

## REPUBLIC OF KENYA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	26 Jan 1990 <sup>1</sup>	30 Jul 1990	1990 <sup>2</sup>
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	8 Sep 2000 <sup>3</sup>		2002
Protocol to Prevent, Suppress and Punish Trafficking in Persons		5 Jan 2005 (a) <sup>4</sup>	
UN Optional Protocol on the Involvement of Children in Armed Conflict	8 Sep 2000 <sup>5</sup>	28 Jan 2002 <sup>6</sup>	
UN Convention for the Protection of All Persons from Enforced Disappearance	6 Feb 2007 <sup>7</sup>		
Hague Convention on International Child Abduction	N/A <sup>8</sup>		

In Kenya, there are eleven laws that refer directly or indirectly to missing children:

1. Children Act No. 8 of 2001 (revised 2017);
2. Penal Code of Kenya 1970 (revised 2014);
3. Law No. 174 (Penal Code of 2008), as revised in 2009;
4. Law No. 254 (Penal Code of 2008), as revised in 2009;
5. Law No. 255 (Penal Code of 2008), as revised in 2009;
6. Law No. 256 (Penal Code of 2008), as revised in 2009;
7. Law No. 261 (Penal Code of 2008), as revised in 2009;
8. Law No. 262 (Penal Code of 2008), as revised in 2009;
9. Foster-care Placement Rules (Children Act of 2007), as revised in 2010;
10. Constitution of Kenya of 2010; and
11. Counter-Trafficking in Persons Act No. 8 of 2010.

<sup>1</sup> See, Convention on the Rights of the Child, *U.N. Treaty Collection Status Chart*, at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=IV-11&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-11&chapter=4&clang=en) (last visited Jun. 25, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>2</sup> *Id.*

<sup>3</sup> *Country Profile for Kenya*, United Nations Human Rights Office of the High Commissioner, at <http://indicators.ohchr.org/> (last visited Jun. 4, 2018).

<sup>4</sup> See Protocol to Prevent, Suppress and Punish Trafficking in Persons, *U.N. Treaty Collection Status Chart*, at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=XVIII-12-a&chapter=18&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-a&chapter=18&clang=en) (last visited Jun. 25, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>5</sup> *Country Profile for Kenya*, *supra* note 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See, Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, *Status Table*, at <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24> (last visited Jun. 25, 2018).

## General Child Protection

According to UNICEF's 2017 Annual Report on Kenya, millions of Kenyan children live in poverty lacking enough food, safe drinking water, and going without basic education and health services. Many girls were also at risk of harmful practices including female genital mutilation (FGM) and child marriage.<sup>9</sup>

Kenya ratified the UN Convention on the Rights of the Child (CRC) on July 30, 1990.<sup>10</sup> The CRC ensures that Kenya is committed to providing basic rights for all children within its borders. Kenya also acceded to the Optional Protocol to the CRC on the involvement of children in armed conflict, ratified the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, and ratified the African Charter on the Rights and Welfare of the Child, the Hague Convention on Inter-Country Adoptions, and the Palermo Protocol.

The Kenyan Constitution guarantees that children have the right to a name and nationality; free and compulsory basic education; basic nutrition, shelter and health care; protection from abuse, neglect, harmful cultural practices, violence, inhumane treatment, and exploitative labor; parental care and protection; freedom from detainment except as a last resort.<sup>11</sup> The Constitution further provides that all State agencies and public officers have a duty to address the needs of vulnerable groups including children.<sup>12</sup>

The Children Act of 2001 lays out the rights and responsibilities of children as well as responsibilities of the State to protect them.<sup>13</sup>

The Registration of Persons Act of 1947 (revised 2015) requires the registration of citizens of Kenya for the purpose of issuing an identity card.<sup>14</sup> This Act, however, is only applicable to citizens who have reached the age of 18 years.

The Sexual Offences Act of 2006 provides penalties for a wide range of sexual crimes against children including trafficking of children, child sex tourism, and child prostitution.<sup>15</sup>

The National Plan of Action (NPA) for Children in Kenya 2015-2022 of the National Council of Children's Services of Kenya provides a framework for child protection partners to develop, coordinate, and monitor child-focused efforts.<sup>16</sup> The NPA for Children also outlines priorities designed to address gaps in child protection and support the realization of children's rights in Kenya.<sup>17</sup>

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<sup>9</sup> UNICEF Annual Report 2017, *Kenya*, at [https://www.unicef.org/about/annualreport/files/Kenya\\_2017\\_COAR.pdf](https://www.unicef.org/about/annualreport/files/Kenya_2017_COAR.pdf) (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>10</sup> Convention on the Rights of the Child, U.N. Treaty Collection Status Chart, *supra* note 1.

<sup>11</sup> Constitution of the Republic of Kenya of 2010, Chapter 4, Section 53 - Children, at [http://www.kenyalaw.org/lex/actview.xql?actid=Const2010#KE/CON/Const2010/chap\\_1](http://www.kenyalaw.org/lex/actview.xql?actid=Const2010#KE/CON/Const2010/chap_1) (last visited Jun. 25, 2018).

<sup>12</sup> *Id.* at Chapter 4, Section 21 - Implementation of rights and fundamental freedoms.

<sup>13</sup> Children Act No. 8 of 2001 (revised 2017), at <http://www.kenyalaw.org/lex/rest/db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/C/Children%20Act%20Cap.%20141%20-%20No.%208%20of%202001/docs/ChildrenAct8of2001.pdf> (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>14</sup> Registration of Persons Act 33 of 1947 (revised 2015), at <http://kenyalaw.org/lex/rest/db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/R/Registration%20of%20Persons%20Act%20Cap.%20107%20-%20No.%2033%20of%201947/docs/RegistrationofPersonsAct33of1947.pdf> (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>15</sup> Sexual Offences Act, No. 3 of 2006 (revised 2009), at [http://www.kenyalawreport.co.ke/Downloads/Acts/Sexual%20Offences%20Act%20%20\(%203%20of%202006\)%202009.pdf](http://www.kenyalawreport.co.ke/Downloads/Acts/Sexual%20Offences%20Act%20%20(%203%20of%202006)%202009.pdf) (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>16</sup> National Plan of Action for Children in Kenya 2015-2022, at [http://www.childrenscouncil.go.ke/images/documents/Policy\\_Documents/National-Plan-of-Action-for-Children-in-Kenya-2015.pdf](http://www.childrenscouncil.go.ke/images/documents/Policy_Documents/National-Plan-of-Action-for-Children-in-Kenya-2015.pdf) (last visited Jun. 29, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>17</sup> *Id.*

### General Missing Children's Issues

Kenya does not have legislation regarding missing children specifically or missing persons generally, but has several laws addressing issues related to missing children including kidnapping, child stealing, and abduction.<sup>18</sup>

UNICEF's 2014 Situation Analysis of Children and Adolescents in Kenya showed that 3.6 million Kenyan children were orphans or otherwise classified as vulnerable, many were separated from their parents due to parents' death, poverty, national disaster, or separation and divorce.<sup>19</sup> UNICEF estimated that one million of these children had lost one or both parents to AIDS.<sup>20</sup> Furthermore, it was noted that orphaned children and children without care are particularly vulnerable to becoming "victims of violence and abuse, including harmful labour, recruitment into gangs and sexual exploitation. Children who lose their parents suffer stress and trauma in addition to the loss of parental love, care and protection and often their inheritance."<sup>21</sup>

In 2007, an estimated 250,000 to 300,000 street children lived and worked in Kenya.<sup>22</sup> A source for this data could not be verified, but various NGOs and working groups reference it in their reporting.<sup>23</sup> Orphans in Kenya numbered 2,600,000 in 2012.<sup>24</sup>

In 2017, Kenya was one of the first African countries to launch a dedicated Child Protection Information Management System (CPIMS) that collects and manages information on child protection related issues, including statistics on child exploitation. It is used by governmental and nongovernmental organizations to better coordinate their responses.<sup>25</sup>

### Definition of "Missing Child"

Kenyan legislation defines a "child" as any human being under the age of 18 years.<sup>26</sup> Kenya does not have specific legislation that provides a definition of a "missing child".

### Abandonment

Under Article 127 of the Children Act, any person who has parental responsibility or custody of a child and who abandons the child commits an offense and is liable to a fine up to two hundred thousand

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<sup>18</sup> Penal Code of 1970 (revised 2014), Cap. 63, Article 174 – Child Stealing; Article 254 – Definition of kidnapping from Kenya; Article 255 – Definition of kidnapping from lawful guardianship; Article 256 – Definition of abduction, at [http://www.kenyalaw.org/lex/actview.xql?actid=CAP.%2063#KE/LEG/EN/AR/P/CHAPTER63/chap\\_25/sec\\_261](http://www.kenyalaw.org/lex/actview.xql?actid=CAP.%2063#KE/LEG/EN/AR/P/CHAPTER63/chap_25/sec_261) (last visited Jun. 29, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>19</sup> UNICEF, *Situation Analysis of Children and Adolescents in Kenya: Our Children, our Future* 102, 2014, at [https://www.unicef.org/kenya/SITAN\\_2014\\_Web.pdf](https://www.unicef.org/kenya/SITAN_2014_Web.pdf) (last visited Jun. 29, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> IRIN (2007), *Youth in crisis: Coming of age in the 21st century – 'KENYA: Nairobi's Street Children: Hope for Kenya's future generation'* at <https://www.irinnews.org/fr/node/259893> (last visited Jun. 29, 2018) (on file with the International Centre for Missing and Exploited Children).

<sup>23</sup> UNICEF (2014), *Situation Analysis of Children and Adolescents in Kenya*, at [https://www.unicef.org/kenya/SITAN\\_2014\\_Web.pdf](https://www.unicef.org/kenya/SITAN_2014_Web.pdf) (last visited Jul. 20, 2018) (on file with the International Centre for Missing and Exploited Children); see also Kenya Children of Hope, 'The Street Children of Nairobi' at <http://kenyachildrenofhope.org/the-street-children-of-nairobi/> (last accessed Jul. 20, 2018) (on file with the International Centre for Missing and Exploited Children); see also Smile Foundation Kenya, "Analytical Discussion the Street Children of Kenya" at <http://www.smilefoundationkenya.com/background/statistics-of-street-children.html> (last accessed Jul. 20, 2018) (on file with the International Centre for Missing and Exploited Children).

<sup>24</sup> UNICEF, *Kenya, Statistics, Orphans, Children orphaned due to all causes 2012*, at [https://www.unicef.org/infobycountry/kenya\\_statistics.html](https://www.unicef.org/infobycountry/kenya_statistics.html) (last visited Jul. 10, 2018) (on file with the International Centre for Missing and Exploited Children).

<sup>25</sup> Terre des Hommes, *Kenya Launches Child Protection Information Management System*, Oct. 5, 2017, at <https://www.terredeshommes.nl/en/node/1300> (last visited Sep. 28, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>26</sup> Children Act, Cap. 141, Article 2 - Interpretation.

shillings, to a term of imprisonment of up to five years, or both.<sup>27</sup> Additionally, Article 119 (1) of the Children Act states that children who have been abandoned by their parents or guardians are considered to be in need of care and protection and may be placed in the care of a court appointed guardian.<sup>28</sup> This provision extends to children who have been orphaned or whose parents are incapable of parenting.<sup>29</sup> A child is presumed to have been abandoned if the abandonment appears to have occurred at the time of the child's birth or if the person or institution responsible for the child has not seen or heard from the child's parent or guardian for at least six months.<sup>30</sup>

### Kidnapping and Abduction

Kenya's Penal Code has three laws specifically related to kidnapping and abducting children, along with several other laws regarding kidnapping and abduction of persons generally. The Penal Code defines kidnapping as the conveyance of any person beyond the limits of Kenya without the consent of that person or of someone legally authorized to consent on behalf of the person.<sup>31</sup> Kidnapping from a lawful guardian has a narrower definition that includes taking a male under the age of 14 or a female under the age of 16 away from their lawful guardian without the consent of the guardian.<sup>32</sup> Additionally, concealing or confining a kidnapped person is a separate crime to be penalized equally to the crime being concealed.<sup>33</sup>

The Penal Code defines abduction as compelling or inducing, by force or deceit, any person to leave any place.<sup>34</sup> The penalty for kidnapping or abduction varies depending upon the intent with which the kidnapping or abduction took place. Kidnapping or abducting with the intent to murder is a felony, penalized by imprisonment of up to ten years.<sup>35</sup> Kidnapping or abducting with the intent to confine the victim is a felony, penalized by imprisonment of up to seven years.<sup>36</sup> Kidnapping or abducting with the intent to subject to grievous harm or slavery is a felony, penalized by imprisonment of up to ten years.<sup>37</sup> Kidnapping or abducting a child under the age of 14 with the intent to steal from the child is a felony, penalized by imprisonment of up to seven years.<sup>38</sup>

Child stealing is defined as depriving a parent or guardian of possession of a child under the age of 14 by forcibly or fraudulently taking or harboring the child away from the parent or guardian.<sup>39</sup> Child stealing is a felony, penalized by imprisonment of up to seven years.<sup>40</sup> A defense to the charge of child stealing exists if the accused can prove a good faith claim to the possession of the child.<sup>41</sup>

### Parental Abduction

Kenya is not a signatory to the Hague Convention on International Child Abduction, which is an international treaty that establishes a civil mechanism to return children who have been removed from or retained outside of their country of habitual residence in violation of custodial rights.<sup>42</sup> There is no

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<sup>27</sup> Children Act, Cap. 141, Article 127(1) – Penalty for cruelty to and neglect of children.

<sup>28</sup> Children Act, Cap. 141, Article 119(1)(a) – When a child is in need of care and protection; Article 105 – Appointment of guardian by the court.

<sup>29</sup> Children Act, Cap. 141, Article 119(1)(a-e) – When a child is in need of care and protection.

<sup>30</sup> Children Act, Cap. 141, Article 159(1)(a)(i) – Power to dispense with consent.

<sup>31</sup> Penal Code, Cap. 63, Article 254 – Definition of kidnapping from Kenya.

<sup>32</sup> Penal Code, Cap. 63, Article 255 – Definition of kidnapping from lawful guardianship.

<sup>33</sup> Penal Code, Cap. 63, Article 261 – Wrongfully concealing or keeping in confinement kidnapped or abducted person.

<sup>34</sup> Penal Code, Cap. 63, Article 256 – Definition of abduction.

<sup>35</sup> Penal Code, Cap. 63, Article – 258 – Kidnapping or abducting in order to murder.

<sup>36</sup> Penal Code, Cap. 63, Article 259 – Kidnapping or abducting with intent to confine.

<sup>37</sup> Penal Code, Cap. 63, Article 260 – Kidnapping or abducting in order to subject to grievous harm, slavery, etc.

<sup>38</sup> Penal Code, Cap. 63, Article 262 – Kidnapping or abducting child under fourteen years with intent to steal from its person.

<sup>39</sup> Penal Code, Cap. 63, Article 174(1) – Child stealing.

<sup>40</sup> *Id.*

<sup>41</sup> Penal Code, Cap. 63, Article 174(2) – Child stealing.

<sup>42</sup> 1980 Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 98 (on file with the International Centre for Missing & Exploited Children); U.S. Department of State, *Annual Report on International Child Abduction* (2018), at

legislation specifically addressing “parental abduction”, but Section 174 of the Penal Code provides penalties for anyone who deprives a parent, guardian, or lawful caregiver of possession of a child.<sup>43</sup> Courts may grant custody of a child to a parent, a guardian, a person who has had actual custody of the child for at least three months and who has the consent of the parent, or any person who can show that it is in the best interest of the child.<sup>44</sup>

Additionally, the Children Act provides that a child may not be removed without the consent of the court from the guardianship of a person who is applying for legal custody of the child and who has had possession of the child for three months.<sup>45</sup> If a child is removed from such a guardianship, the court may order the child returned and, where the child has been removed from the jurisdiction of the court, make a wardship or production order to secure the return of the child.<sup>46</sup> Where a guardian believes that a person may attempt to remove a child unlawfully, a court may also order that person not to remove the child.<sup>47</sup>

Beginning in April 2015, Kenya began requiring passport applications to be submitted electronically via [www.ecitizen.go.ke](http://www.ecitizen.go.ke) and paper applications were no longer accepted.<sup>48</sup> In September 2017, the Department of Immigration began to issue e-Passports, though traditional passports will be allowable until 2019.<sup>49</sup> E-passports contain a chip with data about the passport holder including a biometric identifier, digital photograph, and other security features.<sup>50</sup> Passport applications for children require identifying information for both parents, and must be accompanied by the written consent of a parent or legal guardian.<sup>51</sup>

A Kenya Dependant’s Pass can be issued for a child whose parent or guardian is lawfully entitled to enter into Kenya in accordance with the Citizenship and Immigration Act.<sup>52</sup> According to Article 27 (4) of the Citizenship and Immigration Act, “a dependant’s pass shall, subject to the terms and conditions specified therein, entitle the dependant in respect of whom it is issued to enter into Kenya within the period specified in the pass and to remain in Kenya during the validity of the pass.”<sup>53</sup> The Dependant’s Pass expires and becomes invalid when the child attains the age of 21 years.<sup>54</sup>

### Reporting Mechanism

There is no legislation specific to reporting missing children or government-run central reporting mechanism for missing children in Kenya. The Children Act directs any person with reasonable belief that a child may need care and protection to report the child to the nearest police officer authorized

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<https://travel.state.gov/content/dam/NEWIPCAAssets/pdfs/AnnualReports/2018%20Annual%20Report%20on%20International%20Child%20Abduction%20FINAL1.pdf> (last visited Jul. 24, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>43</sup> Penal Code, Cap. 63, Article 174 – Child stealing.

<sup>44</sup> Children Act, Cap. 141, Article 82(3) – Custody.

<sup>45</sup> Children Act, Cap. 141, Article 84 – Restriction on removal of a child where applicant has provided home for three years.

<sup>46</sup> Children Act, Cap. 141, Article 85(1) – Return of child taken away in breach of section 80.

<sup>47</sup> Children Act, Cap. 141, Article 85(2) – Return of child taken away in breach of section 80.

<sup>48</sup> Directorate of immigration and registration of persons, at <http://www.immigration.go.ke/> (last visited Jun. 26, 2018).

<sup>49</sup> *Id.* See also, Cyrus Ombati, *Kenya to phase out all passports by 2019 for electronic ones*, STANDARD DIGITAL, Aug. 31, 2017, at <https://www.standardmedia.co.ke/article/2001253168/kenya-to-phase-out-all-passports-by-2019-for-electronic-ones> (last visited Jun. 28, 2018).

<sup>50</sup> *Id.*

<sup>51</sup> Application for A Kenya Passport For a Child Under Sixteen Years of Age – Form 19, at <http://www.kenyaembassyaddis.org/wp-content/uploads/forms/passport-application-form-19.pdf> (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>52</sup> Department of Immigration Services, *Application for a Dependant Pass*, at <https://fns.immigration.go.ke/infopack/passes/dependantpass/> (last visited Jun. 26, 2018). See also, *Application for Dependant’s Pass*, at <http://www.immigration.go.ke/downloads/Form%2028%20%20Application%20for%20Dependant's%20Pass.pdf> (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>53</sup> Citizenship and Immigration Act, No. 12 of 2011, Article 27(4) – Application for a pass, at [http://kenyalaw.org/lex/sublegview.xql?subleg=No.%2012%20of%202011#KE/LEG/EN/AR/K/NO.%2012%20OF%202011/SUBLEG/HC\\_LN1842013](http://kenyalaw.org/lex/sublegview.xql?subleg=No.%2012%20of%202011#KE/LEG/EN/AR/K/NO.%2012%20OF%202011/SUBLEG/HC_LN1842013) (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>54</sup> *Id.*

to investigate child protection issues.<sup>55</sup> Reports of missing children should be made to the Directorate of Criminal Investigations (CID), which operates investigation units for kidnapping and human trafficking.<sup>56</sup> The CID is headquartered in Nairobi. Some, but not all, police stations have a CID officer on staff.<sup>57</sup> The CID website does not contain information on the locations of the CID officers outside of Nairobi.

Several non-governmental organizations operate portals to report missing children. The Child Welfare Society of Kenya (CWSK) has an online portal requesting contact information from the person reporting a child missing and allows photos to be uploaded with the report.<sup>58</sup>

In addition, the non-governmental organization Childline Kenya, in collaboration with the Department of Children's Services, operates a free helpline to report child abuse and child protection issues.<sup>59</sup> Reports of child abuse can be made 24-hours/day through voice and SMS to 116, as well as during more limited hours by chat to [www.childlinekenya.co.ke](http://www.childlinekenya.co.ke) or email to [116@childlinekenya.co.ke](mailto:116@childlinekenya.co.ke).<sup>60</sup> The helpline provides counselling, rescue, safe shelter, medical care, and legal support by working with the public, key government agencies, and child protection partners in all 47 counties.<sup>61</sup> Childline Kenya reported that from 2006 to 2016, the helpline received 13,878 reports of child abuse and neglect; 528 reports of child trafficking, abduction, and kidnapping; 7,832 reports of child sexual abuse; 7,317 reports of physical abuse, among other reports.<sup>62</sup>

Missing Child Kenya, a non-governmental organization, also operates an online portal to report missing children. The public can provide information about a missing child including name, age, photograph, and date the child went missing through an online form.<sup>63</sup> The portal also includes a model missing child alert poster (in English and Swahili) that clearly states what information should be included: a clear, recent picture; full names and nicknames; age; where the child lives; name and location of school that child attends; last known clothing; last known location; unique features and birthmarks; medical conditions and disabilities; police report number (including the police station where the report was given); and contact persons with phone numbers.<sup>64</sup> Missing Child Kenya helps in creating missing child posters, distributing and sharing the posters, and coordinating with law enforcement and the media.<sup>65</sup>

The National Police Service manages general hotlines 999, 112, and 911 for the reporting of emergency situations and various crimes.<sup>66</sup>

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<sup>55</sup> The Children Act, Article 120(1-4) - Proceedings in respect of children in need of care and protection.

<sup>56</sup> Directorate of Criminal Investigations (CID), Investigative Branch, Serious Crime, at <http://www.cid.go.ke/index.php/sections/investigationunits/serious-crime.html>; See also, *Vital Steps to take when a child goes missing*, AFROMUM, Feb. 21, 2018, at <http://www.afromum.com/vital-steps-to-take-when-a-child-goes-missing/> (last visited May 29, 2018).

<sup>57</sup> *What to expect when you report a missing person*, STANDARD DIGITAL, Apr. 21, 2015, at <https://www.standardmedia.co.ke/lifestyle/article/2000159247/what-to-expect-when-you-report-a-missing-person> (last visited Jun. 25, 2018).

<sup>58</sup> *Report a Missing Child Here*, Child Welfare Society of Kenya, at <https://www.cwsk.go.ke/missing-children-database/report-a-missing-child-here/> (last visited May 30, 2018).

<sup>59</sup> Childline Kenya, *What We Do*, at <http://childlinekenya.co.ke/index.php#whatwedo> (last visited Jun. 1, 2018). See also, National Council for Children's Services, *Child Help Line 116*, at <http://www.childrencouncil.go.ke/child-help-line.html> (last visited Jun. 29, 2018).

<sup>60</sup> *Id.*

<sup>61</sup> Childline Kenya, *Child Protection Report 2006-2016*, at <http://childlinekenya.co.ke/assets/files/Child-Protection-Report-2006-2016.pdf> (last visited Jun. 29, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>62</sup> *Id.* at 3.

<sup>63</sup> Missing Child Kenya, *Report a Missing Child*, at <http://missingchild.co/ke/help-desk/> (last visited Jun. 24, 2018).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> National Police Service, at <http://www.nationalpolice.go.ke/> (last visited Jun. 29, 2018).

### Investigation of Missing Child Cases

There is no national legislation governing the investigation of missing child cases in Kenya. The Children Act provides that any person with reasonable belief that a child needs protective care may report the child to the police<sup>67</sup>, but there are no laws dictating what happens once a report has been made. No police policies were found addressing the investigation of missing child cases. It should be noted that these reports are not exclusive to missing children and include all situations in which a child may need protective services.<sup>68</sup>

Reports of missing children should be made to the Directorate of Criminal Investigations (CID), which operates investigation units for kidnapping and human trafficking.<sup>69</sup>

### National Database

Kenya does not have a government-run national database specific to missing and/or unidentified children. The National Police Service releases an annual crime report. While the report contains statistical information on abduction cases generally, it does not contain specific data regarding missing children.<sup>70</sup>

### Case Management System

Various non-governmental organizations maintain databases of missing children in Kenya. Missing Child Kenya maintains a digital noticeboard of missing children on its website and on Facebook.<sup>71</sup> It is unclear whether these notices are distributed to police or other agencies in Kenya. The Child Welfare Society of Kenya also maintains a missing children database<sup>72</sup>, which is primarily used to notify the public of children who have been found but cannot locate their families. The CWSK database does contain some notices of missing children.

Missing Child Kenya recently created a database of missing child cases for the purpose of observing patterns and trends across the country.<sup>73</sup> This database is part of Missing Child Kenya's Missing Child Noticeboard initiative.

### Alert Mechanism

There is no national missing child alert system in Kenya, but Missing Child Kenya operates several initiatives to alert the public to individual cases of missing children. They publish missing child alerts via social media and their website<sup>74</sup>, and also operates a location-based text alert system to notify people without Internet access to missing children in their area<sup>75</sup>. People must opt in to the service to receive text alerts. Missing Child Kenya has also begun an initiative to install large noticeboards in high traffic areas to post missing children posters.<sup>76</sup> These noticeboards serve both as a public alert regarding individual missing child cases and a model notice for families who are looking for missing children and would like to use Missing Child Kenya's resources in their search.<sup>77</sup>

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<sup>67</sup> The Children Act, Article 120 – Proceedings in respect of children in need of care and protection.

<sup>68</sup> *Id.*

<sup>69</sup> Directorate of Criminal Investigations, *supra* note 56; see also, Vital Steps to take when a child goes missing, *supra* note 56.

<sup>70</sup> The National Police Force, *Annual Crime Report 2016*, at <http://www.nationalpolice.go.ke/crime-statistics.html?download=44:annual-crime-report-2016> (last visited Jun. 26, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>71</sup> Missing Children 2018, *Missing Child Kenya*, at <http://missingchild.co.ke/2018-2/> (last visited May 30, 2018).

<sup>72</sup> *Missing Children Database*, Child Welfare Society of Kenya, at <https://www.cwsk.go.ke/missing-children-database/missing-children-database/> (last visited May 30, 2018).

<sup>73</sup> *MCK Noticeboard*, Missing Child Kenya, at <http://missingchild.co.ke/projects/> (last visited Jun. 25, 2018).

<sup>74</sup> Missing Children 2018, *supra* note 71.

<sup>75</sup> Community Champions Program, Missing Children Kenya, at <http://missingchild.co.ke/projects/> (last visited Jun. 5, 2018).

<sup>76</sup> MCK Noticeboard, *supra* note 73.

<sup>77</sup> *Id.*

Missing Child Kenya is also in the process of partnering with Ushahidi, a non-profit technology company based in Nairobi<sup>78</sup>, to create a crowd-sourced crisis information mobile platform to widely distribute information about missing children to the public.<sup>79</sup>

Researchers at the University of Nairobi, Kenya built and tested a model web-based service to report missing and found persons in Kenya.<sup>80</sup> The application operates as a central reporting mechanism where missing persons may be reported by their families or friends who register biographical details in the application.<sup>81</sup> Anyone who recognizes the missing person may report them as 'found' through the same application by entering location and contact details and the application then generates an email notification to the family of the missing person.<sup>82</sup> In 2017, a similar mobile application was designed and tested successfully by researchers at Strathmore University.<sup>83</sup> Neither application is currently active.

### Awareness-Raising Initiatives

Child Welfare Society of Kenya conducts research and advocacy outreach, including development of best practices, on issues pertaining to children's welfare generally, with a specific focus on children in need of special care and protection.<sup>84</sup> The organization reports that this research is shared with stakeholders, although copies of their reports are not available online.<sup>85</sup>

Missing Child Kenya organizes their Make a Statement social media campaign annually during the Christmas season.<sup>86</sup> The campaign partners with local photographers to photograph men wearing colorful bowties and promotes those images over social media using #MakeAStatement and #MissingChildKE.<sup>87</sup>

Missing Child Kenya also commemorates International Missing Children's Day on May 25 each year through social media outreach to raise public awareness of the issue.<sup>88</sup>

### Trafficking

Kenya is a Tier 2 country according to the 2018 U.S. State Department Trafficking in Persons (TIP) Report, meaning that the government does not fully meet the minimum standard for the elimination of trafficking as based on the Trafficking Victims Protection Act (TVPA), but is making significant efforts to do so.<sup>89</sup>

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<sup>78</sup> Ushahidi, at <https://www.ushahidi.com/about> (last visited Jun. 29, 2018).

<sup>79</sup> Lena Anyuolo, *How Missing Child Kenya reunites families with their missing children*, HAPAKENYA, Nov. 2, 2017, at <https://hapakenya.com/2017/11/02/how-missing-child-kenya-reunites-families-with-their-missing-children/> (last visited Jun. 4, 2018).

<sup>80</sup> Thomas M. Omweri and Andrew M. Kahonge, *Using a Mobile Based Web Service to Search for Missing People – A Case Study of Kenya* 4, INTERNATIONAL JOURNAL OF COMPUTER APPLICATIONS TECHNOLOGY AND RESEARCH, 507 (2015), at <http://ijcat.com/archives/volume4/issue7/ijcatr04071004.pdf> (last visited Jul. 20, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Elizabeth Wayua Mutisya, *Mobile Phone Application for Reporting and Tracking Missing Persons in Kenya* (Thesis) 2017, STRATHMORE UNIVERSITY (on file with the International Centre for Missing and Exploited Children).

<sup>84</sup> Child Welfare Society of Kenya, *Our Services*, at <https://www.cwsk.go.ke/our-services/> (last visited Jun. 25, 2018).

<sup>85</sup> *Id.*

<sup>86</sup> *Make a Statement Campaign*, Missing Child Kenya, at <http://missingchild.co.ke/projects/> (last visited Jun. 25, 2018).

<sup>87</sup> *Id.*

<sup>88</sup> Missing Child Kenya, *International Missing Children's Day 2018*, May 25, 2018, at <http://missingchild.co.ke/personal-safety-tips/> (last visited Jun. 29, 2018).

<sup>89</sup> U.S. Department of State, *2018 Trafficking in Persons Report – Kenya* 252, at <https://www.state.gov/documents/organization/271339.pdf> (last visited Mar. 29, 2018) (on file with the International Centre for Missing & Exploited Children).



Kenya is a source, transit, and destination country for adults and children subjected to forced labor and sex trafficking.<sup>90</sup> Both boys and girls in Kenya may be subjected to forced labor in a variety of domestic services, including agricultural industries, street vending, begging, and the sex trade.<sup>91</sup> Child refugees in Kenya may be taken from refugee camps and forced into sex trafficking or forced labor elsewhere, while children from East Africa and South Sudan are subjected to sex trafficking and forced labor within Kenya.<sup>92</sup>

The Counter-Trafficking in Persons Act of 2010 makes all forms of trafficking a criminal offense punishable by at least 30 years imprisonment or a fine of at least 30 million shillings.<sup>93</sup> The law defines trafficking in persons as the recruitment, transport, transfer, harbour, or receipt of another person for the purposes of exploitation by means including threat or use of force or other forms of coercion; abduction; fraud; deception; and abuse of power.<sup>94</sup> The law further criminalizes acts that promote child trafficking such as adopting, fostering, or offering guardianship to a child for the purpose of trafficking and provides a penalty of imprisonment of not less than 30 years or a fine of not less than 20 million shillings or both with the possibility of imprisonment for life upon conviction.<sup>95</sup>

Additionally, Article 13 of the Sexual Offences Act criminalizes child trafficking and provides for imprisonment of not less than 10 years.<sup>96</sup> Articles 14 and 15 of the Act make the facilitation of child sex tourism and child prostitution a criminal offense punishable by at least 10 years imprisonment.<sup>97</sup>

There are two national hotlines to report cases of human trafficking. Both hotlines are operational 24/7 year-round. Awareness Against Human Trafficking (HAART), a non-governmental organization based in Nairobi, focuses on eradicating human trafficking. HAART manages a helpline 0780-211-113.<sup>98</sup> Health Assistance Kenya (HAK), a non-governmental organization also based in Nairobi runs the national Toll-Free Gender Based Violence (GBV) Helpline 1195.<sup>99</sup> Although the HAK helpline is not specifically aimed at victims of trafficking, it provides rapid response assistance to survivors of GBV including counselling, medical services, safe housing, and legal aid.<sup>100</sup>

The government promotes raising awareness of the issue to prevent child sex and labor trafficking and launched a campaign – Human Trafficking Awareness Day – using highway billboards and community outreach programs, though these efforts were limited by funding constraints.<sup>101</sup>

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> Counter-Trafficking in Persons Act, 2010, Article 3 – Trafficking in Persons, at [http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Counter-TraffickinginPersonsAct\\_No8of2010.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Counter-TraffickinginPersonsAct_No8of2010.pdf) (last visited Jun. 28, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at Article 4 – Acts that promote child trafficking.

<sup>96</sup> Sexual Offences Act, No. 3 of 2006, Article 13 – child trafficking, at [http://www.kenyalawreport.co.ke/Downloads/Acts/Sexual%20Offences%20Act%20%20\(%203%20of%202006\)%202009.pdf](http://www.kenyalawreport.co.ke/Downloads/Acts/Sexual%20Offences%20Act%20%20(%203%20of%202006)%202009.pdf) (last visited Jun. 29, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>97</sup> *Id.* at Article 14 – Child sex tourism; Article 15 – Child prostitution.

<sup>98</sup> HAART Kenya, at <https://haartkenya.org/> (last visited Jul. 20, 2018).

<sup>99</sup> Healthcare Assistance Kenya, *About HAK*, at [www.hakgbv1195.org/about-us/](http://www.hakgbv1195.org/about-us/) (last visited Jul. 10, 2018) (on file with the International Centre for Missing and Exploited Children).

<sup>100</sup> Healthcare Assistance Kenya, *Rapid Response Assistance*, at [www.hakgbv1195.org/service/rapid-response-assistance/](http://www.hakgbv1195.org/service/rapid-response-assistance/) (last visited Jul. 10, 2018) (on file with the International Centre for Missing and Exploited Children).

<sup>101</sup> U.S. Department of State, *supra* note 89.