

NATIONAL POLICY ON OVC  
DRAFT 3  
07.06.05

**Republic of Kenya**



**Office of the Vice-President  
and Ministry of Home Affairs**

**National Policy**

**on Orphans and Vulnerable Children**

**Draft 3: 07.05.05**

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## ABBREVIATIONS

AAC	Area Advisory Council
ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired immune deficiency syndrome
ARVs	Antiretroviral drugs
CBO	Community-based organisation
CNCP	Children in need of care protection
DCS	Department of Children's Services
ECD	Early childhood development
EFA	Education for All
ERSWEC	Economic Recovery Strategy on Wealth and Employment Creation
FBO	Faith-based organisation
FPE	Free primary education
HIV	Human immunodeficiency
IGA	Income generating activity
KDHS	Kenya Demographic and Health Survey
KNASP	Kenya National HIV/AIDS Strategic Plan
MDG	Millennium Development Goal
MoEST	Ministry of Education, Science and Technology
MoH	Ministry of Health
MoHA	Ministry of Home Affairs and National Heritage
MTCT	Mother to child transmission (of HIV)
NACC	National AIDS Control Council
NCCS	National Council for Children's Services
NGO	Non-governmental organisation
NSC	National Steering Committee on OVC
OVC	Orphans and vulnerable children
PRSP	Poverty Reduction Strategy Paper
RAAAPP	Rapid assessment, analysis and action planning process for OVC
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund
UNICEF KCO	United Nations Children's Fund Kenya Country Office
UNGASS	United Nations General Assembly Special Session on HIV/AIDS
VCT	Voluntary counselling and testing

## **ACKNOWLEDGEMENTS**

**[To be done on advanced draft]**

## **FOREWORD**

The HIV/AIDS pandemic, alongside other forms of socio-economic deprivation is a major contributor towards susceptibility of the Kenyan family today. The plight of children is at stake with the number of orphans being expected to rise to two million by 2010, with HIV/AIDS contributing up to 60% of the total cases. These children have indeed limited access to psychosocial and economic support, leading them to being the most vulnerable of our Kenyan society.

In response to this a National Steering Committee (NSC) on Orphans and Vulnerable Children (OVC) was constituted in May 2004, to deliberate upon interventions. The Committee is headed by the Ministry of Home Affairs. A rapid assessment on the state of OVC was carried out in June 2004, with the support of various development partners. The report of this assessment informed on the regrettable vulnerability of children, demanding immediate action. Consequently the NSC noted the need to come up with a national policy on OVC to steer intervention.

In its commitment to improve the lives of OVCs in Kenya, the Government introduces the National Policy on Orphans and Vulnerable Children is intended to ensure that every Kenyan child who is orphaned or vulnerable is protected and supported in order to achieve their full potential.

The policy seeks to support and protect the rights of OVC in the areas of child survival, child development, child protection and child participation. Its objectives are:

- Ensure that orphans and vulnerable children have their basic survival needs met.
- Support orphans and vulnerable children to develop to their full potential.
- Protect orphans and vulnerable children from all forms of abuse, exploitation and discrimination.
- Ensure the full and meaningful participation of orphans and vulnerable children in all matters affecting their lives.

It is important to note that the implementation of the National Policy on OVC requires that all stakeholders be involved at all levels. Therefore there will be need for collaboration and networking in order to achieve the goal specified in the policy so that OVCs in Kenya may be fully protected and enjoy their full potential.

**(Signed)**

## DEFINITIONS AND TERMS

A child <sup>1</sup>	Any human being under the age of 18 years
An orphan	A child who has lost one or both parents
Maternal orphan	A child who has lost his or her natural mother
Paternal orphan	A child who has lost his or her natural father
Double orphan	A child who has lost both natural parents
A child orphaned by HIV/AIDS	A child whose mother, father, or both parents have died of HIV/AIDS
A child in need of care and protection <sup>2</sup>	<p>A child living in a high risk setting, such as a child:</p> <ul style="list-style-type: none"><li>▪ Who has no parent or guardian, or has been abandoned by his parent or guardian, or is destitute</li><li>▪ Who is found begging or receiving alms</li><li>▪ Whose parents or guardian find difficulty in parenting</li><li>▪ Whose parent or guardian does not, or is unable or unfit to exercise proper care and guardianship</li><li>▪ Who is truant or is falling into bad associations</li><li>▪ Who is prevented from receiving education</li><li>▪ Who, being a female, is subjected or is likely to be subjected to female circumcision or early marriage or to customs and practices prejudicial to the child's life, education and health</li><li>▪ Who is being kept in any premises which, in the opinion of a medical officer, are overcrowded, unsanitary or dangerous</li><li>▪ Who is exposed to domestic violence</li><li>▪ Who is pregnant</li><li>▪ Who is terminally ill, or whose parent is terminally ill</li><li>▪ Who is disabled and is being unlawfully confined or ill treated</li><li>▪ Who has been sexually abused or is likely to be exposed to sexual abuse and exploitation including prostitution and pornography</li><li>▪ Who is engaged in any work likely to harm his health, education, mental or moral development</li><li>▪ Who is displaced as a consequence of war, civil disturbances and natural disasters</li><li>▪ Who is exposed to any circumstance likely to interfere with his physical, mental and social development</li><li>▪ Who is engaged in the use of, or trafficking of drugs or any other substance that may be declared harmful</li></ul>

<sup>1</sup> Republic of Kenya; The Children Act Cap 586

Vulnerability

A heightened or increased exposure to risk as a result of one's circumstances

A vulnerable child

A child whose safety, wellbeing and development are, for various reasons, threatened

A vulnerable child, in the context of HIV/AIDS<sup>3</sup>

When they:

- Are orphaned
- Or their parents are living with HIV/AIDS
- Have parents or caregivers who are ill or dying
- Do not have parents
- Have lost one or both parents
- Has a chronically ill parent
- Lives in a household where in the past 12 months at least one adult died and was sick for 3 or the last 12 months before he/she died
- Lives in a household where at least one adult was seriously ill for at least 3 months of the last 12 months
- Lives outside of family care
- Do not have a family
- Do not have a home
- Live in an area with high HIV prevalence, or proximity to high risk behaviours
- Live on the streets
- Are on drugs/sniff glue
- Live on the streets
- Are refugees or displaced
- Are girls
- Are mothers or fathers (biological as opposed to sibling minders)
- Have parents or guardians who are in prison
- Are exploited
- Are isolated and discriminated against
- Live on their own in a child-headed household
- Live in an unsupported or unhealthy environment
- Have inadequate medical care
- Are disabled
- Are under threat, such as from negative cultural or religious practices or persecution

Duty bearer

Any person or institution, including the State, with responsibility for the welfare of a child

Care giver<sup>4</sup>

A parent or guardian who is charged with responsibility for a child's welfare – including comfort, upbringing, guidance, provision of basic rights and realising human rights

<sup>2</sup> Republic of Kenya; The Children Act Cap 586

<sup>3</sup> Republic of Kenya; Ministry of Home Affairs and NACC; National Programme Guidelines on OVC (2003)

<sup>4</sup> Adapted from Republic of Kenya; Ministry of Home Affairs and NACC; National Programme Guidelines on OVC (2003)

Service provider <sup>5</sup>	An individual employed or attached to a formal institution that provides professional care or services, such as teachers in school, nurses and doctors in health care facilities
Gender <sup>6</sup>	A set of characteristics, roles and behaviour patterns that distinguish women from men – socially and culturally
Stigma	The holding of derogatory social attitudes or cognitive beliefs, the expression of negative effect, or display of hostile or discriminatory behaviour towards members of a group, on account of their membership of that group
Discrimination	An action based on a pre-existing stigma; a display of hostile or discriminatory behaviour towards members of a group, on account of their membership of that group
Succession planning <sup>7</sup>	Mechanisms for parents to give instructions on economic, legal, emotional and practical matters that affect the lives of their children

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<sup>5</sup> Adapted from Republic of Kenya; Ministry of Home Affairs and NACC; National Programme Guidelines on OVC (2003)

<sup>6</sup> Adapted from Republic of Kenya; Ministry of Home Affairs and NACC; National Programme Guidelines on OVC (2003)

<sup>7</sup> Adapted from Republic of Kenya; Ministry of Home Affairs and NACC; National Programme Guidelines on OVC (2003)



## **1. INTRODUCTION**

- 1.1 HIV/AIDS was declared a national disaster by the President of the Republic of Kenya on 25 November 1999. Led by the National AIDS Control Council, the Kenya National HIV/AIDS Strategic Plan (2005/6-2009/10) (KNASP) emphasises a multisectoral response to the epidemic and targeting vulnerable groups, including orphans and vulnerable children (OVC).
- 1.2 The Children Act No.8 of 2001 provides wide ranging safeguards for the rights and welfare of the child.
- 1.3 In addition, Kenya, as a signatory to the Declaration adopted at the United Nations General Assembly Special Session on HIV/AIDS (UNGASS), is committed to developing and adopting a national policy on orphans and vulnerable children.
- 1.4 Guided by the National Steering Committee (NSC) on OVC and under the auspices of the Office of the Vice-President and Ministry of Home Affairs, wide ranging consultations – with key stakeholders, with Government and with implementers – were held to develop the policy.

## **2. THE SITUATION OF OVC IN KENYA**

### **2.1 The status of children<sup>8</sup>**

Twenty percent of the Kenyan population is 6 years and younger; and 48% of the population is below 15. Childhood in Kenya is largely defined by the fact that over 50% of Kenyans live in absolute poverty, which means that many children – 8.6 million children – live below the poverty line.

In terms of health status, 30% of children under 5 are stunted and 6% are wasted. Infant mortality is 77 per 1000 live births and under-5 mortality is 115 per 1000 live births. Only 57% of children aged between 12 and 23 months are fully vaccinated and malaria kills 26 000 children every year. Harmful traditional practices persist – 32% of girls and women are circumcised.

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<sup>8</sup> From various sources, including Central Bureau of Statistics; Demographic and Health Survey (2003); MoEST; and RAAAPP

Only 58% of children under 15 live with both their parents; 25% live with their mothers (and not their fathers); 3% live with their fathers (and not their mothers); and 11% do not live with either of their parents (and are considered as “fostered”).

In terms of education, a million more children have been enrolled for school, since the introduction of free primary education (FPE) in January 2003 – there are 7.2 million children in primary school. Of these, 1.2 million children (17%) of currently enrolled children are orphans; drop out rates in primary school are 5.4%. And, of all children, 92% of children with both parents alive are in school, whereas 88% of children who have lost both parents are in school.

In the area of early childhood development, gross enrolment for pre-primary remains low – 33% in 1999. An estimated 81.6% of children aged 0-4 have birth registration documents.

Nationally 1.3 million children (aged 5 to 17) were engaged in child labour in 1998/9; most in commercial and subsistence agriculture, fishing and domestic services. The majority of working children are aged 10-14; with the highest proportions found in the Coast, Eastern and Rift Valley Provinces (19-19.8%).

## **2.2 Orphaned and vulnerable children**

It is estimated that 11% of all children under 15 are orphans (KDHS 2003), compared to 9% in 1998. Nationally 2% of these children are double orphans – with the highest rate, 6%, in Nyanza Province; 9% of children have lost their father; and 4% of children have lost their mother. 40% of orphans reside with grandparents; 34% with other relatives; and 7% are fostered or adopted.

Up to 6 million Kenyan children require special care and protection – 40% of the country’s total child population.

## **2.3 Children and HIV/AIDS**

### **2.3.1 Infected children**

Children born to HIV infected mothers risk infection during pregnancy, delivery and breastfeeding. 13 300 children were born with HIV in 2002.

18% of young women are infected with HIV within 2 years of becoming sexually active. Of the 900 000 children orphaned by HIV/AIDS, 78 000 aged from 0 to 14 are HIV infected<sup>9</sup>.

### **2.3.2 Affected children**

Of the estimated 1.78 million orphans; about 50% are due to HIV/AIDS<sup>10</sup>. This is expected to increase to 2.3 million by 2010. Among the many issues affecting orphans are that children who lose their parents to HIV/AIDS suffer psychological

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<sup>9</sup> NACC report 2002

<sup>10</sup> NASCOP; National estimate of HIV/AIDS in Kenya in 2003, (2004)

stress and trauma. In addition, parental illness and death may rob children of their inheritance and above all of parental love, care and protection.

It is an established fact that children are vulnerable long before their parents die. Girls, in particular, assume caring responsibilities for ailing parents and parenting responsibilities for their siblings. With agricultural productivity being negatively affected by HIV/AIDS, food security is increasingly threatened, adversely affecting the nutritional status of children. Children from affected families may drop out of school; and the education of all children is affected by the impact of the epidemic on education quality. And poverty and disintegrating family circumstances expose children to exploitation and abuse.

The extent of vulnerability depends on whether the child is infected, including whether there are relatives willing and able to take care of them, whether they are allowed to go to school, how they are treated in the community, the degree of psychosocial trauma they have suffered as a result of losing parents and the responsibilities they are left with.

## **2.4 OVC responses**

Key responses to the growing problem of OVC have been developed and implemented in the past decade. These include<sup>11</sup>:

- The draft Constitution that addresses issues affecting children and guarantees their rights.
- A strategic work plan running from 2005-2009 for the implementation of The Children Act.
- The National Council for Children's Services (NCCS) launched in September 2002 and replicated in the administrative areas through Area Advisory Councils (AAC).
- The establishment of a representative National Steering Committee (NSC) on OVC.
- A draft National OVC Action Plan (2005-2009).
- A rapid assessment, analysis and action planning process (RAAAPP) that quantifies the problem and outlines priority interventions.
- The development and launch of a National Action Plan on Education-for-All for the period 2003-2015.
- A School Bursary Policy that targets orphans and other vulnerable children.
- A draft Gender and Education Policy.
- Adoption of a uniform code of conduct for children's officers and volunteer children's officers.
- Rules and regulations for the management and running of charitable children's institutions and adoption.
- A legislative review, which identified gaps and proposed changes in Kenya's law with regard to OVCs.
- Establishment of an informal Parliamentary Committee on OVCs to raise political awareness.
- An increased total budgetary allocation to the Department of Children Services (DCS) by Government.

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<sup>11</sup> From the draft report to the UNCRC (2005)

- Data available on immunisation, education, birth registration, nutrition and child labour.
- In 2004, NGOs provided services to 973 372 OVC; FBOs to 498 716; and CBOs to 58 734.
- Development of the National AIDS Control Council (NACC) Strategic Plan.

### **3. LEGAL AND POLICY FRAMEWORK**

#### **3.1 International instruments**

Kenya is signatory to a number of international conventions and agreements that provide for the protection of children and promotion of their rights. Of significance are the following:

- 3.1.1 The World Declaration on the survival, protection and development of children, which was agreed at the World Summit for Children in September 1990.
- 3.1.2 The Millennium Summit in September 2000, which identified 8 Millennium Development Goals (MDGs), three of which are relevant to the rights of all children, including OVC, in particular those which are related to gender equality and education. These are “To achieve universal primary education” (Goal 2); “To promote gender equality and empower women” (Goal 3); and “To combat HIV/AIDS, malaria and other diseases” (Goal 6)
- 3.1.3 The Education for All (EFA) goals, set at the Jomtien, Thailand, at the World Conference on Education for All in 1990 and reviewed at the 2000 Dakar meeting, which committed nations to achieving education for all by 2015 or earlier<sup>12</sup>.
- 3.1.4 The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1996), which is the pre-eminent international treaty dedicated to the protection of economic and social rights.
- 3.1.5 The UN Convention on the Rights of the Child (CRC) (1989), which is a framework that guides programmes for all children, including OVC.

The principles of the CRC are:

- *The right to survival, development and protection from abuse and neglect – Art. 6;*
- *Non-discrimination – Art. 2;*
- *The right to have a voice and be listened to – Art. 12; and*
- *That the best interests of the child should be of primary consideration – Art. 3.*

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<sup>12</sup> Dakar Framework for Action; Education for all – Meeting our collective commitments

- 3.1.6 The African Charter on the Rights and Welfare of the Child (ACRWC), adopted in 1990, which contextualises the UNCRC, by recognising the special cultural and peculiar issues defining the lives of children in Africa.
- 3.1.7 The Convention on the Elimination of Child Labour, 1999 which seeks to prevent the engagement of children in the worst forms of child labour.
- 3.1.8 The UN General Assembly Special Session on HIV/AIDS (UNGASS) held in 2001, adopted a Declaration of Commitment that set specific targets for all signatory nations. Recognising that children orphaned and affected by HIV/AIDS need special assistance, nations must:

*65. By 2003, develop and by 2005 implement national policies and strategies to build and strengthen governmental, family and community capacities to provide a supportive environment for orphans and girls and boys infected and affected by HIV/AIDS including by providing appropriate counselling and psycho-social support, ensuring their enrolment in school and access to shelter, good nutrition, health and social services on an equal basis with other children; and protect orphans and vulnerable children from all forms of abuse, violence, exploitation, discrimination, trafficking and loss of inheritance;*

*66. Ensure non-discrimination and full and equal enjoyment of all human rights through the promotion of an active and visible policy of de-stigmatization of children orphaned and made vulnerable by HIV/AIDS;*

*67. Urge the international community, particularly donor countries, civil society, as well as the private sector, to complement effectively national programmes to support programmes for children orphaned or made vulnerable by HIV/AIDS in affected regions and in countries at high risk and to direct special assistance to sub-Saharan Africa.*

## **3.2 National laws and policies/programmes/plans**

There are over 60 pieces of legislation dealing with children's issues. Important amongst these are the following:

- 3.2.1 The Constitution of the Republic of Kenya, which provides, in Chapter 5, protection of the fundamental rights and freedoms of all Kenyans, including children.
- 3.2.2 The draft Constitution of the Republic of Kenya, which provides for the basic human rights of children, in Article 35, such as the right to life, protection from abuse and discrimination, etc.
- 3.2.3 The Children Act, which provides extensive protections for children. Of relevance are the following:
- Government and the family are responsible for the survival and development of the child (505).
  - Child participation and non-discrimination are entrenched (506).
  - A child has the right to live with and be cared for by his/her parents.
  - There is a provision for parental responsibilities.

- Children are entitled to a basic education – which is free and compulsory.
- The right to health and medical care is secured.
- Protection from economic exploitation, hazardous work or work that interferes with education and armed conflict is provided.
- There is provision for alternative parentage – guardianship, foster care placement and adoption.
- Protection from physical and psychological abuse, neglect and other forms of exploitation is explicitly stated, as is protection from harmful cultural practices and rites.
- A child's right to privacy (subject to parental guidance) is guaranteed.
- Ways of dealing with child offenders within the juvenile justice system are provided for.
- Finally, the duties and responsibilities of the child are detailed.

3.2.4 The Poverty Reduction Strategy Paper (PRSP), which outlines strategies for alleviating poverty and how special interest groups – including children – can participate in the process.

3.2.5 The Economic Recovery Strategy on Wealth and Employment Creation (ERSWEC), which outlines the development strategies and policies that the Government plans to pursue, and which, in turn, has an impact on children.

3.2.6 The National Policy on Food Security, which provides for improved agricultural input, strategies to improve nutrition and the establishment of safety nets that are essential for food security.

3.2.7 Sectoral laws and policies/programmes define rights and access to services for children an OVC. These include:

- Education

The Education Act provides for the running of the education system and is currently in review to be in line with free basic education policy which is currently in operational. The free primary education policy provides for the access to primary education for all. It also addresses the interventions that target the hard to reach and marginalized children. Other policies include the policy on re-entry of girl mothers, secondary school bursary scheme and the policy on mainstreaming gender in non-formal education with the education system, together with special needs education.

- Justice

The Judiciary has developed a Strategic Plan which is a blueprint for the improvement of the Judiciary's efficacy in the performance of its mandate of the due administration of justice in the country. One of the objectives of the plan is to ensure that Kenyans, including children, have access to justice and there is timely resolution of disputes with equality, fairness and integrity.

- Health

The Public Health Act places an obligation on parents to ensure that their children are immunized and allows schools to refuse children entry without having the proper immunizations carried out.

- Succession

The Law of Succession Act, Cap 160 is the principle statute that governs matters of inheritance, succession and administration of the estates of deceased persons. It secures the inheritance rights of OVCs by providing that property left behind for double orphans devolves to them in equal shares, where they are more than one. This is regardless of the sex of the orphans. It further provides that where there are surviving children, the estate cannot be administered by only one person. This checks possible wastage of the estate.

The Office of the Public Trustee which is established by the Public Trustee Act, Cap 168, is an essential institution in succession matters, especially as regards protection of the rights of the vulnerable children. The Public Trustee is the administrator of the last resort and should ideally intervene in all cases where no one is able or willing to administer the estate of a deceased person. The Office of the President through the Provincial Administration plays an important role in succession and inheritance matters, and being easily accessible to members of the public right from the lowest level, it provides a good avenue for vulnerable children, including OVC, to access this legal regime.

- Housing

The National Housing Policy, Sessional Paper, is intended to arrest the deteriorating housing conditions countrywide and to bridge the shortfall in housing stock arising from demand that far surpasses supply, especially in urban areas. It facilitates the progressive realization of that housing is basic right to all vulnerable groups, including children in difficult circumstances. It provides that in order to ensure a conducive environment for the physical and psychological growth of children, the Government will use housing as an entry point in breaking the vicious cycle of poverty which all too often forces poor children out on to the streets.

- Labour

The Employment Act is the principle statute on labour issues in Kenya. It sets out rules for employment of children and prohibits the employment of children in certain places. The Act acknowledges the spectre of child labour in Kenya as it makes provisions for children employed in industrial undertakings. It is however silent on children employed in other undertakings.

- Local Authorities

The Ministry of Local Government has an ongoing programme for street children's which endeavours to remove children and street families from the streets and into rehabilitation programmes.

- Law Enforcement

An ongoing programme where child protection units are being set up in police stations is taking place. There also exist special training programmes for the police on ways of handling children.

- 3.2.8 The Kenya National HIV/AIDS Strategic Plan 2005/6-2009/10, which has identified the following priorities related to OVC:
- Keep parents alive.
  - Mainstream OVC into sectoral priorities and programmes.
  - Education and UPE for OVC.
  - Care, protection and rehabilitation of children living or working on the streets.
  - Child participation.
  - Children's rights.
  - Social protection (in various forms).
  - Registration of children (and death certificates of parents).
  - Income generation activities (IGAs) for OVC.
  - Advocacy.
  - Succession planning.

The National Programme Guidelines on orphans and other children made vulnerable by HIV/AIDS (2003), which provide principles and priorities to guide OVC programming

### 3.3 Cultural norms and religious laws

- 3.3.1 Under customary and religious laws, certain harmful practices that affect children such as early marriage, disinheritance, female circumcision are condoned.

## 4. GUIDING PRINCIPLES

All responses for OVC shall be developed and implemented in accordance with the following principles:

- 4.1 The family, extended family and the State shall remain the primary support structures for the care, protection and support of OVC.
- 4.2 Programmes for the care, support and protection of OVC shall respect cultural belief systems and ethical values – except where they are determined to cause harm to the child – and shall be guided by relevant national and international legal and policy instruments.
- 4.3 No child shall be discriminated against in access to and the provision of care, support and protection.
- 4.4 Gender sensitivity and inclusiveness shall be emphasised, and programming shall recognise and address the special needs of girls.
- 4.5 Likewise programming shall respond appropriately to the needs of children who are marginalised or who have special needs.



- 4.6 Institutional care shall be a last resort, when all other social safety nets are not available, or are not the best option for the child's care, support and protection.
- 4.7 Transparency, accountability and good governance shall be required of all stakeholders providing care, support and protection to OVC.
- 4.8 Child participation will be upheld at all levels.

These principles are, in turn, supported by the 12 principles in the National Programme Guidelines on OVC (2003), which were adopted by many countries following a consultative process led by UNICEF KCO, and which represent a common framework for action<sup>13</sup>.

## **5. SCOPE**

- 5.1 The National Policy on OVC covers all children defined as orphaned (maternal, paternal and double orphans) and vulnerable.
- 5.2 Priority target groups considered in the National Policy on OVC shall be:
  - Orphaned children.
  - Children who are abandoned or neglected.
  - Children infected and affected by HIV/AIDS.
  - Children living in child-headed households.
  - Children living with elderly guardians.
  - Children who are refugees or otherwise displaced.

## **POLICY RECOMMENDATIONS**

### **6. POLICY GOAL AND OBJECTIVES**

- 6.1 The goal of the National Policy on OVC is to ensure that every Kenyan child who is orphaned or vulnerable is protected and supported in order to achieve their full potential – physical, cognitive, social, emotional and spiritual – and to realise their rights.
- 6.2 The objectives of the OVC policy are to:
  - Ensure that orphans and vulnerable children have their basic survival needs met.
  - Support orphans and vulnerable children to develop to their full potential.
  - Protect orphans and vulnerable children from all forms of abuse, exploitation and discrimination.
  - Ensure the full and meaningful participation of orphans and vulnerable children in all matters affecting their lives.
  - To integrate government policy in each thematic area

### **7. THEMATIC AREAS**

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<sup>13</sup> Republic of Kenya; Ministry of Home Affairs and NACC; National Programme Guidelines on OVC (2003)

The policy seeks to support and protect the rights of OVC in four key areas, namely:

- Child survival;
- Child development;
- Child protection; and
- Child participation.

## 7.1 **Child survival**

Key in this respect is accelerating poverty reduction programmes and household economic empowerment and providing social safety nets, such as direct assistance, to meet the immediate basic needs of the poorest households in the short term.

### 7.1.1 Shelter

Strategies and interventions are required to protect all children's rights to adequate shelter, such as by improving housing, clothing and ensuring child-friendly environments.

### 7.1.2 Food security and nutrition

Of importance are strategies to:

- Strengthen community-based initiatives for OVC including coping with the impact of HIV/AIDS and establishing safety nets that ensure food security.
- Develop an effective agricultural strategy, into which the needs of OVC is mainstreamed.
- Reduce gender-based differences in access to and control of resources such as land and livelihoods.

### 7.1.3 Hygiene, safe water and sanitation

Strategies should include:

- Allocating more resources, both financial and human, towards providing effective health-related services such as access to safe water, proper shelter and sanitation for all children.
- Ensuring that the water privatisation policy enhances access by children to safe and adequate drinking water.

### 7.1.4 Health care

Strategies will address constraints to health care access and quality, including factors such as the negative consequences of cost sharing policies, with the aim to:

- Improve the health status of OVC through the delivery of quality basic services and the prevention and treatment of common diseases.
- Improve access to health care for OVC, such as for immunisation, for VCT services and for children who go alone to a health facility.

- Extend free medical care that is currently available for under-5s to all OVCs up to 18 years.
- Provide appropriate treatment for HIV infected children, including free antiretroviral treatment (ARV).
- Strengthen medical care, including home-based care, for children living with HIV.
- Strengthen existing information systems and update data on the health status of children.

## **7.2 Child development**

Key in this respect is an appreciation that child development should involve an holistic approach, taking into consideration the physical, emotional, cognitive, spiritual and social aspects of child development.

### **7.2.1 Education**

Education is a fundamental right, and keeping children in school has been shown to reduce the risk of acquiring HIV infection as well as of early marriage, early sexual involvement, etc. Strategies in this area will include:

- Ensuring that OVC are enrolled in and complete basic education.
- Strengthening support programmes for OVC, including school feeding, health, bursaries, shelter, care and protection.
- Establishing non-formal education options, especially for working children.
- Extending the provision of bursaries for OVC to attend secondary schools even at constituency level, with due regard being given to gender.
- Providing text books and uniforms as a way of removing barriers to access to schooling for OVCs.
- Initiating flexible schooling options and reviewing school attendance requirements, like uniforms.
- Strengthening and supporting initiatives to achieve gender parity in education.
- Supporting HIV/AIDS mainstreaming into the school curriculum.
- Improving HIV/AIDS information access to OVC.
- Improving institutional capacity of existing schools in order to accommodate OVCs.
- Ensuring the early childhood development becomes a component of free education

### **7.2.2 Early childhood development (ECD)**

As education should begin at an early age, strategies to increase access to ECD will be undertaken, such as:

- Establishing mobile ECD centres (at watering points for pastoral communities) and hospital-based ECD centres.
- Establishing ECD centres for children living or working on the streets and OVC-friendly ECD programmes.

### 7.2.3 Leisure, recreation and cultural activities

Also important will be initiatives to promote the participation of children in extra-curricula activities that will enhance their development.

### 7.2.4 Psychosocial support

All children require psychosocial support. For OVC, and particularly in the context of HIV/AIDS, effective psychosocial support is a critical intervention.

Programmes are necessary to:

- Prepare teachers to handle the special needs of OVC.
- Provide counselling support services for OVC, parents, care givers and service providers.
- Support comprehensive, culturally appropriate psychosocial interventions for OVC.

### 7.2.5 Social welfare and support

Providing direct and indirect assistance can be a critical component of effective support to OVCs. Programmes should:

- Provide specific and appropriate support to child-headed households.
- Address care giver issues – resources, skills, support – especially if elderly.
- Support the integration of community-based care and support services, such as IGAs, feeding schemes, adult literacy, etc and utilise community members in the selection of beneficiaries.

## 7.3 Child protection

Key in this respect are efforts to strengthen the legal and policy framework, improve co-ordination within the child rights sector and build institutional capacities within the justice system for protecting the rights of OVC. This implies a child-friendly legal infrastructure, including child-friendly courts and decentralised Family Courts.

### 7.3.1 Birth registration

As a requirement for so many forms of support, there must be:

- A high profile campaign on the importance of birth registration as a right and prerequisite for citizenship, voting, acquisition of property and securing the many other rights of children.
- A campaign to increase the number of birth registration centres throughout the country with a special focus on the arid and semi-arid areas.
- Advocacy for a less bureaucratic and more inclusive process of birth registration for all children.

### 7.3.2 Adoption, guardianship, foster care and custody

Efforts should be made to promote alternative parenting arrangements which are in the best interest of individual OVCs and with institutionalisation considered only as a last resort.

### 7.3.3 Institutional care

Transitional institutional care for OVC is, at times necessary; while the ultimate aim must be always to return children to their families (biological or adoptive). To ensure proper care in such circumstances such institutions will be registered and measures will be effected to ensure compliance with minimum standards of service provision.

### 7.3.4 Property rights and inheritance

To prevent children who are orphaned from losing their inheritance, initiatives will be introduced to:

- Strengthen the office of the Public Trustee at all levels so as to ensure that children's property rights are always protected.
- Expand access to Family Courts by decentralising them to deal efficiently and in a timely manner with family disputes and inheritance issues.

### 7.3.5 Juvenile justice

As some children who are orphaned, or facing orphanhood, may come into conflict with the law, it is important to ensure that the juvenile justice system can address their particular needs. There is therefore need for a comprehensive legal and regulatory framework on the rights of orphans and vulnerable children.

### 7.3.6 Protection from discrimination, abuse, exploitation, violence and trafficking

Protection from discrimination, abuse, exploitation, violence and trafficking will be improved by:

- Emphasising the protection of all OVCs and girls in particular, as well as issues of early marriage and negative cultural practices.
- Enforcing the sanctions that exist to address cases of discrimination, abuse and exploitation.
- Formulating guidelines, on combating child sex tourism and child trafficking.
- Instituting long term preventive measures such as poverty alleviation, combating HIV transmission, eradicating harmful cultural practices and creating public awareness.

### 7.3.7 Labour and employment

To address the problem of child labour, it is necessary to:

- Strengthen rehabilitative measures and withdraw children from hazardous and exploitative work and redirect them back to school.
- Institute preventive measures, such as poverty reduction, advocacy on children's rights and capacity building.

- Put in place deterrent measures to deal with cases of exploitative child labour, including the elimination of child labour.

#### 7.3.8 Children in need of care protection (CNCP)

Declaring CNCP a national challenge and preparing a special strategy paper clearly outlining both short and long term interventions is required for a focused approach. This would be accompanied by lobbying for an allocation of the national budget to programmes for children in this category.

#### 7.3.9 Protection from disasters

Children who are susceptible to disasters, refugee children who are orphaned, etc will be prioritised in emergency situations.

### 7.4 Child participation

Key in this respect is a commitment to involve children and especially OVCs in all matters pertaining to them.

#### 7.4.1 OVCs as rights holders

To address the lack of awareness and acceptance of the rights of children it is necessary to:

- Conduct nation-wide advocacy campaigns to raise awareness of children's rights.
- Promote community and family understanding of OVCs.
- Address the specific needs of adolescent orphans.

#### ~~7.4.3~~ 7.4.2 Mechanisms (at all levels) for listening to the voices of OVCs

The opinions and needs of OVCs will be actively sought – such as where and with whom they choose to live – wherever possible utilising existing mechanisms and forums.

#### ~~7.4.4~~ 7.4.3 Capacity building for OVCs

Orphaned or vulnerable children may have multiple roles to fulfil and they will need tailored capacity and skills development initiatives, provided within a secure, caring and supportive environment, if they are to cope

#### 7.5 Duties and responsibilities of children (and of OVCs)

Balancing the rights of children and OVC are the duties and responsibilities accorded to them. Mechanisms and process will be established to facilitate this, linked to aged and context appropriate capacity building to enable them to assume these roles.

#### 7.6 Integrating Government policy in each thematic area

It is essential that every other Government policy in such areas explicitly reflect the concerns and targets expressed within this policy.

## **8. INSTITUTIONAL FRAMEWORK**

### **8.1 Office of the Vice-President and Ministry of Home Affairs**

The Department of Children's Services (DCS), in the Office of the Vice-President, Ministry of Home Affairs, shall safeguard the welfare of children and, in particular, assist in the establishment, promotion, co-ordination and supervision of services and facilities designed to advance the well-being of children and their families.

### **8.2 National Council for Children's Services**

The National Council for Children's Services (NCCS) shall fulfil the following functions in relation to the implementation of the National Policy on OVC:

- Determine child welfare priorities.
- Plan, supervise and co-ordinate public education programmes.
- Facilitate donor funding.
- Provide technical and other support services to agencies participating in child welfare programmes.
- Prescribe training requirements and qualifications for authorised officers.
- Other functions as prescribed in The Children Act No.8 (2001)<sup>14</sup>.

### **8.3 Area Advisory Councils**

At a decentralised level, Area Advisory Councils (AAC) shall, within their areas of jurisdiction and in accordance with The Children Act 32(q), oversee the planning, financing and co-ordination of child rights and welfare activities. Specifically they shall:

- Identify priority areas for intervention in child welfare programmes.
- Identify causes and appropriate interventions for children in need of care and protection.
- Encourage community participation through networking.

### **8.4 Local Authorities**

Local Authorities shall fulfil the functions specified in The Children Act (Second Schedule), namely to:

- Safeguard and promote the rights and welfare of children in its jurisdiction.
- Promote the good upbringing of children by their families.
- Provide financial assistance towards the expenses of maintenance, education or training of children.

### **8.5 Functions of key public structures and Ministries, the private sector and civil society are defined in the National Programme Guidelines on OVC (2003).**

## **9. IMPLEMENTATION STRATEGIES**

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<sup>14</sup> The Children Act Cap 586

- 9.1 Implementation of the National Policy on OVC requires that:
- All levels and stakeholders shall be involved in enforcing the policy.
  - Blockages in the current system shall be identified and addressed, such as improving the fee waiver system for medical attention for children; adoption procedures, etc.
  - Co-ordination shall be improved to address the challenge of different OVC-related issues falling within the mandate of a number of different Ministries.
  - Organisations and stakeholders shall adopt a rights-based and child-centred approach.
  - Support shall be provided through specially targeted programmes.
  - Exchanges of information about experiences shall be promoted.
  - Successful small initiatives (such as the pilot project to provide direct cash subsidies to families caring for OVCs) shall be brought to scale.
- 9.2 In accordance with the priorities of the National HIV/AIDS Strategic Plan (2005/6-2009/10) and the National OVC Action Plan (2005-2009) specific implementation strategies, shall include:
- 9.2.1 Advocacy to:
- Mobilise political commitment and will and reallocate national resources.
  - Mobilise influential leaders to reduce stigma, silence and discrimination.
  - Engage local leaders in responding to the needs of OVCs and increase civil society participation.
  - Strengthen and support social mobilisation activities at the community level, including activities that enable community members to talk more openly about HIV/AIDS.
  - Promote children's human and legal rights.
  - Review and reform laws and policies dealing with children.
- 9.2.2 Prevention, care and support interventions to:
- Establish priority needs across a continuum from prevention to care and support.
  - Stimulate and strengthen community-based responses and partnerships, prioritising the most vulnerable children and creating or maintaining household resources and community safety nets.
  - Prevent or delay orphaning, by collaborating with programmes to keep parents alive.
  - Integrate OVC support with home-based care, VCT and MTCT prevention activities.
  - Provide special support to foster care families, child-headed households, and child and elderly caregivers.
  - Address OVC issues in different circumstances, eg in pastoral communities.
- 9.2.3 Capacity building – at all levels – to:
- Strengthen community capacity to identify vulnerable children and to design, implement and monitor local OVC support activities.
  - Enhance the capacity and resilience of OVCs themselves.



- Reform and strengthen institutional structures and systems, such as building the capacity of officers at District level to handle children's issues.

9.2.4 Research, monitoring and evaluation activities to:

- Establish a comprehensive framework for monitoring and evaluating interventions which support and protect the rights of OVC.
- Identify – through the creation, maintenance and utilisation of a national OVC inventory – and then conduct regular, scheduled monitoring of OVC.
- Assess, regularly, the situation of children in general and OVC in particular and the changing/emerging impacts of HIV/AIDS and then use this data to inform participatory strategic and programme planning.
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9.2.5 Management and co-ordination processes to:

- Adopt resource mobilisation and strategic funding approaches, such as pooling resources.
- Put mechanisms in place to ensure sustainability of programmes.
- Improve co-operation and co-ordination across sectors and areas, such as pooling human, financial and material resources and to reduce duplication.
- Ensure good governance of OVC programmes, coupled with close monitoring and supervision of interventions.
- Support NGOs and community-based partners in areas such as technical assistance, policy and planning guidance, training and resources.
- Mainstreaming OVC into sectoral priorities and programmes.

## 10. RESOURCE MOBILISATION

In light of the increasing numbers of orphans and vulnerable children, and the national concern to protect and promote their rights, adequate and increasing funds shall be allocated to ensure the implementation of all provisions of the National Policy on OVC.

## 11. MONITORING AND EVALUATION

Strategic results to be achieved, monitored and measured include<sup>15</sup>:

- Capacity of the family to protect and care for OVC strengthened.
- Community-based response mobilised and supported.
- Access to essential services, including education, health care and birth registration guaranteed.
- Performance of services to children enhanced.

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<sup>15</sup> As specified in the Republic of Kenya; National OVC Action Plan (2005-2009) and other national documents

- Government policy and legislative reform sustained to protect vulnerable children (and resources channelled to families and communities).
- Awareness to create a supportive (and gender sensitive) environment for children and families affected by HIV/AIDS promoted at all levels through advocacy and social mobilisation.
- Capacity to monitor and evaluate programme effectiveness and quality strengthened and expanded.
- Co-ordination and institutional structures strengthened and supported.
- Sectoral mitigation programmes in place, targeting OVC.

## **12. REVIEW OF POLICY**

The policy will be reviewed from time to time to take into account changing circumstances.

## **13. CONCLUSION**

Children represent one of the most valuable national treasures. The HIV/AIDS epidemic is threatening the future of thousands of Kenyan children. The National Policy on OVC is intended to promote and protect the rights of all children, with special emphasis on those who are orphaned and/or vulnerable. |