

UN CRC	Ratification Date	Care-Related Concluding Observations
	30 Jul 1990	<p>CRC/C/KEN/CO/3-5</p> <p>21 March 2016</p> <p>http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fKEN%2fCO%2f3-5&Lang=en</p> <p>II. Follow-up measures taken and progress achieved by the State party</p> <p>3. The Committee welcomes the ratification of or accession to:</p> <p>...</p> <p>(b) The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, in 2007.</p> <p>III. Main areas of concern and recommendations</p> <p>A. General measures of implementation (arts. 4, 42 and 44 (6))</p> <p>Legislation</p> <p>7. The Committee welcomes the adoption in 2010 of the revised Constitution, which explicitly recognizes certain rights of the child. However, the Committee remains concerned that the harmonization of national legislation, including the Children Act (2001), with the Convention and the Constitution has not been completed.</p> <p>8. The Committee urges the State party to expedite the completion of the harmonization of national legislation and regulations with the Convention, including by adopting new legislation to replace the Children Act (2001), and to ensure the active and meaningful participation of children and civil society organizations in elaborating the new legislation.</p>

		<p>Comprehensive policy and strategy</p> <p>9. The Committee welcomes the adoption and implementation of the National Plan of Action for Children, 2008-2012, and its positive outcomes, in particular in the areas of health and education. However, the Committee is concerned that substantial information on the National Plan of Action for Children, 2015-2022, was not provided, including how the Plan will be financed, how the service delivery gap caused in the process of devolution will be addressed, and the persistent inequality in the enjoyment of the rights of the child.</p> <p>10. The Committee recommends that the State party allocate adequate resources for the implementation of the National Plan of Action for Children, 2015-2022, that it ensure coordination between the national and county levels to minimize the service delivery gap in transitioning to the devolved system of governance and that it place greater focus on reducing inequality in the enjoyment of the rights of the child.</p> <p>B. General principles (arts. 2, 3, 6 and 12)</p> <p>Non-discrimination</p> <p>21. The Committee expresses concern at the fact that discrimination against certain groups of children still exists in policy as well as in practice, particularly in respect of girls, children with disabilities, children with HIV/AIDS, refugee children, indigenous children, Nubian children, children in street situations and children from disadvantaged or marginalized families.</p> <p>22. The Committee urges the State party to:</p> <ul style="list-style-type: none"> (a) Revise all its legislation and policies in order to bring them into full compliance with article 2 of the Convention, and ensure full implementation of all legal provisions and policies; (b) Intensify efforts to eliminate discrimination, particularly patriarchal attitudes and gender stereotypes, and ensure that a wide range of stakeholders, including girls and all sectors of society, are involved in such efforts so as to facilitate social and cultural change and to create an environment that promotes equality <p>E. Family environment and alternative care (arts. 5, 9-11, 18 (1 and 2), 20, 21, 25 and 27 (4))</p>
--	--	--

		<p>Family environment</p> <p>39. The Committee welcomes the recognition under the Constitution (2010) of the equal rights of children born within and out of wedlock. However, the Committee is concerned that:</p> <ul style="list-style-type: none"> (a) The Marriage Act (2014) legally recognizes polygamous marriage concluded under Islamic or customary law as well as other discriminatory practices which undermine equal parenting rights and responsibilities between women and men and have adverse effects on children, especially girls; (b) There is still a large unmet need among parents, including teenage parents, for parenting skills and education; (c) There is weak enforcement of court orders on child maintenance within the State party and abroad. <p>40. The Committee recommends that the State party:</p> <ul style="list-style-type: none"> (a) Repeal all provisions in family laws, including the Marriage Act (2014), that discriminate against women and have a negative impact on their children, such as those that authorize polygamy, and prohibit other discriminatory practices that have an adverse impact on women and children, such as “wife inheritance”; (b) Provide further support to families, including teenage parents, in the form of family counselling, parenting education and the provision of financial allowances; (c) Take effective measures to enforce child maintenance orders both within the State party and abroad, including by providing public legal aid to parents and caregivers seeking maintenance for children under their responsibility, and consider ratifying or acceding to the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance and the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations. <p>Children deprived of a family environment</p> <p>41. The Committee is concerned that:</p> <ul style="list-style-type: none"> (a) The State party still has a large number of orphans and vulnerable children who are deprived of a family environment, and a large number of children are living in care institutions despite the Government’s policy to prioritize family-based care for children;
--	--	---

		<p>(b) The majority of childcare institutions, such as the Charitable Children's Institutions, are not yet registered, the inspection and monitoring of the care provided at childcare institutions are weak, and there is no complaints mechanism through which children can denounce violence in care institutions.</p> <p>42. Drawing the State party's attention to the Guidelines for the Alternative Care of children (General Assembly resolution 64/142, annex), the Committee recommends that the State party:</p> <ul style="list-style-type: none"> (a) Ensure adequate safeguards and clear criteria, based on the needs as well as best interests of the child, for determining whether a child should be placed in alternative care; (b) Support and facilitate family-based care for children wherever possible and establish a system of foster care for children who cannot stay with their families, with a view to reducing the institutionalization of children; (c) Expedite the registration of all Charitable Children's Institutions, ensure thorough and transparent periodic reviews of the placement of children in foster care and institutions, and monitor the quality of the care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment of children. <p>Adoption</p> <p>43. While the Committee notes the information provided by the State party that it will lift a moratorium on national adoption shortly, the Committee is concerned that the amendment of laws and regulations on adoption, including relevant provisions under the Children Act (2001), is still pending.</p> <p>44. The Committee urges the State party to expedite the amendment of the Children Act (2001) and other regulations on adoption in line with article 21 of the Convention. The Committee also recommends that the State party accelerate the harmonization of national legislation with the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and ensure that all safeguards provided in the said Hague Convention are met when children are adopted to countries that are not parties to the said Hague Convention.</p> <p>HIV/AIDS</p> <p>51. The Committee notes the intensive policy and programmatic efforts made by the State party on prevention and care with regard to HIV/AIDS during the period under review. However, it is concerned that:</p>
--	--	--

		<p>...</p> <p>(b) Stigma and discrimination against children living with HIV/AIDS remain persistent, leading to neglect and abandonment of children.</p> <p>52. With reference to the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child, it recommends that the State party:</p> <p>...</p> <p>(c) Take effective measures to combat stigma and discrimination against children living with or affected by HIV/AIDS, including in access to health care and education, inheritance and the family environment;</p> <p>...</p> <p>H. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)</p> <p>Asylum-seeking and refugee children</p> <p>59. The Committee commends the State party's efforts to accept a large number of asylum seekers and refugees from neighbouring countries. However, the Committee is concerned that the State party's long-term encampment policy and certain proposals and responses to the heightened security situation in the State party do not fully respect and protect the rights of asylum-seeking and refugee children, including:</p> <ul style="list-style-type: none"> (a) Proposals on encampment of all asylum seekers and refugees in refugee camps and suspension of registration of asylum seekers in urban areas; (b) Proposals on the closure of refugee camps; (c) The relocation and deportation of refugees without due process, which has caused family separation and has left refugee children unaccompanied and has disrupted their education. <p>60. With reference to the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee urges the State party to:</p> <ul style="list-style-type: none"> (a) Ensure all security operations and policies relevant to asylum seekers and refugees comply fully with international human rights and refugee law which the State party has ratified, in particular the rights of the child;
--	--	---

		<p>(b) Ensure that returns of refugees, including refugee children, will not occur unless their returns are voluntary and carried out in safety and dignity;</p> <p>(c) Revise the policy on long-term encampment of refugees and allow greater opportunities for refugees to reside outside designated areas;</p> <p>(d) Uphold the rights of the child to family unification and to have his or her best interests taken as a primary consideration in all policies and procedures on refugees and asylum seekers.</p> <p>61. The Committee welcomes the issuance of “refugee identity passes” to refugee children. However, the Committee is also concerned that individual identification cards, which are used as a basis for accessing social services such as education or health care, are issued only to those who are living in urban areas and are over 16 years old or recognized as unaccompanied or separated children.</p> <p>62. The Committee recommends that the State party issue individual identity documentation to all refugee and asylum-seeking children regardless of their age, residence or status of family unification in order to guarantee their refugee or asylumseeking status and their access to essential services.</p> <p>Children in armed conflicts</p> <p>65. The Committee is concerned about the “radicalization” of children and their recruitment into non-State armed groups, mainly due to the social and economic marginalization of certain religious or ethnic groups. The Committee is also concerned about:</p> <p>(a) Certain counter-terrorism and security measures, such as mass raids, which do not comply with international human rights standards, including the Convention, and which have caused family separation, arbitrary detentions of children, and negative psychological impacts on children affected by the measures, such as fear and feelings of collective punishment;</p> <p>...</p> <p>66. The Committee urges the State party to:</p> <p>(a) Enhance its efforts to prevent radicalization of children by prioritizing efforts to eliminate the social, economic and political marginalization of certain groups, in particular children and youth who belong to Muslim communities or to the Somali ethnic group;</p> <p>(b) Ensure that counter-terrorism and security measures fully respect the rights of the child provided under the Convention and are sensitive to the potential negative impact on children who</p>
--	--	--

		<p>are affected by such measures. The Committee wishes to underline that measures that do not fully comply with human rights standards would be counterproductive and may contribute further to the radicalization of children;</p> <p>(c) Implement the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, as the State party pledged under the Safe Schools Declaration (2015).</p> <p>Children in street situations</p> <p>69. The Committee is concerned about the increasing number of children in street situations and about the apparent lack of adequate protection measures in place in the State party.</p> <p>70. The Committee therefore recommends that the State party:</p> <ul style="list-style-type: none"> (a) Undertake a systematic assessment of the situation of children in street situations in order to obtain an accurate picture of the root causes and magnitude; (b) Develop and implement, with the active involvement of the children themselves, a comprehensive policy which should address the root causes, in order to prevent and reduce this phenomenon; (c) In coordination with non-governmental organizations (NGOs), provide children in street situations with the necessary protection, including a family environment, adequate health-care services, the possibility to attend school and other social services; (d) Support family reunification programmes, when that is in the best interests of the child.
		<p style="text-align: center;">Country Report</p> <p>CRC/C/KEN/3-5</p> <p>http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fKEN%2f3-5&Lang=en</p>
OPSC to CRC	Ratification Date	Care-Related Concluding Observations

	N/A	
OPAC to CRC	Ratification Date	Care-Related Concluding Observations
	28 Jan 2002	
ICCPR	Accession Date	Care-Related Concluding Observations
	01 May 1972	
ICESCR	Accession Date	Care-Related Concluding Observations
	01 May 1972	
CEDAW	Accession Date	Care-Related Concluding Observations
	04 Mar 1984	
CRPD	Ratification Date	Care-Related Concluding Observations
	19 May 2008	
UPR	Date of Consideration	Link to Page
	22 Jan 2015	http://www.ohchr.org/EN/HRBodies/UPR/Pages/KESession21.aspx
Hague Intercountry Adoption	Accession Date	Link to Country Profile
	12 Feb 2007	https://www.hcch.net/en/states/other-connected-states/details2/?sid=218

Acronyms and Abbreviations:

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child/Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
OPAC to CRC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
OPSC to CRC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
UN	United Nations
UPR	Universal Periodic Review