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NATIONAL CARE REFORM STRATEGY FOR CHILDREN IN KENYA 2022 - 2032



FAMILY



Please note that select pages have been omitted from this document for brevity. The complete version, including all sections, is available online for reference.

FOREWORD

The National Care Reform Strategy for Children in Kenya comes against the backdrop of, and is a response to, the United Nations Convention on the Rights of the Child (UNCRC), the UN Convention on the Rights of Persons with Disabilities (UNCRPD), the UN Guidelines for the Alternative Care of Children, the 2019 UNGA Resolution on the Rights of the Child, and the African Charter on the Rights and Welfare of Children (ACRWC) which reaffirms the significance and the leading role of the family in the care, nurturing, growth and development of children. Similarly, the Constitution of Kenya recognizes the family as a fundamental unit of society and the necessary basis for social order and bestows the responsibility of childcare on the child's biological family. It is therefore anchored in law that children should, as much as possible, live with and be cared for by their families of birth.

Around the world, an estimated 5.4 million children continue to live in orphanages and other harmful institutions due to poverty, discrimination, and insufficient access to basic services, among other factors. Once separated from their families and communities, children in institutions are deprived of the love, attention and opportunities they need to develop and flourish.

The situation in Kenya fits this global scenario. There are an estimated 45,000 children living in over 845 Charitable Children's Institutions (CCIs) – privately run residential institutions overseen by the Directorate of Children Services (DCS). In addition, there are an estimated 1,000–1,200 children living in 28 government-run institutions, including rehabilitation, remand, reception, and rescue centres. A lack of comprehensive data on the number of institutions means that the true scope and scale of institutionalization in Kenya is largely unknown. Some of the major drivers of institutionalization in Kenya include poverty, disability, displacement and orphanhood, mainly, as a result of HIV/AIDS.

There is overwhelming evidence that children under institutional care suffer severe and sometimes irreparable developmental setbacks as opposed to their counterparts in family and community-based care. The studies show that at least eight out of ten of these children have biological and extended families and, with appropriate support, their families could look after them. On this basis, the Government has taken deliberate steps to transform the childcare system in the country. It continues to support family strengthening initiatives such as cash transfers and other prevention and response programmes to ensure that children are not unnecessarily separated from their families.

To fully align with globally accepted standards of care, the Government in collaboration with other like-minded players in the children's sector adopted a unified and holistic approach towards reforming the childcare system by developing the National Care Reform Strategy for Children in Kenya. The strategy, developed with support of UNICEF and a multisectoral Care Reform Core Team, under the leadership of the National Council for Children's Services (NCCS), seeks to guide national steps towards Prevention and Family Strengthening, robust alternative family care, and Tracing, reintegration and transitioning from institutional care to Family and Community Based Care for all children in need of care and protection. It sets out areas of focus for various agencies in the sector for the next ten years and calls for collaborative effort and active coordination to achieve collective impact approach.

Care reform is a priority and an obligation that is shared by both state and non-state actors in the children sector, and I urge all of us to embrace this agenda and play our part in implementing the strategy. Together we will need to mainstream child protection, alternative care, and family care and community-based care into national social protection systems and programmes to ensure holistic and integrated approaches, continuity and sustainability.

The Ministry is calling upon all partners and stakeholders to forge together in complementing the Government efforts to transform the childcare system from institution-based care to family and community-based care. The successful implementation of this strategy will make it possible for children in Kenya to enjoy their right to grow up in a family environment and receive appropriate care for wholesome growth and development.



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Cabinet Secretary,

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WORD FROM THE CHIEF EXECUTIVE OFFICER

Institutionalization of children has become a global concern. This has led to numerous international and regional conventions, resolutions and other interventions that, at the minimum, seek to ensure such institutionalization is only undertaken as a measure of last resort. At the national level, the realization that children are better taken care of in families and communities as opposed to institutions is gaining traction through the enactment of de-institutionalization legislation, policies and programmes. It has been proven that institutionalization of children has far-reaching negative consequences on their growth and development. There is also evidence that children in families show better outcomes in key areas than those that are placed under residential care.

Global momentum is building, with increasing numbers of governments, donors and childcare and protection providers advocating for the rights of children separated from their families and placed in institutions, ensuring that the issue remains at the top of the child protection and global development agenda. The global shift is towards family and community-based care by intentionally preventing the separation of children from their families and communities.

The international, regional and national legal framework clearly outlines the need to support children in a family environment. The United Nations Convention on the Rights of the Child (UNCRC) is particularly emphatic on the protection of the family and the rights of the child to parental care. The family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members.

Kenya has an estimated 845 privately owned residential institutions of care with about 45,000 children, as per the records held by the NCCS. These children are at risk of inappropriate care and protection that could adversely affect their social, emotional, cognitive and intellectual development by exposing them to myriad of child rights violations. The experience is particularly damaging for children less than three years of age.

NCCS has been at the forefront in championing transformation of the system of care in Kenya. Working closely with other players in the industry, the Council has, among other initiatives, developed the National Care Reform Strategy for Children in Kenya. The strategy paints a clear picture of the care system in the country while drawing important insights from other countries that have successfully undertaken reforms, and outlines the necessary steps and resources needed for successful reforms.

Care Reform is a journey that requires the involvement of all the stakeholders. The strategy is an important step as it gives us the direction to take. However, the onus still lies with our individual and collective efforts to stay the course until all our children are back with their families and communities, while fully enjoying their other rights. Let us all come together and fully implement the strategy for the good of our children.



Abdinoor S. Mohamed.

National Council for Children's Services

Ag. Chief Executive Officer

CONTENTS

| | |
|---|----|
| Acronyms and abbreviations | 4 |
| DEFINITIONS OF KEY TERMS | 5 |
| EXECUTIVE SUMMARY | 15 |
| Introduction | 15 |
| Care reform context | 16 |
| Care reform strategic framework | 17 |
| Care reform activities | 17 |
| Care reform implementation | 19 |
| 1. INTRODUCTION | 21 |
| 1.1 Approach to care reform | 21 |
| 1.2 The care reform movement | 23 |
| 1.3 How the strategy was developed | 25 |
| 1.4 What the strategy covers | 25 |
| 2. CARE REFORM CONTEXT | 27 |
| 2.1 Key statistics | 27 |
| 2.2 Drivers of institutionalization and family separation | 29 |
| 2.3 Legislation, regulations and policy | 29 |
| 2.4 Services and systems | 30 |
| 2.5 Care reform in Kenya | 30 |

| | |
|---|-----|
| 3. CARE REFORM STRATEGIC FRAMEWORK | 33 |
| 3.1 Vision | 33 |
| 3.2 Goal | 33 |
| 3.3 Objectives | 33 |
| 3.4 Results | 34 |
| 3.5 Results framework | 35 |
| 3.6 Principles | 36 |
| 3.7 Scope | 37 |
| 4. CARE REFORM ACTIVITIES | 39 |
| 4.1 Legislation, regulations and policies reformed to be more supportive of family and community-based services | 39 |
| 4.2 Increased provision and quality of family and community-based services and systems | 47 |
| 4.3 Raised awareness of care reform and the harm of institutionalization | 71 |
| 4.4 Funds and personnel redirected from institutional care to family and community-based services | 75 |
| 5. CARE REFORM IMPLEMENTATION | 81 |
| 5.1 Levels of implementation | 81 |
| 5.2 Phases of implementation | 97 |
| 5.3 Financing care reform | 104 |
| 5.4 Monitoring and evaluation | 106 |

| | |
|---|-----|
| ANNEX 1 – Development process for the National Care Reform Strategy | 107 |
| ANNEX 2 – Stakeholders involved in the development of the National Care Reform Strategy | 109 |
| Care Reform Strategy Sub-Committee | 109 |
| Key informant interviews | 110 |
| Focus group discussions | 115 |
| Attendees at the National Care Reform Strategy Workshop | 122 |
| Senior leaders that have validated the Strategy | 124 |
| ANNEX 3 – Context analysis | 126 |
| Legislative, policy and regulatory environment | 126 |
| Services and systems | 129 |
| ANNEX 4 – Communications and advocacy messages | 136 |
| ANNEX 5 – Communications and advocacy mediums | 140 |
| ANNEX 6 – Support services for children and families | 142 |

ACRONYMS AND ABBREVIATIONS

| | |
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| ACRWC | African Charter on the Rights and Welfare of the Child |
| AAC | Area Advisory Council |
| CCI | Charitable Children's Institution |
| CT-OVC | Cash Transfer – Orphans and Vulnerable Children |
| DCS | Directorate of Children Services |
| DSD | Department of Social Development |
| CPIMS | Child Protection Information Management System |
| CTWWC | Changing the Way We Care |
| CWSK | Child Welfare Society of Kenya |
| HIV | Human immunodeficiency virus |
| ICT | Information and communications technology |
| M&E | Monitoring and evaluation |
| NCAJ | National Council on the Administration of Justice |
| NCCS | National Council for Children's Services |
| NCPWD | National Council for Persons with Disabilities |
| NCRCOD | National Care Reform Coordination and Oversight Division |
| NGAO | National Government Administrative Office |
| NGO | Non-governmental organization |
| NIMES | National Integrated Monitoring and Evaluation System |
| OVC | Orphans and Vulnerable Children |
| PBO | Public Benefit Organization |
| PWSD-CT | Persons with Severe Disabilities – Cash Transfer |
| SAU | Social Assistance Unit |
| SCI | Statutory Children's Institution |
| SMART | Specific, measurable, achievable, relevant, time-bound |
| UN | United Nations |
| UNCRC | United Nations Convention on the Rights of the Children |
| UNCRPWD | United Nations Convention on the Rights of Persons with Disabilities |
| UNHCR | United Nations High Commissioner for Refugees |
| UNICEF | United Nations Children's Fund |

EXECUTIVE SUMMARY

Introduction

Care reform is a change process within the systems and mechanisms that provide care for children separated from their families or at risk of separation. It consists of three pillars, all of which need to function and fulfil their purpose for care reform to be holistic and sustainable.

1. **Prevention of separation and family strengthening:** This involves support measures and services which strengthen families and prevent children being separated from their families. It includes education, health care, social protection, food security, livelihood support, positive parenting, psychosocial support, day-care facilities, community-based rehabilitation services for children with disabilities, employment support, support for child-headed households, and so on.
2. **Alternative care:** This involves strengthening and expanding family and community-based alternative care options for children who are unable to live in parental care. Alternative care includes kinship care, kafaala, foster care, guardianship, adoption, traditional approaches to care, places of safety and temporary shelter and institutional care, as well as strong gatekeeping mechanisms.
3. **Tracing, reintegration and transitioning to family and community-based care:** This relates to the safe and sustainable transition of institutionalized children and unaccompanied and separated children to family and community-based care. This includes tracing, reintegration and case management, as well as support for leaving care, aftercare and supported independent living. Furthermore it involves the redirection of resources from institutional care to family and community-based care, as well as the retraining and redeployment of institutional personnel.

The care reform process changes the attitudes and practice of duty bearers and other stakeholders towards family and community-based care solutions and away from institutional care as a primary response. It strengthens duty bearers' accountability in meeting their obligations to ensure children's rights are met. It involves the meaningful participation of children and young people. It will result in more children in Kenya living safely, happily and sustainably in families and communities where their best interests are served.

The global care reform movement to end child institutionalization is informed by 80 years of research which demonstrates the harm of institutional care and is supported by international and regional instruments including the UNCRC, the UNCRPWD, the UN Guidelines for the Alternative Care of Children and the ACRWC. Over the last few decades, and especially in recent years, global momentum towards care reform has grown significantly and Kenya is a key player in this global movement.

The National Care Reform Strategy for Children in Kenya was developed by the National Council for Children's Services (NCCS), with full support from an intersectoral and multi-agency Care Reform Core Team consisting of State and non-state actors, as well as being supported by an external UNICEF care reform specialist.

The focus of the National Care Reform Strategy for Children in Kenya is on creating an enabling environment at the *national level* for care reform to be implemented effectively. The transition of children and young people from institutions and situations where they are unaccompanied or separated into family and community-based care will happen at the *county level*. This will happen under the direction of county-specific action plans which will be developed by each county based on this Strategy.

Care reform context

Children constitute nearly half the population of Kenya. There are high levels of vulnerability amongst Kenya children: 3.6 million are classified as OVC, 9.5 million are deprived of three or more basic rights, 15,752 are connected with the streets, 266,524 are refugee and asylum-seeking children, and potentially up to 15 per cent have a disability. Over 47,000 children were living in institutional care prior to the COVID-19 pandemic. Their institutionalization was driven by orphanhood, poverty, neglect and abandonment, violence and abuse including harmful cultural practices, lack of access to basic services, disability and/or being in conflict with the law.

The legislative, regulatory and policy environment in Kenya is robust and, for the most part, provides a strong foundation upon which Kenya will embark on care reform. This includes the Children's Act 2001 which domesticates and expounds the UNCRC and ACRWC, and is currently in the process of being updated through a new Children's Bill. The Children's Act is elaborated through CCI Regulations 2005, Children (Adoption) Regulations 2005, a National Children Policy Kenya, National Plan of Action for Children in Kenya and *Guidelines for the Alternative Family Care of Children in Kenya*, 2014. The Government has also issued a moratorium on intercountry adoption in 2014, a moratorium on registration of CCIs in 2017, and established the NCAJ Special Taskforce on Children Matters to champion the best interests of children in the justice system. The Government of Kenya however recognizes that there are a number of areas of legislation, regulations and policy which support forms of institutional care and need to be reformed.

Institutional care in Kenya currently faces multiple challenges in the quality of care and compliance with Government guidelines and procedures which allow for the unnecessary long-term placement of children in institutions, instead of being used as a temporary and last resort when family and community-based care is not possible.

The family and community-based alternative care options in Kenya are mixed in their quality and scope, and require improvement in a number of areas. The situation is similar for prevention of separation and family strengthening services such as education, health, social protection and other services. There is however a high level of commitment and momentum towards care reform within the Government of Kenya and within civil society.

1. INTRODUCTION

1.1 Approach to care reform

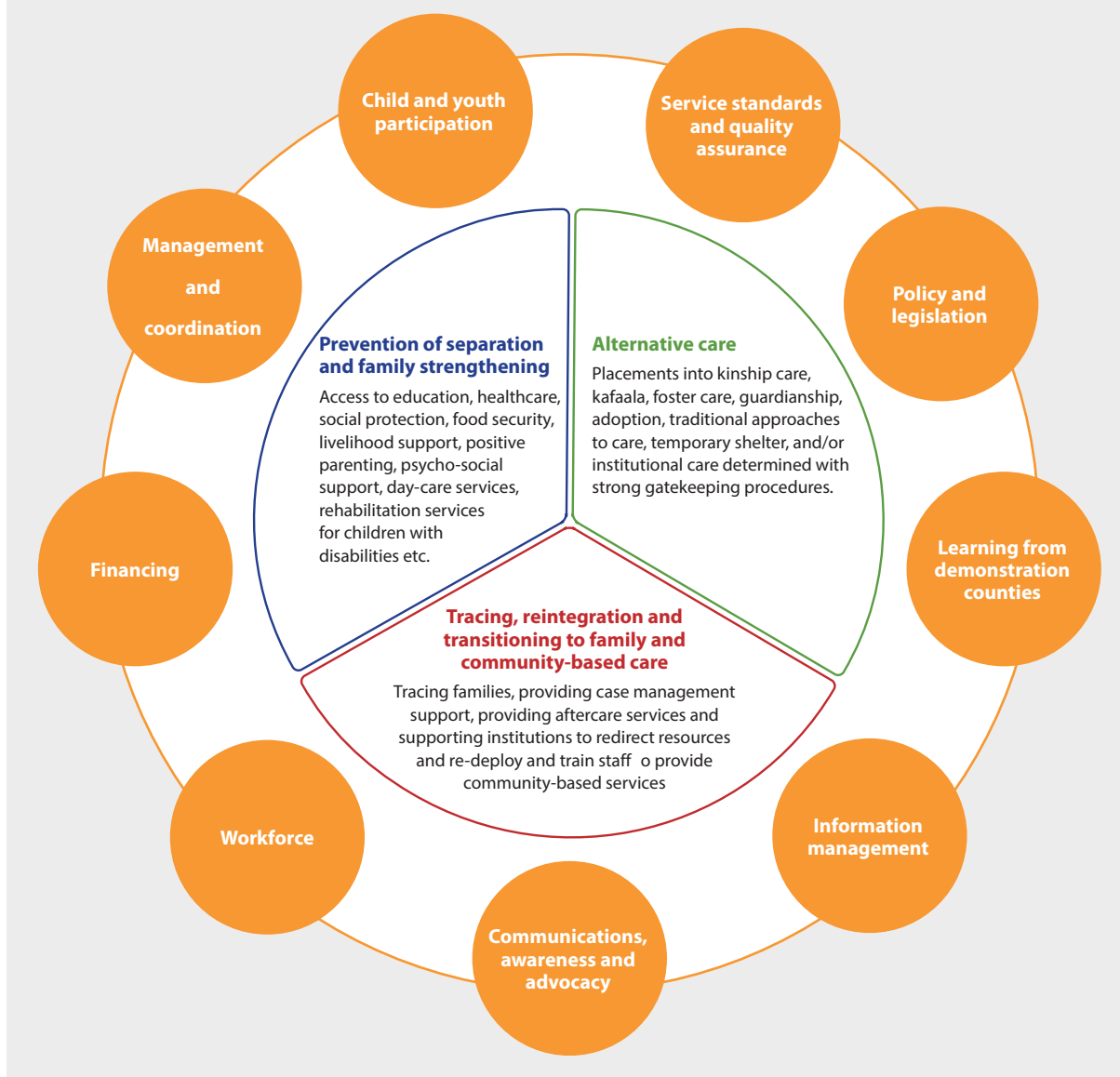
Care reform is a change process within the systems and mechanisms that provide care for children separated from their families or at risk of separation. It consists of three pillars, all of which need to function and fulfil their purpose for care reform to be holistic and sustainable.

- 1 Prevention of separation and family strengthening:** This involves support measures and services which strengthen families and prevent children being separated from their families. It includes education, health care, social protection, food security, livelihood support, positive parenting, psychosocial support, day-care facilities, community-based rehabilitation services for children with disabilities, employment support, support for child-headed households, and so on.
- 2 Alternative care:** This involves strengthening and expanding family and community-based alternative care options for children who are unable to live in parental care. Alternative care includes kinship care, kafaala, foster care, guardianship, adoption, traditional approaches to care, places of safety and temporary shelter and institutional care, as well as strong gatekeeping mechanisms.
- 3 Tracing, reintegration and transitioning to family and community-based care:** This relates to the safe and sustainable transition of institutionalized children and unaccompanied and separated children to family and community-based care. This includes tracing, reintegration and case management, as well as support for leaving care, aftercare and supported independent living. Furthermore it involves the redirection of resources from institutional care to family and community-based care, as well as the retraining and redeployment of institutional personnel.

The care reform process The care reform process changes the attitudes and practice of duty bearers and other stakeholders towards family and community-based care solutions and away from institutional care as a primary response. It strengthens duty bearers' accountability in meeting their obligations to ensure children's rights are met. It involves the meaningful participation of children and young people. It will result in more children in Kenya living safely, happily and sustainably in families and communities where their best interests are served.

This approach to care reform suggests the following theory of change: If prevention of separation and family strengthening services are accessible and used, families will be more resilient to withstand the risks that can lead to child–family separation. If a range of family-based alternative care options are available and of high quality, and if placements into alternative care are made using strong gatekeeping mechanisms, children’s long-term care will be family-based, only done when necessary, meet their individual needs and be temporary in nature whenever possible. All care decisions will centre on the best interests of the child. If the families of children in institutional care are traced and assessed, and these children’s cases are carefully managed and supported, they can be safely reintegrated to live and grow up with their families. If institutional facilities are supported they can redirect funding to community-based services and redeploy their staff to support children and families through community-based services that are in the best interests of children and families. If all three of these pillars – prevention, alternative care and transition to family and community-based services – happen together through a government-led care system that prioritizes family-based care and involves the active participation of civil society, communities and those with lived experience, more children in Kenya will live safely, happily and sustainably in families and communities where their best interests are served.

STRATEGIC APPROACH TO CARE REFORM



THE THREE PILLARS OF CARE REFORM

Throughout this document a colour-coding system is used to notate information and activities related to each one of the three pillars:

Blue Pillar 1: Prevention of separation and family strengthening

Green Pillar 2: Alternative care

Red Pillar 3: Tracing, reintegration and transitioning to family and community-based care

Orange Issues which cut across all three pillars.

For more information on which areas of care reform are covered under each pillar, see the Three Pillars of Care Reform diagram on [above](#).

1.2 The care reform movement

The global movement to end child institutionalization and promote family and community-based care is informed by 80 years of research which demonstrates the harm of institutional care.¹⁷ The research shows that meeting children's sanitary and nutritional needs in an institutional setting is not enough. Instead it harms the physical, psychological and cognitive development of children, increases the risk of them developing attachment problems, and limits their long-term life chances. High turnovers of institutional staff limit effective relationship building and mean there is insufficient time to provide a basic standard of care. Children in institutions are also at risk of maltreatment by staff or peers, and are denied access to kinship networks which have a major role to play in many societies. Children whose needs are provided for in family and community-based care fare much better.

Care reform is informed by the UNCRC and the UN Guidelines for the Alternative Care of Children, which recognize the rights of children not to be separated from their families, as well as the harm caused by institutional care and the need to progressively replace it with quality family and community-based alternative care. The ACRWC similarly recognizes the primacy of a child growing up in a family environment, and the UNCRPWD recognizes the rights of children with disabilities to live in the community and have equal rights with respect to family life.

Over the last few decades global momentum towards care reform has grown significantly.¹⁸ In December 2019 the United Nations General Assembly passed a new resolution on the Protection and the Rights of the Child. The Resolution reaffirms commitments within the UNCRC and UN Guidelines for the Alternative Care of Children for governments to safely and sustainably replace institutional care with family and community-based care. The Resolution was passed by all 193 UN Member States, including Kenya.¹⁹

17 Berens, A. E., and C. A. Nelson, 'The Science of Early Adversity: Is There a Role for Institutions in the Care of Vulnerable Children?', *The Lancet*, Vol. 386, Issue 9991, 2015, pp.388–398; Van IJzendoorn, M. H. et al., 'Institutionalisation and Deinstitutionalisation of Children 1: A Systematic and Integrative Review of Evidence Regarding Effects on Development', *The Lancet Psychiatry*, vol. 7, no. 8, 2020.

18 Goldman, P. H. et al., 'Institutionalisation and Deinstitutionalisation of Children 2: Policy and Practice Recommendations for Global, National, and Local Actors', *The Lancet Child & Adolescent Health*, vol. 4, no. 8, 2020.

19 Quigley, N., *Landmark Moment as the UN Calls for the End of Orphanages*, Hope and Homes for Children, 18 December 2019, Online

This growing momentum is well demonstrated in African countries such as Ghana, Liberia and Rwanda which have issued government policies, directives and strategies prioritizing care reform, and have made significant progress in implementing them.²⁰ Rwanda is a shining example of this success, having enabled a 70 per cent reduction of children living in institutional care and reintegrated into families or placed in foster care by the end of the first phase of its Tubarerere Mu Muryango (Let's Raise Children in Families) programme. The African Union's Agenda 2063 is supportive of alternative care – and in particular fostering and adoption – for children outside of family-based care.²¹ The global shift in favour of care reform is also demonstrated by the policies of governments such as the United States, which supports “promoting, funding, and supporting nurturing, loving, protective, and permanent family care”,²² and the European Union, which supports the “transition from institution-based to quality family- and community-based care for children without parental care”.²³

Kenya is a key player in the global movement towards care reform. The Government of Kenya has made care reform one of its priorities and has received strong support for this agenda from both state and non-state actors. Article 45 of the Constitution of Kenya recognizes that the family is the natural and fundamental unit of society and the necessary basis of social order and should therefore enjoy the recognition and protection of the state. The Children's Act 2001 determines that children have the right to parental care, unless DCS or the Court determines otherwise, in which case they have the right to the best alternative care. The *Guidelines for the Alternative Family Care of Children in Kenya* recommends that “the alternative care system be reformed to reduce overreliance on institutional care... [and that] alternatives to institutional care be developed in the context of an overall deinstitutionalization strategy”.²⁴ Furthermore, the Ministry of Labour and Social Protection Strategic Plan 2018–2022 commits to promoting family and community-based alternative care services and the development of a deinstitutionalization strategy. It states:

Community support services to children are more efficient and effective for improved child welfare than residential care approach where children are exposed to abuse and other compounded deleterious effects to children's well-being. There is need to create systems that enhance family-based care to ensure that all children, including children with disabilities, enjoy their rights to grow up in a family environment and receive appropriate care, and to prevent the need for placement of children in residential care. Community sensitizations should therefore be emphasized through outreach programs for awareness creation on child welfare (page 19).

It is in this context that NCCS, in consultation with other Government and non-state agencies, has developed the National Care Reform Strategy for Children in Kenya.

20 Better Care Network and UNICEF, *An Analysis of Child-Care Reform in Three African Countries: Summary of Key Findings*, March 2015.

21 African Committee of Experts on the Rights and Welfare of the Child, *Africa's Agenda for Children 2040: Fostering an Africa Fit for Children*, Undated.

22 United States Government, *Advancing Protection and Care for Children in Adversity: A U.S. Government Strategy for International Assistance 2019–2023*, 2019.

23 European Commission, *ANNEX to the JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL EU Action Plan on Human Rights and Democracy 2020–2024*, Brussels, 25 March 2020.

24 Republic of Kenya, *Guidelines for the Alternative Family Care of Children in Kenya*, 2014.

