



**MINISTRY OF ICT, INNOVATION AND YOUTH AFFAIRS
STATE DEPARTMENT FOR YOUTH AFFAIRS**

Telephone: Nairobi 2240068/3340594
Email: ps@youth.go.ke

Kencom House
P.O. Box 34303 - 00100
NAIROBI

When replying please quote

Our Ref: **MIYA/SDYA/13/8**

29th June, 2021

Principal Secretary
Ministry of Foreign Affairs
Harambee Avenue
NAIROBI

Attn: Amb. Salim M. Salim
Director General
Multilateral and International Affairs

RE: DAY OF GENERAL DISCUSSIONS- "CHILDREN'S RIGHT AND ALTERNATIVE CARE"

Reference is made to your letter **Ref No. MFA. UN 15/34** dated **11th May, 2021** on call for written submissions, Day of General Discussions- "Children's Rights and Alternative Care".

The purpose of this letter therefore, is to forward our submission on the above subject.

Raymond O. Ouma, HSC

For: PRINCIPAL SECRETARY

Encl.

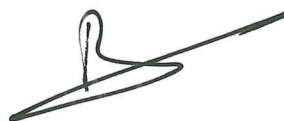
Copy to: Principal Secretary

DAY OF GENERAL DISCUSSION – “CHILDREN RIGHTS AND ALTERNATIVE CARE”;

Introduction

Alternative care is a range of family support services in the community including foster care and adoption that are alternative to care in institutions. Alternative care is resorted to when a child is separated from his parents for one reason or another. More often than not, separation from parents contravenes and undermines child's inalienable human rights as stipulated in national and international legal frameworks; Such as the Declaration of Human rights (1948) where every human being has a right to basic needs such as food, clothing and shelter and education are highlighted. The children Act 2001 has reiterated the same. The constitution of Kenya 2010, article 53 provides for the full provision and protection of the child in terms rights to basic nutrition, shelter and health care. A child should be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment and hazardous or exploitative labour. Above all, every child has a right to parental care and protection which involve equal responsibility of mother and father to provide for the child whether they are married or not married. This provision has direct implication for alternative care and protection.

The Kenyan government is committed in safeguarding children rights; currently, the alternative child care in Kenya is guided by the Guidelines for the Alternative Family Care of Children in Kenya, 2014, which are anchored on the legal provisions on children rights contained in the constitution of Kenya, 2010, and the Children Act, 2001. which advocated for an elaborate structure to oversee formulation and implementation of children rights in the country; the Act established the National Council for Children Services whose functions include formulation of policies on family employment, and social security to address hardships that impacts on the social welfare of children, provision of essential social services to the welfare of families and children in particular. These national legal instruments are informed by the international legal frameworks, key among them the UN convention on the Rights of the Child (UNCRC,2009),the UN guidelines for alternative care of children, adopted by the UN General assembly in 2009. These frameworks encourage efforts to maintain children with their families where possible but when this is not possible in the child's best interest, the State is responsible for protecting the rights of the child by ensuring appropriate alternatives within families and communities set ups.



Current status

According to the guidelines for the Alternative care (Kenya 2014), alternative care services include Kinship, Kafaalah, Foster care, Temporary shelters, Guardianship, Adoption, Supported –child headed households, Supported independent living, Institutional care, Aftercare and Care for children in emergency situations. Some of these systems are rooted in the African cultural practices: kinship an arrangement within a family environment whereby a child is looked after by his or her extended family relatives is a common practice that ensures that the orphaned and vulnerable children are well taken care of. Kaafaah, an Islamic type of alternative child care in which a person or a family volunteer to sponsor and care for orphaned or abandoned children, is a practice within the Muslim community.

Factors contributing to unnecessary family separations

There are several factors that contribute to the unnecessary separation of children from the parents and families. Some can be avoided while others are unavoidable. These include; death of parent(s), Abuse and neglect, Medical and health crisis, Lack of sufficient support services, Poverty-poverty, Harmful cultural practices, Family breakdown, Abandonment, Natural disasters, Ethnic and political conflicts and Poor care arrangements among others.

It is estimated that Worldwide, at least 2.7 million children are in institutions. In Kenya, 2.4 million children are orphans, and while about 200,000- 300,000 children are living on the street. Every year 150- 216 children are reported lost. These children are vulnerable to abuse, Child trafficking, Sexual exploitation, Lack of access to education, disinheritance and Child labor among other vices.

A case for Family- based care

It is internationally recognized that children are better placed within a family than in an institution and all efforts should be geared towards promotion of prevention of separation of children from their families. Institutional care has negative impact on a child's social, emotional, cognitive and intellectual development. They lack love and individual attention. There is violation of children rights including Lack of participation, discrimination, Poor nutrition, inadequate sanitation and hygiene, systematic physical and sexual abuse, Lack of education, Health, no personal care, and lack of life skills. Institutional care does not prepare the child for adult life outside into the world.



UN guidelines stress the need for children who have been separated to be placed in family/ community based care, to be reunited and reintegrated with their families. All efforts need to be made to support families to continue to care for their children, if this is not possible, to place the child in a family based alternative care arrangements.

Family based care is more cost effective. Data indicate that it is 6 times cheaper than institutional based-care. Family based- care is more nurturing, a child grows up in his familiar cultural environment. A child develops a sense of self-esteem and belonging (identity) and acquires family values-key to a well-rounded stable adult. There is also an opportunity to acquire religious and cultural identity, Learn to interact better with people and ultimately be ready to face life challenges better because families are more natural while institutions are highly structured ,controlled and operated on routine.

Suggested appropriate approaches to respond to family/ child separation

There is need to put in place both presentational and interventional measures to address challenges and factors contributing to unnecessary separation of children from their parents and families. These will include empowering adolescents, youth, young parents and teenage mothers with requisite knowledge, values and skills on parenting. Communities and alternative care duty bearers also need to be sensitized on children rights and government development opportunities.

The government through the State Department of Youth Affairs in collaboration with the Office of the Director for Children services can initiate parenting programs targeting youth and young parents in partnership with Faith Based organizations, Community Based organizations and non- governmental Organizations. A curriculum can be developed by the government ministries.

Strengthen and empower families and communities; Invest in families for the wellbeing of children to prevent separation by providing guidance and counselling to families facing crisis. Prevent family separation by strengthening family tracing and reintegration. Create effective system of support to family-based care .This may be expensive but the investment is offset by the reduction of long time cost to the government as more children and youth have opportunity to develop into productive, healthy and less dependent adults. Seek alternative family- based care for children for whom alternative care is absolutely necessary.

Poverty and diseases are among factors contributing to family break down and separation. There is need to enhance economic empowerment of vulnerable youth; those in slums, teen-mothers, and child headed households by equipping them with

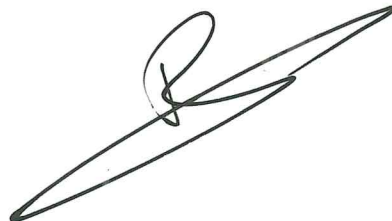
A handwritten signature in black ink, consisting of a stylized, cursive letter 'S' followed by a long horizontal stroke that tapers to the right.

small business management skills, vocational and technical skills. Once trained they can be funded to start small businesses.

Promotion of access to health care is also key, Young people need to be sensitized on the need to register with NHIF. Empowerment on Sexual and reproductive health be enhanced.

For children who are reunited and reintegrated into their families consideration on provision of non-formal education can go a long way in ensuring that they continue and complete education This is based on the fact that some children who may have lived on the streets for long periods cannot fit into the formal education system.

There is need to focus on young adults who are on the streets. The UN Convention on the rights of the child reiterates the importance of focusing on street children and adolescents as resources and not threats to the society. Street children are not a merely a problem that needs to be addressed, they are resourceful human beings, many of whom went to the street to seek a better life. The State Department for Youth Affairs can partner with Undugu Society of Kenya to reintegrate young adults from street into the society. Group based-homes can be established for this group.

A handwritten signature in black ink, consisting of a stylized, cursive letter 'R' followed by a long, sweeping horizontal stroke that tapers to a point on the right.