any child in employment at any time. It is a criminal offence that is punishable by a fine not exceeding Kshs. 200,000 to employ a child.

5. The Counter Trafficking in Persons Act, 2010

This is an Act of Parliament to implement Kenya's obligations under the United Nations Convention against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; it provide for the offences relating to trafficking in persons including children⁹ and for connected purposes.

The Counter Trafficking in Persons (CTIP) Act criminalizes acts that promote child trafficking including adopting, fostering or guardianship or offering a child for adoption, fostering or guardianship for purposes of trafficking¹⁰.

Section 14 of the CTIP Act provides that a victim of trafficking including a child shall not be held liable for any offence relating to being in Kenya illegally or from any criminal act resulting from the trafficking. The CTIP Act further provides under Section 15 that all victims of trafficking and any children accompanying the victim are entitled to provision of appropriate services including:

- (a) Return to and from Kenya;
- (b) Resettlement;
- (c) Re-integration;
- (d) Appropriate shelter and other basic needs;
- (e) Psychosocial support;
- (f) Appropriate medical assistance;
- (g) Legal assistance or legal information, including information on the relevant judicial and administrative proceedings; or,
- (h) Any other necessary assistance that a victim may require.

(2) When developing the plans above the age, gender, and the special needs of children and persons with disabilities and the personal circumstances of each victim of trafficking in persons should be considered.

6. The Penal Code

The Penal Code defines or outlines criminal offences and prescribes penalties to them. It protects children from acts and omissions, which amount to child abuse, including assault, abduction, kidnapping, abortion, etc and prescribe a penalty against any person found guilty of such offences.

⁹ Section 3 (5) provides that the penalty for child trafficking is imprisonment for a term not less than 30 years or a fine of thirty million shillings or both.

¹⁰ Section 4 (3) the punishment for acts that promote child trafficking is imprisonment for a term not less than 30 years or a fine of not less than twenty million shillings or both and for subsequent conviction, its life imprisonment.

7. The Basic Education Act, 2013

This is an Act of Parliament to give effect to Article 53 of the Constitution of Kenya, 2010 and other enabling provisions; to promote and regulate free and compulsory basic education; to provide for accreditation, registration, governance and management of institutions of basic education; to provide for the establishment of the National Education Board, the Education Standards and Quality Assurance Commission, and the County Education Board and for connected purposes.

Section 18(l) of the Basic Education Act, 2013 provides that it is the responsibility of the Government to coordinate with all relevant agencies to ensure that all the barriers to the right to quality education are removed and to facilitate realization of the right to education within the county;

It adds under Section 18(m) to put measures in place to ensure all children and youth of school going age within the county attend and stay in to complete basic education. The Cabinet Secretary is responsible and shall implement the right of every child to free and compulsory basic education.

Section 29 of the Act prohibits public school from charging any parent or, guardian tuition fees for or on behalf of any pupil in the school. It is the responsibility of every parent whose child is Kenyan, to ensure that the child attends school regularly as a pupil for physical, mental, intellectual or social development. A parent who fails to take his or her child to school as required above commits an offence. The Act also prohibits any person from employing a child of compulsory school age in any labour or occupation that prevents such child from attending school.

Section 26(1) of the Act provides that it is the roles of the county government to provide the funds required for the development of the necessary infrastructure for institutions of basic education and training used for conducting preprimary education, childcare facilities, home-craft centers and village polytechnics.

8. The Persons with Disabilities Act

This is an Act of Parliament to give to provide for the rights and rehabilitation of persons with disabilities; to achieve equalization of opportunities for persons with disabilities; to establish the National Council for Persons with Disabilities; and for connected purposes.

2.3 Subsidiary legislation

The Children's Act has empowered, the Minister responsible for matter relating to children to pass Regulations that will assist to promote children rights and well being. The exercise of this power has led to the enactment of the following regulations:

1. The Children (Adoption) Regulations, 2005

The Children (Adoption) Regulations govern and oversee the adoption of children including the registration of adoption agencies, assessing of persons wanting to adopt children, the whole adoption process, etc.

2. The Children (Charitable Children Institutions) Regulations, 2005

The Children (Charitable Children Institutions) Regulations regulate the establishment and operations of children homes and orphanages.

3. The Guardianship of Children (Practice and Procedure) Rules, 2002

These Regulations govern and oversee the process of appointment of guardians for children whose biological parents have passed away.

4. The Children (Practice and Procedure) (Child Offender) Rules, 2002

These Regulations makes provision for handling of children in conflict with the law within the justice system in accordance with the best interest of the child principle.

5. The Foster Care Placement Rules

These Rules provide for the appointment of foster parents, the process of placing a child with foster parents, etc.

3.0 National policy framework

Although Kenya has not developed a specific policy on child protection, the government through its various ministries is in the process of developing various policies to promote children rights and ensure their well-being. Some of these policies include-

1. The National Children Policy

The National Children Policy (still under development) will *inter alia* provide a framework for addressing all issues relating to children's rights and welfare in a holistic and focused manner, to provide a monitoring and evaluation criterion for the implementation of various legislations, policies and programmes relating to children. The objective of the policy is to have a country where the best interests of the child are paramount in the progressive and maximum attainment of the survival, development, participation, and protection of every child in Kenya.

2. The National Policy on Orphans and Vulnerable Children

The National Policy on Orphans and Vulnerable Children seeks to *inter alia* protect orphans and vulnerable children from all forms of abuse, exploitation and discrimination. It expressly recognizes the need for gender sensitivity and inclusiveness in the development and implementation of all responses to orphans and vulnerable children. The policy acknowledges that the girl child is more vulnerable and susceptible to abuse and to address this, the policy underscores the need to adopt deliberate affirmative action measures aimed at enhancing protection to the girl child.

In relation to child protection the policy requires families, communities and the state to be involved in the protection of orphans and vulnerable children without discrimination, from all forms of abuse (physical, sexual and emotional), exploitation, neglect, violence and child trafficking. The Policy further emphasizes the need to enforce existing laws that address issues of child abuse and exploitation and further calls for the formulation of guidelines for combating child labour, child sexual abuse, and child sex tourism, child trafficking and other forms of exploitation.