



Summary Report : Child Welfare in Kenya



Kenya is a Country of:

35 Million People
18 Million Children
8.6 Million Children living in Absolute Poverty
2.4 Million Orphans
443 Thousand Double Orphans¹

Definition of an Orphan:

UNICEF defines an *orphan* as a child who has lost one or both parents. A *double orphan* is a child who has lost both parents.²

The number of orphans, double orphans, and vulnerable children represents a grave predicament for Kenya. The child welfare crisis is directly related to the AIDS epidemic, under development, and conflict.

Absolute Poverty: a state of poverty in which income is insufficient to cover the basic necessities i.e. food, shelter, clothing.

The Social Statistics

Only 64% of Kenyan children aged 0-14 live with both their parents and around 13% are not living with either parent. To compound the problem, just over 15% of all children have lost one parent and 2.5% have lost both.³

Some of these orphans and vulnerable children are cared for by relatives, some are being raised in Charitable Children's Institutions (i.e. orphanages), others are in foster care, still others are struggling to survive outside of any care and/or in child-headed households, and, finally, others are exploited in child labor or child trafficking.⁴

The Hague

Kenya is a signatory to the Hague Convention on intercountry adoption, although, like many developing countries they are having some difficulty ensuring complete compliance.⁵

Child Welfare In Kenya The Country

Kenya is located in East Africa and is bordered by Sudan, Somalia, Ethiopia, Uganda, and Tanzania. Home to mountains like Mt. Kenya dwarfed only by Mt. Kilimanjaro in Tanzania, lowlands, and the beaches of the Indian Ocean, along with diverse wildlife seen on safari, Kenya has a thriving eco-tourism industry. It also has a rich culture with over 45 different tribes and ethnic groups. The majority of Kenyans speak English as well as Swahili. A former English colony, most Kenyans are Christians although there is a sizeable population of Muslims and Hindi.⁶

Kenya is a developing country striving to put an end to corruption and conflict. In the field of child welfare Kenya, despite many challenges, is taking a child-centered approach.

Ministry of Gender, Children, and Social Development Department of Children's Affairs

The Department of Children's Affairs, an office within the Ministry of Gender, Children, and Social Development faces many challenges. Kenyans recognize the need to improve their technology infrastructure, increase staff, increase the number of children's courts, and meet the responsibilities of the Children's Act.⁷ In short they face the problems many other developing countries face. That said, despite these difficulties the Department is pushing for awareness in domestic adoption, guardianship, and foster care. The best interest of the child is paramount and this is reflected in the push by the Kenyans for a "paradigm shift" by Charitable Children's Institutions away from building more orphanages, and towards family preservation programs.⁸

Child Welfare Society of Kenya (CWSK)

Founded in the 1950's, the Child Welfare Society of Kenya is a non-governmental organization. Its vision is "to see all children leading a happy, fulfilling, and fruitful life". CWSK "exists to promote and secure the rights of children in order for them to realize their full potential."⁹

CWSK is focused on strengthening families to prevent dissolution. When that fails either due to parental death or abandonment, then the right of the child is that of adoption. CWSK is an adoption service provider that focuses primarily on domestic (in-country) adoption.¹⁰

Additionally, CWSK is working to encourage families to formalize adoption, by training families in self-representation and educating them on the legal need to formalize kinship adoptions.

Charitable Children's Institutions

In Kenya there are many active Non-Governmental Organizations running and supporting Charitable Children's Institutions; these range from orphanages to daycare and family support centers. The Children's Act of 2001 states that these organizations must have government approval.¹⁷ Unfortunately a significant number of the Charitable Children's Institutions are acting illegally and are not recognized by the government. For example, reports indicated that some organizations even recruit children to enter orphanages.¹⁸ This recruitment is in contrast to the reunification principle found in the Kenyan Children's Act, which states: "if a child is separated from their family without the leave of the court the government will work towards reunification."¹⁹

Building more orphanages will likely only compound the crisis. The risk is evident: "Those who are poor see placing [their children] with others who are more affluent as a sensible option."²⁰ An orphanage may be able to clothe, feed, and school the child, but it cannot replace the love a family can provide. Rather, Charitable Children's Institutions monies could be better spent by supporting education, creating long-term job opportunities, and alleviating poverty. For example, the Institutions could assist ailing grandparents in caring for their grandchildren. Many NGOs have embraced this concept and actively seek to provide opportunities, education, and daycare, to help support the families of vulnerable children. NGOs small and large must focus their actions to harmonize with Kenya's development plans.

Both the Hague and the Families for Orphans Act, recognizes the need to support family preservation and prevent child abandonment. While many unregistered orphanages have the best of intentions, some may actually be a front for child trafficking.²¹ In the aftermath of the election conflict this past year Kenyan police prevented four girls from being trafficked to India. It appears the girls parents believed the girls were going into an orphanage.²²

A Note of Caution:

If an NGO, no matter their good intentions, builds an orphanage they must take into account that a struggling parent or relative may be tempted to place a child. This is tragic, both the parent and the child would be better serviced by preservation services. A quick internet search turned up ten NGO's expanding or building orphanages in Kenya. These orphanages may be necessary, but the hope is that the international charitable response is built on the principle of family preservation first.

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CWSK is also raising awareness for domestic adoption by encouraging adoptive families to share their stories with their community and media.^{11, 12}

Intercountry Adoption

Prospective adoptive parents must reside in Kenya, in the capacity of foster parents, for three months prior to legally completing the adoption of their foster child. This also applies to citizen adoptions. While this is not an attempt by Kenya to limit intercountry adoption, the unintended result is in fact dampening the utilization of intercountry adoption in serving children and runs counter to the Hague Guide to Good Practice.¹³ Foreigners who do not permanently reside in Kenya make up nearly 10% of all Kenyan adoptions¹⁴

Robyn Miller the Kenya Coordinator at Carolina Adoptions said, "adopting from Kenya is a challenge but it is also a great opportunity for parents to learn about their child's culture!" Most importantly Kenya's adoption requirements are child centered.¹⁵ Unfortunately, the U.S. is no longer accepting adoptions applications for Kenya due to Kenya's difficulties with Hague compliance. For more information please see the Kenya page on the Department of State Office of Children's Issues website:

<http://adoption.state.gov/news/kenya.html>

Conclusions

There is no easy solution. The orphan crises must be approached from a variety of directions. The policies the Kenyan government implements must have a transformative effect. As such new legalities and new policies must be multi-faceted, build on other development efforts and aims, and most importantly have the best interests of the child at the core.¹⁶

Kenya is striving to find a home for every child in need. They approach the problem from a variety of fronts: family support and reunification, foster care, guardianship, kinship care, and adoption. There are many other actors in the child welfare field, such as international NGO's. Ultimately it is most important that all actors work within the law, evaluate their motives and actions, and work toward a solution shaped not by international hands, but by Kenyans.

- (1) John Parry-Williams and John Murimi Njoka, *A Technical Assessment of the Legal Provisions and Practices of Guardianship, Foster Care and Adoption of Children in Kenya*. (Kenya, 2008), 3-6. (hereinafter, Parry-Williams and Njoka)
- (2) UNICEF Press Center, *Orphans*, http://www.unicef.org/media/media_45290.html
- (3) Parry-Williams and Njoka, 6.
- (4) Parry-Williams and Njoka, 4.
- (5) Robyn Miller, Kenya Program Coordinator, Carolina Adoptions, telephone interview, September 21, 2009.
- (6) Republic of Kenya Online, *Kenya Information Page*, http://www.kenya.go.ke/index.php?option=com_content&task=view&id=11&Itemid=1 (Sep. 21, 2009).
- (7) Republic of Kenya Online, The Governance Justice Law & Order Sector Reform Programme, *The Children's Department*, [http://gjos.go.ke/gjinner.asp?pcat2=agencies&pcat=ministryofgen der&cat=childrendepartment](http://gjos.go.ke/gjinner.asp?pcat2=agencies&pcat=ministryofgen%20der&cat=childrendepartment) (Sep 25, 2009).
- (8) Parry-Williams and Njoka, xiii.
- (9) Irene Mureithi, *Adoptive Parents Views, Experiences & Challenges in the Adoption Process in Kenya & Their Implications: A three year study research conducted between 2006 and 2009 for Child Welfare Society of Kenya*, (2009), 2.
- (10) Irene Mureithi, *Child Welfare Society of Kenya Presentation on Adoption Fees*, 16.
- (11) Irene Mureithi, *Child Welfare Society of Kenya: Self Representation an Intervention to Address One of the Major Challenges of Local Adoption- A Case Study*. (2009), 3-12.
- (12) Mureithi, *Adoptive Parent...*, 28-29.
- (13) Intercountry Adoption Office Of Children's Issues, United States Department of State, *Kenya Country Information*, <http://adoption.state.gov/country/kenya.html> (Sep. 25, 2009).
- (14) Mureithi, *Adoptive Parent...*, 8.
- (15) Miller Interview, see note (5)
- (16) Parry-Williams and Njoka, xiv.
- (17) Parliament of Kenya, *The Children's Act*, 2001. <http://www.unhcr.org/refworld/country,,NATLEGBOD,,KEN,456d621e2,47975f332,0.html> (Sep. 24, 2009), Part V, Article 58.
- (18) Parry-Williams and Njoka, 24.
- (19) Parliament, Part II, Article 6, 3.
- (20) Parry-Williams and Njoka, 6.
- (21) Parry-Williams and Njoka, 21-22.
- (22) Parry-Williams and Njoka, 32.