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REPUBLIC OF KENYA

KENYA
VISION 2030
*Towards a globally competitive
and prosperous nation.*

THE NATIONAL CHILDREN POLICY KENYA 2010



Submitted by:

**National Council for Children's Services
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LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
ACRWC	African Charter on the Rights and Welfare of the Child
ANC	Ante-Natal Care
ART	Antiretroviral Therapy
CCIs	Charitable Children's Institutions
CSOs	Civil Society Organizations
ECD	Early Childhood Education
ECDE	Early Childhood Development Education
FBOs	Faith Based Organizations
FGC	Female Genital Cutting
FGM	Female Genital Mutilation
HIV	Human Immunodeficiency Virus
ICT	Information, Communication and Technology
IDPs	Internally Displaced Persons
IEC	Information Education and Communication
ILO	International Labour Organization
MDGs	Millennium Development Goals
NCCS	National Council for Children Services
NGOs	Non-Governmental Organizations
NFE	Non-Formal Education
OVC	Orphans and Vulnerable Children
PNC	Post Natal Care
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commission for Refugees
VCT	Voluntary Counseling and Testing

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1.0 PREAMBLE

This policy defines a child as any person under the age of 18 years. Children hold a special place in society. Their nurture and well being is the responsibility of key stakeholders who include parents, wider family, the state (central and local government) and civil society. Kenya, upon recognition that children rights are human rights, has taken great strides in advancing and advocating for them. In this respect, Kenya is a signatory to various international conventions including the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC) and the Hague Convention on the protection of children and cooperation in respect of inter-country adoption. The country has gone further and domesticated the same instruments by enacting the Children Act 2001, and participated in the various sessions reporting the progress made in implementing the said instruments. The commitment to the Millennium Development Goals (MDGs) and the articulation of children issues in Kenya's Vision 2030 is a demonstration of this obligation.

The Children Act was enacted in 2001 and came into force in March 2002. The fact that the said legislation came into being without reference to and in the absence of any existing policy framework has presented many challenges in its enforcement. This policy therefore serves as a framework to guide the government in achieving commitment to our children through the implementation of the Children Act 2001. By so doing, all the children in Kenya will realize their rights as articulated in the various international instruments. More importantly, this policy will ensure that these rights are protected and advanced so that children in Kenya have a chance of realizing their full potential by growing in a safe and stable environment.

This policy draws its context from the existing international, regional and national instruments and frameworks that support the realization of the rights and welfare of children. Key among these include; The United Nations Convention on the Rights of the Child (1989); The African Charter on the Rights and the Welfare of the Child (1990); The Children Act (2001); National Early Childhood Development Policy framework; The Refugee Act (2006); The Hague Convention (1993); Employment Act (2007); ILO convention number 182; Minimum Age Convention number 138; Refugee Convention (1951); and the Disability Act (2003). Other relevant frameworks include the Kenya Health Policy Framework (1999), the National Health Sector Strategic Plan II (2005-2010), The Water Act (2002), the National Early Childhood Development Service Standard Guidelines (2006), Sexual

Offenses Act (2006), Food and Nutrition Policy (2007) and the National Hygiene and Sanitation Policy (2007).

After this policy is approved, a detailed ten year National Plan of Action will be drawn to operationalize it. In order to address the emerging issues that may affect the realization of children rights, it is recommended that this policy be reviewed from time to time when need arises.

2.0 THE POLICY VISION, GOALS AND OBJECTIVES

The policy goals stated herein are based on the key pillars of Child Rights as articulated in the (UNCRC), 1989. These are **Survival Rights, Development Rights, Protection Rights** and **Participation Rights**.

Policy Vision:

The vision of this policy is to create an environment where all the rights of a child in Kenya will be fulfilled.

Policy Goals and Objectives:

The overall goal of this policy is to realize and safeguard the rights and welfare of the child.

The specific policy objectives include:

- To provide a framework for addressing issues related to children's rights and welfare in a holistic and focused manner.
- To act as a regulatory framework to coordinate the many related policies and legislations that are geared towards the promotion of children's rights.
- To provide direction and purpose in establishing social and child protection mechanisms while mobilizing resources for action.
- To act as a criterion for evaluating and monitoring the implementation of various legislations, policies and programmes on issues related to children.

Policy Principles:

The following are the policy principles;

- To uphold the best interest of the child in all situations.

- To ensure respect for human dignity, accountability, non-discrimination, equity and equality in relation to children.
- To ensure accessibility of services and participation by children
- To commit every individual adult to take responsibility to protect the rights of the child regardless of the individual's relationship with the child.

In addition, the policy acknowledges that there are over 60 pieces of legislation that focus on different issues affecting children some of which will need to be harmonized. These include among others minimum age of sexual consent, marriage and criminal responsibility.

3.0 SURVIVAL RIGHTS

All children have a right to be born, nurtured and to grow in a conducive and secure environment.

3.1 Health

All children regardless of their socio-cultural, economic and political status have a right to the highest attainable standard of health and appropriate health facilities and services. It shall be the obligation of the Kenya government to provide adequate and quality health services to all children during ante-natal and post-natal periods and throughout the child's lifetime.

Players in the private and public sectors, parents and other caregivers have an obligation to ensure that children access quality preventive promotive, curative and rehabilitative services. In addition, special measures ought to be put in place by government and all duty bearers to mitigate the impact of HIV/ AIDs and other diseases on children and embrace reproductive health concerns. This shall be realized through among others:

- i. Measures to reduce infant and child mortality.
- ii. Measures to prevent and manage childhood illnesses, disabilities, injuries and domestic accidents.
- iii. Provision of services and Information, Education and Communication (IEC) on the importance of quality family planning, Ante-Natal Care (ANC), safe child delivery, breastfeeding, immunization, Post- Natal Care (PNC), good nutrition, HIV prevention, adolescent health, safe drinking water, environmental hygiene and sanitation.

- iv. Provision for child friendly counseling and testing services and access to age appropriate ARTs.
- v. Measures to reduce micronutrient deficiencies.
- vi. Measures to control practices prejudicial to the health of the child.

4.0 DEVELOPMENT RIGHTS

Development Rights include education, play and leisure, cultural and artistic activities, access to appropriate information, social security and parental care.

4.1 Education

All children deserve quality, relevant, accessible affordable and child friendly education in a secure and safe environment. The Kenya government and parents/guardians are required to take steps to ensure accessibility, utilization of free and compulsory basic education that should take into account the foundational significance of the Early Childhood Education (ECE). This shall be achieved by among others:

- i. Provision of equitable access to quality and adequate educational facilities, with safe drinking water and separate sanitation facilities for boys and girls.
- ii. Standardization of the early childhood curriculum while ensuring relevance, quality and responsive school curriculum at all levels.
- iii. Elimination of hidden barriers detrimental to accessing free education.
- iv. Provision for free feeding programmes for the needy and vulnerable children in schools.
- v. Promotion of appropriate and child friendly physical education (games, sports) and other types of recreational as well as cultural and scientific activities in schools, community centers and other institutions.
- vi. Provision of alternative quality Non-formal Education (NFE) within education policy framework for children unable to access formal education.

4.2 Leisure, Recreation and Play

All children shall have access to adequate and appropriate leisure, recreation and play for their holistic development for the realization, growth and exploitation of their talents. This shall be provided through among others:

- i. Provision of child-friendly and well equipped community parks that are universally accessible and suited for all categories children.
- ii. Promote and inculcate the importance of play and leisure for the continued holistic development of the child.

4.3 Socialization, Parental Care and Access to Information

Positive socialization is a necessity in the overall development of the child. It is enhanced through inculcation of social norms, values and attitudes gained through parenting, peer association and social interactions. Access to accurate and appropriate information supplements the process of socialization and prepares children for various life experiences and challenges. These shall be enhanced through among others:

- i. Enactment of legislations and policies to regulate the media and ensure that children do not access information that is detrimental to their development
- ii. Programmes to strengthen family ties so that full potentialities of growth of children are realized within the family, neighbourhood and the community environment.
- iii. Encouragement of foster care and adoption as alternatives to loss of parenting.
- iv. Advocate and promote programmes on effective parenting.
- v. Provision of age-appropriate and gender responsive information, life skills and materials at all levels of child development.

4.4 Cultural and Artistic activities

As children grow, they are entitled to understand and identify with their cultural and artistic activities. It is the duty of the state to encourage positive cultural and artistic development. This shall be achieved through among others:

- i. Encouragement and institutionalization of regular cultural events to foster positive cultural values.
- ii. Encouragement and infusion of cultural and artistic activities in the school curriculum at all levels and for all categories of children.

5.0 PROTECTION RIGHTS

All children especially children with disabilities and those with special needs have a right to be protected from any harm that may interfere with their growth and development. Protection rights are realized through actions that ensure children access birth registration and identity, as well as systematic measures to guard against substance abuse, physical abuse, child labour, trafficking, sexual abuse and exploitation, neglect, displacement, disasters, wars and conflicts among others.

5.1 Identity and Registration

Every child particularly the child with disabilities and that with special needs has a right to identity and registration at birth. This is guaranteed through naming, right to nationality and the continued preservation of identity. This shall be ensured through among others:

- i. Lobbying and advocacy on the importance of child birth identity and registration at birth.
- ii. Accessible, less bureaucratic and affordable registration procedures for birth and acquisition of identity cards for all children regardless of their status in the society.
- iii. Decentralization of birth and identity card registration centers countrywide.

5.2 Drugs and Substance Abuse

All children in Kenya deserve to be protected from drugs and substance abuse. This can be achieved through among others:

- i. Measures to strengthen and enforce existing laws against drug trafficking and abuse.
- ii. Accessible and affordable rehabilitation and rescue centers, equipped with qualified personnel and equitably distributed countrywide for children who abuse drugs and other substances as well as medical care to children addicted to drugs.

- iii. Incorporation of the dangers of drug abuse into school curricula.
- iv. Provision of specialized staff in all children institutions to detect and deal with drugs and substance abuse.
- v. Provision of more recreational facilities with varied activities to engage children fully during times of leisure especially during the holidays.

5.3 Physical Abuse

All children have a right to be protected from physical violence such as hitting, kicking, beating, bites, burns as well as corporal punishment, among others.

Appropriate measures for protecting children from physical abuse may include:

- i. Ensuring enforcement of laws on corporal punishment and other forms of cruel and degrading punishments.
- ii. Lobbying and advocating for alternative forms of disciplining children.

5.4 Child Labour

All children have the right to be protected from work that threatens their well being which include health, education growth and development. Appropriate measures for this protection include:

- i. Advocate for programmes that prevent and protect children from child labour.
- ii. Ensure provision of social protection services especially access to education for all children as well as life skills.
- iii. Ensure enforcement of laws.
- iv. Appropriate and marketable vocational skills for all school dropouts with provision of educational bursary fund.

5.5 Child Trafficking

Protection of all children against all forms of sale, trafficking and abduction needs to be guaranteed. This is achievable through:

- i. The involvement of the government (as a primary stake holder) and other duty bearers in the rescue and rehabilitation of all vulnerable children.
- ii. Enactment and enforcement of a comprehensive anti trafficking law in line with international standards.
- iii. Ensuring that families of vulnerable children have access to social protection services.

5.6 Child Sexual Abuse and Exploitation

All children are vulnerable to sexual violence although girls are more affected. Protection against these shall be provided through among others:

- i. Enforcement of legislations on child sexual abuse and exploitation.
- ii. Provision of IEC programs and life skills for vulnerable children especially girls including children of commercial sex workers.
- iii. Provision of child protection systems to receive and respond to cases of child sexual abuse.
- iv. Establishment of temporary shelters for children who have been sexually abused.

5.7 Child Neglect

All children in Kenya have a right to be brought up in a conducive environment and should be protected from neglect. Neglect is an important contributor of illness and death in young children if not prevented. Measures to prevent and protect children from neglect include:

- i. Support for parents and families.
- ii. Ensuring the existence of social protection policies and programmes.

5.8 Children of Internally Displaced Families and Refugees

All children living in Kenya (including refugees) deserve equal treatment in terms of protection from all forms of threat. This can be achieved through:

- i. Policies and legislations that address the human rights issues of IDPs.
- ii. Advocacy and awareness raising on the rights of children among refugees and internally displaced communities together with programs aimed at instilling camaraderie and fostering good relations with the surrounding communities/ peoples in a bid to reduce discrimination.
- iii. Minimal disruption of essential services such as education, water, sanitation, shelter and health for children of internally displaced and refugee families.

5.9 Children affected by Disasters, Wars and Conflicts

It is imperative that in times of natural calamities and civil unrest, a country must accord children priority for protection and relief. The necessary measures for this include but not limited to:

- i. Provision of disaster preparedness measures with particular attention to children, pregnant and nursing mothers.
- ii. Promotion of community capacity building in preparedness, response, rehabilitation and reconstruction, mitigation and management of disasters.
- iii. Measures to support and strengthen child protection mechanism for areas prone to conflict including handling of arms by child soldiers.
- iv. Ensuring existence of post trauma counseling services to children and families affected by conflict.

5.10 Children and Law

All children deserve protection in matters regarding the law whether they be in conflict with it or requiring legal assistance. In pursuance to article 30 of the African Charter on the Rights and Welfare of the Child, all reasonable effort should be undertaken to avoid having children in custody under whatever circumstances. Other protective measures should include among others:

- i. Provision of child friendly and gender responsive judicial systems.
- ii. Measures to re-integrate children in conflict with the law back to the community.
- iii. Promotion of the utilization of the diversion process for children in conflict with the law.
- iv. Provision of accessible and free legal aid to all children.

5.11 Negative impact of Information Communication Technology (ICT) and Media

Children are susceptible to harmful information through ICT and media. There is therefore need for the state, stakeholders and other key persons in a child's life to ensure that the child is protected against possible harm. The specific measures of protection include among others:

- i. Instituting legislation on the use of Internet by children while incorporating clear guidelines and regulations on pornography and other criminal related exposures.
- ii. Awareness programs for the duty bearers on the dangers posed by exposure to uncontrolled media and pornographic materials.

5.12 Retrogressive Cultural, Beliefs and Practices

All children shall be protected from retrogressive and repugnant cultural, beliefs and practices. Cultural and traditional practices constitute one of the major challenges to the full realization of child rights in Kenya. The necessary measures may include:

- i. Provision of IEC programs to discourage retrogressive and repugnant cultural beliefs and practices.
- ii. Enforcement of legislation and Plan of Action against Female Genital Mutilation and Cutting (FGM/FGC) and child marriage.
- iii. Provision of temporary child friendly shelters for those rescued from retrogressive and repugnant cultural beliefs and practices.
- iv. Mechanisms for ensuring that the property of deceased parents transcends to orphaned children regardless of their age or sex.

5.13 Negative influences and harm by Caregivers

All children deserve quality care, nurture and protection against any dangers posed by those entrusted with their care. While girls are the most affected, children with disabilities have not been spared. Protection against harm by caregivers can be enhanced through among others:

- i. Measures to support wider dissemination and implementation of the Sexual Offenses Act 2006 and the Disability Act (2003).
- ii. Provision of IEC programs to raise awareness on the rights of the children and forms of child abuse by caregivers.
- iii. Provision of a free and accessible channel to air complaints of child abuse especially for right claimers.

5.14 Orphans & Vulnerable Children (OVC)

Although all children have a right to be protected and receive support within the family, community and the wider society. Appropriate measures to protect orphans & vulnerable children (OVC) include:

- Support for parents, families and care givers
- Strengthen and support structures and community system take care of the orphans & vulnerable children (OVC)
- Provision of treatment, care and support to children including their parents and caregivers.

5.15 Children under Community Care, Adoption, Foster Care and Charitable Children Institutions (CCIs)

Although community care, adoption, foster care and charitable children's institutions have been found to be viable alternatives for childcare, all children living under these arrangements shall be protected against any possible abuse and exploitation. This shall be achieved by among others:

- i. Domestication of the provisions of the Hague Convention on Inter-country Adoption.
- ii. Reasonable efforts undertaken by adoption societies to avoid the separation of siblings while placing children for adoption.
- iii. Provision for CCIs to operate as the last resort and temporary measure for children as they await appropriate placement and alternative family care within the community.
- iv. Strengthen and support the structures and community systems that take care of the orphans and other vulnerable children (OVC).

6.0 PARTICIPATION RIGHTS

Due to socio-cultural influences, children are ignored in key decisions that impinge on their welfare hence, the call to underscore their participation as a right. All children shall participate in all areas relevant to their gender and age. This shall be facilitated through such measures as:

- i. Provision of appropriate and accurate information at all stages in their growth to enhance their participation in regard to expression of opinion.

- ii. Provision for appropriate forums to promote association and expression of opinion for all categories of children, at all levels, with proper representation by region, age and gender.
- iii. Popularization of the already existing child participation guidelines to the public.

7.0 DUTIES AND RESPONSIBILITIES OF CHILDREN

In pursuant to Article 31 of the African Charter, clear guidelines on the duties and responsibilities of children in the application of the rights of a child should be availed. These shall incorporate:

- i. Work for the cohesion of the family.
- ii. Respect for parents, superiors and elders at all times;
- iii. Service to the community;
- iv. Preservation and strengthening of social and national solidarity including responsible citizenship; and
- v. Preservation and strengthening of the positive cultural values of the community.