# EVALUATING THE IMPLEMENTATION OF THE POLICY OF DEINSTITUTIONALIZATION IN CHARITABLE CHILDREN INSTITUTIONS IN KIAMBU COUNTY

**BY**

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## DECLARATION

This is to certify that this project is my original work and has not been presented for a degree award in any other university or institution of higher learning

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This project has been submitted for examination with our approval as the university supervisors

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## DEDICATION

I dedicate this work to my mother who has been a great inspiration in my life

## ABSTRACT

The study evaluates the implementation of the policy of deinstitutionalization in Charitable Children Institutions (CCIs) in Kiambu County. This was mainly a descriptive research carried out in Eighty-two CCIs in Kiambu County. Main objective of the study was to evaluate implementation of deinstitutionalization policy in Charitable Children Institutions in Kiambu County. This was achieved through three specific objectives, namely; To identify the factors causing slow progress in the implementation of deinstitutionalization in CCIs in Kiambu county; To examine the human rights violations occasioned by de-prioritization of deinstitutionalization; To explore the ways in which CCIs implement deinstitutionalization.

The study was premised on the Beneficence ethical theory which emphasizes that all services rendered to children need to adhere to the do no harm principle. The theory as applied to the study means that deinstitutionalization should take place within the stipulated three years in the National Standard for Best Practices in Charitable Children's Institutions and ensure that children are reintegrated to families. The main respondents in the study were the staff in CCIs. The data obtained was supplemented through key informant interviews of CCI managers, representatives of civil society organizations and civil servants from the Department of Children Services. Sampling was by way of systematic sampling through which we selected twenty-seven CCIs. Four care givers per CCI were chosen through purposive sampling bringing to a total of 108 respondents. Semi-structured questionnaire was used to collect data from the staff of CCIs. The questionnaire was supplemented by key informant interviews using interview schedule. The quantitative data was analysed descriptively and tables generated. Thematic analysis was used for qualitative data and presented in prose. The findings of the study indicated that lack of governance and accountability arrangements negatively affected deinstitutionalization to a great extent. Other factors affecting the deinstitutionalization process included the legal framework, personalization of services, organizational complexity and high staff turnover. The study established that deinstitutionalization was not prioritized, which in turn affected the human rights of children in CCIs. It was also found that CCIs facilitated some children rights while others such as the right to family were infringed. The study further ascertained that majority of the people viewed deinstitutionalization as closure of CCIs by the government. Based on the findings, the study recommends systems change by the government to improve safety nets which in turn would address further infringement of children's human rights and prevention of separation from parents in line with article 18 and 9 of the United Nations Convention on the Rights of the Child. In conclusion, the study determined that there is need to educate the stakeholders who include the general public on what deinstitutionalization is and its benefits for future implementation.

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## LIST OF ABBREVIATIONS

| | |
|---|---|
| ACWRC | African Charter on the Rights and Welfare of the Child |
| AIDS | Acquired Immune Deficiency Syndrome |
| CCI | Charitable Children's Institution |
| CRC | Convention on the Rights of the Child |
| DCS | Department of Children Services |
| GoK | Government of Kenya |
| HIV | Human Immunodeficiency Virus |
| ICRC | International Committee of the Red Cross |
| NGEC | National Gender and Equality Commission |
| UNCRC | United Nations Convention on the Rights of the Child |
| UNICEF | United Nations Children's Fund |
| USA | United States of America |
| USD | United States dollar |
| UNCRC | United Nations Convention on the Rights of the Child |
| UNGAC | United Nations Guidelines on Alternative Care |

# CHAPTER ONE: BACKGROUND TO THE STUDY

## 1.1 Background to the study

In 2009, UNICEF estimated that 8 million children globally were residing in CCIs (Browne, 2009). There are more than 820 registered CCIS in Kenya with over 45,000 children. The numbers could be higher because many unregistered institutions exist (Kaberi, 2017). It is estimated that Kenya has about 2.4 million orphans and vulnerable children and 30-45 percent of them are placed in CCIs (Ucembe, 2015). Many of these children are victims of the HIV/AIDS scourge, poverty and disintegration of the social fabric. A study conducted in 2012 in Kenya based on examination of documents for 500 children in government run CCIs showed that 36 percent of children were committed due to destitution, 22 percent due to abandonment, 21 percent owing to physical and sexual abuse and 8 percent due to lack of an appropriate care giver (Morantz, Cole, Ayaya, Ayuku, & Braitstein, 2013).

In recent times, CCIs have been receiving more scrutiny in Africa to highlight the unnecessary placement of children in CCIs. One such independent scrutiny is outlined in a recent Kenyan Newspaper feature by Abiud Ochieng. The feature refers to the findings of the committee established to implement the objectives of the November 2014 moratorium which imposes restrictions on inter country adoption. It surprisingly revealed that up to 93 percent of children in charitable children institutions have been recruited from their families and that only seven percent merited the temporary care and protection provided in CCIs (Ochieng, 2018). Logic holds that children who are unnecessarily placed in CCIs are supported to move from institutional care and return to family-based care within the stipulated time frame of 3 years (deinstitutionalization).

The national standards on CCIs requires that CCIs keep children in their institutions for not more than 3 years with an extension only approved under very special circumstances. Education is a non-factor when it comes to extension of child stay in CCIs. According to UNICEF (2013) children should be reintegrated to their families after the three year stay or placed in alternative care. The government of Kenya recommends adoption, foster care, guardianship and kinship as the key alternative care that children exiting CCIs can be given (GoK, 2013). However, continued stay beyond the stipulated timeframe and for reasons that can be addressed at the family level contravenes the existing policies for care of children in CCIs.

The UN Guidelines on Alternative care stipulate that governments that have ratified the Convention on the Rights of the Child (CRC) should ensure that children are well cared for and protected by their parents or close family members. It further stipulates that in the event they become separated, governments should do everything possible to bring them back together and where this is not possible; find the most suitable form of alternative care. Core to the guidelines is the premise that no child should be separated from family unless all other options of protecting and caring for them have been exhausted. This is because the family offers a good environment for protection, wellbeing and growth due to love and care.

Poverty is the most widely cited reason for institutionalization of children and governments have a duty to ensure that families receive adequate support to ensure proper care for their children and therefore poverty should not be a reason for the separation of a child from a family. In Kenya, the government with support from development partners has taken steps to assist orphans and vulnerable children through a cash transfer programme amounting to 4,000 shillings once in two months. The programme was started in 2004 and one of its aims was to encourage fostering of children and retention of orphans within their families in their communities (National Gender

and Equality Commission, 2014). The amount provided is however insufficient to cater for an individual child and therefore the family is expected to do its part in ensuring other basic needs are met. Recent statistics by World Bank indicate that 36.1 % of Kenyans live below the poverty line of USD 1.90 a day. It also indicates that most of Kenya's poor live in the rural areas predominantly in the North Eastern part of the country (The World Bank, 2018). It therefore means that children in such impoverished households would still require additional support to remain under the care of their extended families.

### 1.1.1 Situational analysis of deinstitutionalization in Kenya

The 2008 technical survey of guardianship, foster care and adoption alternative care in Kenya underscored the lack of reliable data as the greatest impediment to rolling out of effective programme and policy response. It also highlighted the lack of enough resources dedicated to family-based programme and policy response, family reunification and gate keeping measures as a significant factor hindering progress (Williams & Njoka, 2008).

In 2012, the government commissioned an assessment on formal alternative care options. The findings indicated that Kenyans generally embrace kinship more than alternative care. However, this finding is in inconsistent with the current upward trend in family separation emanating from the effects increased urbanization and the disintegration of social fabric (Government of Kenya, 2012). The report cited that many CCIs are unregistered and most of the children in institutional care lack committal orders. It also highlighted of the fact that most of the donor funded CCIs are reluctant to deinstitutionalize and reintegrate children fearing a loss of revenue because high numbers of needy children evoke acts of mercy from well-wishers.

The acknowledgement by the Government of Kenya that there are irregularities in the way children without parental care are handled during their committal and care in CCIs is enough reason to subject implementation of deinstitutionalization to scholarly scrutiny. The findings will inform the development of well-targeted interventions to promote the practice of deinstitutionalization in CCIs and lead to further scholarly inquiry on the topic of expediting deinstitutionalization in Kenya.

A report by Mtoto News indicates that institutionalization of children has lifelong negative effects on children (Kaberi, 2017). He stated that it is the sense of belonging and an individual to provide guidance through life struggles that children need. According to UNICEF (2013) one care giver may only be assigned 6 three-year old and below or eight 4-6 years or ten 7-year-old and above (UNICEF, 2013). It has also been revealed that CCIs are being abused as breeding grounds for trafficking (Government of Kenya, 2013). Kaberi (2017) noted the need for deinstitutionalization and is currently developing a deinstitutionalization roadmap for Kenya with an emphasis on family strengthening and alternative care particularly foster care. Reports about abuse and exploitation in charitable children institutions such as one made about one Matthew Durham a missionary based in Oklahoma who was charged and sentenced for defiling 10 children in a CCI and John Ott who was found guilty of for sexually abusing 14 children in Kenya and he received a 20 year sentence show that residential care may not be the safe haven for children left without parental care (Ucembe, 2015).

### 1.1.2 The process of deinstitutionalization in Kenya

According to the Kenyan guidelines on alternative care, the deinstitutionalization process must include preventative measures otherwise referred to as gate keeping measures. These are the activities which prevent the unnecessary placement of children in CCIs thereby reducing the rate

of placement of children in such institutions. For children in institutional care, the process must involve drawing up of individualized care plans for the individual children. The process also includes the sourcing for the most appropriate family-based care options. These options must then be applied per case with the consideration of the child's interest and post discharge follow up for a period of up to 18 months. The CCIs are monitored and evaluated together with developing family-based options to child care that are well resourced. The process also involves the monitoring and evaluation of existing CCIs and the development of resourced family-based care options. The process also must incorporate the continuous monitoring of the CCIs to ensure appropriate practices (Government of Kenya; UNICEF, 2013).

Apart from the development of a policy to regulate the guide the operation of CCIs and stipulate the recommended length of stay, the government of Kenya has done little to emphasize on the importance of deinstitutionalization. There is minimal attention to accompanying operational frameworks. Increasing the practice of deinstitutionalization requires the development of action plans with multi-year and yearly targets to accompany the existing policy. Such action plans must include objectives seeking to increase child and family support services to increase gate keeping, increase uptake of family care placement, decrease the length of stay and increased implementation of holistic case assessment methods, case management and monitoring procedures in CCIs (Bosnjak, 2009).

Deinstitutionalization may be occurring in some charitable children institutions albeit without strictly observing the 3-year rule and without the requisite exit review committee to ensure among other discharge requirements that follow up reports of all exited children are drawn for at least 18 months after discharge and review whether the child should continue in the new care arrangement. Exit strategies must be guided by individual child care plans that only allow exit

for family reintegration initiatives, successful identification of family based care, expiry of the committal period, attainment of 18 years and referral to receive specialized services outside the CCI (Government of Kenya; UNICEF, 2013). It has been observed that CCIs exit beneficiaries from their care in an adhoc manner rather than under the guidance of care plans. CCIs often wait for opportunities to present themselves to exercise arbitrary expulsion for reasons such as misconduct, while other children are exited on completion of academic education or training, and many others upon attaining the age of majority or upon securing employment (Muthoni, 2007). Many of these care leavers are unprepared to face the world and they are consequently unable realize their economic and social goals after discharge having wasted many years in a routinized environment where very little life skills are taught, and they have to learn the ropes of independent living on their own. Some of them turn to crime or living on the street particularly those without family linkages (Muthoni, 2007).

Despite the good intentions of CCI operators to provide the basic needs to children left without parental care, they inadvertently cause harm when children overstay. Length of stay should not exceed 3 years (Government of Kenya; UNICEF, 2013). Deinstitutionalization is a child right that must be observed by the operators of CCIs and failure to do so in the stipulated timeframe is deemed a contravention of the Do no Harm principle.

### 1.1.3 The stakeholders in Deinstitutionalization Practice in Kenya

The department of children services (DCS) bears the greatest burden of implementing the alternative care guidelines. CCIs require strong coordination with the judicial services, adoption societies, DCS, communities and the civil society which provides a wide range of family support services and preventive services required for the successful implementation of family-based care options. In traditional African societies, a family consists of a large network of people with

different levels of relationship based on reciprocal obligations, geographical proximity, and generational bonds. This means that the definition of a parent is not only restricted to biological ties but also to social responsibility. In this vein, relatives, close friends and neighbours may take responsibility towards children should the biological parents die or be unable or unwilling to care for their children. However, in circumstances where traditional family networks fail to accommodate children left without parental care, CCI is the only option.

### 1.2 Statement of the Problem

Phenomenon of CCI in Kenya has been subjected to studies touching on various issues. Wesonga, (2017) focused on the quality of care in CCIs. Another area that has been covered is exit preparedness to ensure that structured reintegration with clear exit plans during committal to CCIs to guarantee successful transitions to the community (Kibigo, 2018). There are studies advocating for prolonged stay up to 21 years old to ensure that beneficiaries attain independence where CCIs are sufficiently able to cater for children's basic needs (Chebii, 2012).

Much of the focus on deinstitutionalization in Kenya has been on ensuring that a policy that regulates alternative care is in place and the existence of a policy stipulating the maximum duration of stay in an alternative care setting. There is little focus on campaigning for and implementing deinstitutionalization in the Kenyan context as much as it has been in the western countries and a few African countries with Rwanda being in the forefront. Since 2012, Rwanda stopped opening of CCIs and began a move towards closing existing ones. This ensures that children are nurtured in families and there is need for Kenya to emulate the same (Ucembe, 2016). None of the studies on CCIs in Kenya have scrutinized the aspect of the deinstitutionalization policy through a human rights lens. There is need to make a rallying call towards deinstitutionalization considering the paradigm shift.

## 1.3 Objectives of the Study

### 1.3.1 General Objective

Evaluate implementation of deinstitutionalization policy in Charitable Children Institutions in Kiambu County

### 1.3.2 Specific Objectives

Specifically, it was sought:

1. To identify the factors causing slow progress in the implementation of deinstitutionalization in CCIs in Kiambu county
2. To examine the human rights violations occasioned by de-prioritization of deinstitutionalization
3. To explore the ways in which CCIs implement deinstitutionalization

### 1.3.3 Hypotheses of the Study

$H0_1$: Inadequate finances is the only factor influencing deinstitutionalization of CCIs in Kiambu County

$H0_2$: De-prioritization of deinstitutionalization does not violate child rights

$H0_3$: Closing CCIs is the only way that deinstitutionalization is implemented

## 1.4 Research questions

This research sought to investigate the following:

i. What are the factors influencing the slow realization of deinstitutionalization?
ii. In what ways is de-prioritization of deinstitutionalization a human rights violation?
iii. How do CCIs implement deinstitutionalization?

### 1.5 Justification of the study

Institutionalization has negative outcomes on children particularly those under three years old. Keeping children in institutions for prolonged durations negatively impacts their cognitive, physical and emotional development. Children are unable to form attachments because they require to have a primary caregiver to do so. The staffing levels in most CCIs and the high turnover deprive the children the chance to have meaningful interactions based on trust with a consistent caregiver. Institutionalization also affects children's physical development because the longer infants and older children remain in institutional care, the more they lag in normal growth parameters of height, weight and head circumference despite their nutritional needs being met. It has been observed that once the children leave institutional care, rapid growth is observed. Regarding cognitive development, comparative studies indicate that children in institutional care register lower score in intelligence tests when compared to those who are reared in families. Many of them experience attention deficits and this is particularly resistant to change later in life.

Holding children in CCIs for periods that are longer than recommended by court orders or above the 3-year upper limit as stipulated in the CCIs standards is a clear breach of the child participation rights, curtailment in the development of a child's identity, and failure to preserve the family structure which plays an important role in realizing a child's best interest. It is necessary to shed light on implementation of deinstitutionalization, highlight the human rights violated due to its under implementation and the obstacles faced during implementation. This will be vital in informing the strategies requisite in supporting CCIs to accelerate the rate of deinstitutionalization. The findings will ultimately guide evidence-based decisions taken by stakeholders such as donors, government and programme implementers on why it is necessary to accelerate the rate of deinstitutionalization of children in CCIs.

## 1.6 Scope and limitations of the study

An evaluation of implementation of deinstitutionalization in Charitable Children Institutions. Kiambu was done. This was due to resource constraints and access to key informants. Kiambu County is also logistically and economically feasible due to proximity to the researcher. The research was carried out for 12 months from July 2018 to July 2019.

This study strictly highlighted the importance of implementing deinstitutionalization and the link to the do no harm principle. It did not address the difficulties encountered by adults and children who have exited care as this phenomenon has already been covered extensively. The focus is on examining the ways in which failure to prioritize deinstitutionalization inadvertently violates children rights and causes harm to the very children that the caregivers mean to protect.

The study also acknowledges that the term deinstitutionalization covers various strategies such as gatekeeping, closing charitable children institutions and reintegration of children into family-based care. This study focused on the aspect of reintegration which entails releasing children back to their families within the stipulated 3-year timeframe.

## 1.7 Operational Definition of Terms

*Care giver* is the person who looks after someone in need. For example, the person who takes care of a child in a CCI or family setting

*Charitable Children Institution* is an organization that takes care and protects children in a controlled setting

*Child protection* refers to measures and structures to prevent and respond to abuse, neglect, exploitation and violence affecting children

*Institutional care* refers to the residential rearing of children in an institution without a parent or guardian in a building often referred to as a children home or orphanage

*Deinstitutionalization* refers to the process of moving children from charitable children institutions into family

*Family based care* refers to care within a child's own family, kinship or foster care arrangement which replicates family care as much as possible

*Foster care* refers to placing a child into another family irrespective of family bonds

*Kinship care* refers to care by relatives where there is legal relationship based on blood ties, marriage or adoption or chosen caregivers who have such a close bond with a child and family as if it were a blood relationship

# CHAPTER TWO: LITERATURE REVIEW

## 2.1 Introduction

This part entails examination of existing research on the international and domesticated legal framework for the protection of children in institutional care. The concept of deinstitutionalization, reasons for institutional care of children, violations of the rights of children residing in charitable children institutions as and the theoretical framework and conceptual framework.

Finding resources focusing on deinstitutionalization in Kenyan context was quite challenging due to the limited scholarly literature on the subject matter. Most of the studies have been on factors influencing the quality of care which make recommendations on improvements. Some of the studies have recommended the availability of clear exit plans at the time of committal to the CCIs (Wesonga, 2017) and (Kibigo, 2018). The lack of academic attention on deinstitutionalization could be attributed to the fact that examination of the practice of deinstitutionalization in Kenya is yet to gain momentum. This prompted overreliance on reports a Kenyan author- Stephen Ucembe- who is also a care leaver and is an advocate of deinstitutionalization (Ucembe 2016). A large part of the literature review takes a child's rights approach to identify the recent trends in establishing the legislative and policy steps made by the Republic of Kenya (Archabault, 2010) and (Simmance, 1959).

## 2.2 The concept of deinstitutionalization

In fourteenth and fifteenth century institutional care was introduced in Italy. In the subsequent centuries, more charitable children institutions came up in England, Russia and other parts of Europe. It wasn't until the 19$^{th}$ century that North America started to establish CCIs (Dozier,

2012). In the twentieth century, many developing countries viewed the practice of institutional care as one of modernity. During this time, many western countries were making radical efforts towards deinstitutionalization.

A focus on the impact of institutionalization of children started in the early 20th century after photographs of impoverished children in Romanian CCIs circulated in the media. One of the most significant contributors to the literature on effects of institutional care is John Bowbly in his work on attachment theory. He emphasized on the importance of a parent-child bond or a stable and predictable relationship with a caregiver. His work formed the basis of development of public policies and reforms in institutional care for children in the west. It informed the radical changes in how homeless children were cared for through establishment of foster care programmes and the phasing out of institutional care (Bowlby, 1995).

According to Radeva (2018), the European Union guidelines define de-institutionalization as the process of getting children out of institutional care to family based and community-based care. It is viewed as a way of preventing institutional care with a central focus on the primacy of individualized care as opposed to group care. George Mulheir who is considered the pioneer of deinstitutionalization defines it as a systematic and policy driven change which results in less reliance on institutional care and increasing services supporting families to keep children in communities. It also includes the preparation to leave care and follow up to ensure successful reintegration.

In this study, the understanding of the concept is operationalized by the policy of the government of Kenya that children's stay in CCIs should not exceed three years. It operationalizes the concept on two folds. Firstly, the requirement impresses upon duty bearers to prepare care leaving plans that ensure successful reintegration. Secondly, when implemented, it by default

reduces the reliance on institutional care. Institutional care is unsafe as children are highly marginalized, vulnerable to neglect, physical and sexual abuse (Chebii, 2012).

Neglect leads to build up of toxic stress which negatively impacts brain development and more so for children under three years old. This is because even in well run institutions, the lack of one-on one personal care is unachievable causing such children to have mental health, intellectual and behavioural problems later on in life (Chebii, 2012). Being withdrawn from the community also deprives children the opportunity to form an identity.

There are international and national laws concerning children in institutional care. UNGAC (2009) is a key legal framework. Others include UNCRC of 1999. It considers family as the most fundamental environment necessary to support children's wellbeing. Article 20 of the framework categorically outlines the urgency in realizing the exit strategies from CCIs. In Africa, the ACRWC also addresses children raised in a family setting. The charter does not out rightly shun institutional care as it is considered a form of family care. However, it does appreciate the need to find solutions to tackle separation of children from their families. The national instruments are the Kenya Constitution 2010 and the Children's Act 2001.

The UNCRC remains top on the list of the most ratified international conventions except for one state, USA. It confers upon children strong affirmative rights and a corresponding reciprocal duty of the state (Bartholet, 2011). It was enacted in 1990 and its preamble affirms the family as the most fundamental environment necessary to support children's wellbeing. It is categorical that children ought to be supported to grow in the warmth of love, happiness and understanding of the family. Several articles make inferences of the centrality of the family for a child namely article 22 on the right to alternative care or family reunification of separated and unaccompanied minors, article 16, and article 9 objecting to intentional disintegration of the family, and article 7

affirming the primacy of parental care towards a child. Article 20 centrally addresses the rights of a child to alternative care in situations where they are deemed unable to live with parents.

One of the most significant contributors to the literature on effects of institutional care is John Bowbly in his work on attachment theory. He emphasized on the importance of a parent-child bond or a stable and predictable relationship with a caregiver. His work formed the basis of development of public policies and reforms in institutional care for children in the west. It informed the radical changes in how homeless children were cared for through establishment of foster care programmes and the phasing out of institutional care (Bowlby, 1995).

Cantwell and Gillioz (2018) found that children are placed in alternative care after the State satisfactorily exhausts available opportunities for care with the child's relatives or with older siblings. They found that family-based options namely foster care, kafala, and adoption over institutional placement is prioritized for children. It also underscores how imperative it is to ensure that the opted care satisfies the child's desired continuity in the exercise of their ethnic, religious, cultural and linguistic inclinations. This aspect is particularly essential to the realization of a child's participation rights.

The ACRWC echoes the primacy of the family to the child as outlined in the UNCRC and it was developed in order to take into consideration the specific sociocultural and economic factors in Africa. It is the only regional legal instrument drawing ratification by 45 African states. Article 9.1 and Article 20.2.a govern the best interest determination of family separation and the state's family support obligations to weak family structures respectively. Article 25 borrows heavily on the UNCRC and extensively outlines alternative care procedures. As a distinctive feature, it pays regard to the need to undertake appropriate responses to family separation of children due to the central role of the judicial body in determining the appropriate alternative care options. It also

emphasizes on the requirement to trace and reunite separated children with their families. ACRWC considers institutional care as a form of family care although institutional care does not always meet the 'family care' threshold.

The drafting of the guidelines was necessitated by the growing international call which began in 2005 and ended in 2009. The guidelines are not legally binding, but they were developed to categorically outline best practices of implementing article 20 of the UNCRC's *kafalah*, adoption, and foster care in accordance to the best interest principle.

The distinction between the UNCRC's and the Guidelines interpretation of what necessitates alternative care is clearly drawn. The UNCRC calls for countries to have alternative care for children unable to access family care while the guidelines acknowledge the role of non-state actors (community and extended family) in provision of informal care to such children. The guidelines also exclude adoption as an alternative care option considering that once adopted, the child is presumed to have parental care.

The guidelines emphasize the principles of suitability and necessity as the primary considerations in institutional care. The principles are only applicable after a thorough examination of possibilities of informal family placement. Informal family placement provides an aura of permanency which is another prerequisite of alternative best practices. The domesticated guideline is formulated for children already in alternative care as well as those over 18 but requiring continued care under special circumstances. It provides for both informal and formal alternative care. It also borrows heavily on the UNCRC and the UN guidelines on alternative care regarding the primacy of the family environment. It underscores the need to exhaust all available informal family-based care options before considering formal alternative care options. It also alludes to the prevailing overreliance on institutional care as the primary form of care

accorded to children deprived of parental care in the Kenyan context. It also affirms that such care must only be considered as last resort measures holding a temporal mandate.

The guidelines recognize that organizations in Africa have embraced effective family-based care options which foster continuity of desirable child identity rights (Archabault, 2010). The guidelines incorporate other forms of alternative care like guardian, kin care, supported independent living, after care, supported child-headed households and temporary shelter. These are in addition to the conventional forms namely kafalah, institutional care, foster care and adoption which have been addressed in both regional and international child rights legal instruments.

### 2.3 Reasons for placement of children in charitable children institutions

Some of the most common reasons why children end up in residential care placement include poverty, family and community safety nets disintegration, single parenthood, alcohol and substance abuse, poverty and compromised health of parents (Ucembe, 2015). Bhuvaneswari and Deb (2016) found that coordination across agencies influenced deinstitutionalization policy in Africa. Other researchers found factors influencing deinstitutionalization to include legal framework (Archabault, 2010), financial resources (Chebii, 2012), budgetary allocation (Braitstein, 2015), impersonalized services (Kauffman & Bunkers, 2012; Dozier et al, 2012), staff turnover (Morantz et al, 2013), governance and accountability arrangements (Muthoni, 2007).

Poverty lead to placement in institutional care with CCIs responding to the symptoms of childhood poverty such as hunger. Based on the historical evidence of child rearing and dealing with orphan hood, it would naturally follow that people are more likely to find ways of caring for

children within families if CCIs were not there. The decision to immediately remove the child from family care is often based on ignorance of the fact that institutionalization should only be used as a measure of last resort (Ucembe, 2015). In as much as widespread poverty characterize many extended families in low income countries; care in institutions is often characterized by high level of negligence in the absence of appropriate resources, regulation, and oversight. Many charitable institutions are poorly funded thus unable to provide adequate staffing to cater to the children's socio-emotional needs. In contrast, though many extended families may be financially stretched to care for orphans left with them, they adequately make the children belong somewhere and feel warm from the family care. Additionally, some families are supported to care for orphaned children through governmental and non-governmental organizations through cash subsidies which do help significantly (Braitstein, 2015).

Orphan hood is also a significant reason for children ending up in CCIs. However, not all children who lose their parents do so as a result of death. Some do due to family disintegration due to parents' inability to offer adequate care for a variety of reasons (Ucembe, 2015). This results in child abuse and neglect where children are left without adequate social support system, medical care and physical protection. Placement in instructional care is therefore seen as the only viable way to alleviate their suffering (Braitstein, 2015).

Children with disabilities also are a vulnerable lot with a significantly higher risk in CCI care. Children with intellectual disabilities, visual impairment, hearing impairment are seen as a burden to the family and hence many caregivers resort to institutionalizing them as a way of seeking assistance because they do not have access to the appropriate support services (Ucembe, 2015). Other families are forced to place such children in institutional care due to cultural pressure due to beliefs and persistent discrimination.

Another reason is the disintegration of the traditional societal support system particularly in African traditional societies. Traditionally, other close relatives to orphaned children quickly filled in the gap left by deceased parents with an unmatched sense of duty and responsibility albeit having limited resources. Factors such as economic independence contributed to the weakening of the traditional safety nets. Family resources began to be viewed more as personal property rather than belonging to the extended family and older people's ability to impart social values depreciated with the advent of formal education through schools (Foster, 2000).

### 2.4 Human Rights Violations of Children in Institutional Care

Research on the effects of institutional care indicates that children are not cared for well enough to develop attachment to the caregivers. This is because it is always almost impossible for a child in residential care to maintain ongoing and meaningful relationship with an individual caregiver in a residential care set up. The impersonal care has a particularly detrimental effect on young children who require close caregiver and child relationship as proposed by the architects of attachment theory (Bowlby, 1995). The theory postulates that infants learn to form attachment to a primary caregiver between the first six months of life and age one. Placement of such young children in institutional care robs them of the opportunity as there are no clear, specific and preferred caregivers available for them. This in turn results in impairment of development in social and interpersonal, physical growth and cognitive domains (Smyke, et al., 2007).

Brain maturation for instance is highly dependent on the attachment relationship between a child and the primary caregiver (Johnson, Browne, & Hamilton-Giachritsis, 2006). A child is naturally predisposed to respond to a caregiver who sensitively introduces new stimuli in a safe, predictable, gradual way which is appropriate to the child's development. Essentially a child requires to interact with a living and responsive environment characterized by a primary

caregiver who talks and responds appropriately in order to stimulate brain development. Neglect which is a typical feature of residential care has the opposite effect because the child is deprived of the input needed by the child's brain at times of experience-expectant maturation. It has also been emphasized that the first 3 years of life are critical in ensuring proper development because the brain is in an unparalleled time of developmental change (Johnson, Browne, & Hamilton-Giachritsis, 2006).

Life in a charitable children institution is characterized by regimented and non-individualized care, little or no attention to the psychological wellbeing of children, high ratio of children to staff, high turnover and the general nature of low or semi-skilled staff earning low wages and working in shift modes (Dozier, Zeanah, Wallin, & Shauffer, 2012). The Better Care Network cites that for every 3 months in institutional care, their development regresses by one month. A 2004 study conducted in European countries suggested that based on this finding, a child below 3 years should not be institutionalized without a primary caregiver (Williamson & Greenberg, 2010). Further studies have shown that the longer infants and older children remained in institutional care, the more they lagged in normal growth parameters of height, weight and head circumference despite their nutritional needs being met. Findings show that once the children leave institutional care, rapid growth is observed. Regarding cognitive development, comparative studies indicate that children in institutional care register lower score in intelligence tests when compared to those who are reared in families. Many of them present with problems with attention and this is particularly resistant to change later on in life (Dozier, 2012).

The family environment is considered as the most appropriate setting where children's development is appropriately stimulated. According to a report compiled in 2009 on life as a care leaver in Kenya, majority of care leavers reported that they aged out of CCIs upon attaining the

age of 18 years without being adequately prepared to reintegrate into the society. They also alluded to the fact that institutional care did not afford them the personal touch of care and affection that a family provides. One care leaver reported that once he left care, it was hard for him to be accepted by his relatives because they do not know him and could not understand his feelings of abandonment. Others reported that they were accepted by the same people who neglected them only because they had an education and could now get a job to assist them. Many care leavers report that they do not receive follow up and assistance upon leaving care (Ai, Bambini, & Ucembe, 2009).

The UNGAC which guides the implementation of the CRC provides addresses the child rights. Article 14 of UNGAC stipulates that placing children outside family care should be the temporal and short with it being the last option. In Article 15, it states that inability to meet basic needs is not a reason for taking a child from his/her family or for preventing his or her reintegration back to the family. Rather it should serve as a signal for the need to provide appropriate support to the family. Article 23 categorically states that mechanisms for oversight should be in place to ensure effective monitoring (United Nations General Assembly, 2010).

Often, children in institutional care are considered as no one's children with some directors of such establishments only seeking to exploit them to attract donations for personal use and promote orphanage tourism. They create orphans by recruiting children from families with parents who if supported, would ably take care of their children. They use the children as bargaining chips to obtain funding by relying on the charitable compassion that orphans arouse. This serves as a motivation for them to retain those children in the residential care for long durations and it fuels proliferation of more orphanages. Others solicit support through voluntarists who are mainly student volunteers from abroad who pay for the experience of

travelling with a meaning by visiting orphanages as part of their itinerary. In Cambodia for instance children are recruited from rural provinces by convincing parents that their children would access good education only for the children to be housed in squalid conditions for purposes of arousing pity from voluntarists (Cantwell & Gillioz, 2018). Lumos discovered similar patterns where children are exposed to poor living conditions, are neglected with insufficient food in Kenya, Uganda, Thailand, Haiti and Nepal (Lumos, 2018)

Institutionalization is also a form of deprivation of liberty considering that they are defined by characteristics more commonly associated with incarceration in prison. Many institutions are in some ways locked facilities where children have no freedom to leave for reasons of their protection. The children may be exposed to exploitation of labour where they may be required to undertake heavy manual work. They are also exposed to higher risks of physical and sexual abuse. Lumos reports all forms of abuse and in institutions with disabled children, sometimes rapid force is commonly used by staff members who are granted limited time to feed groups of children (Lumos, 2018). There have also been reports of physical abuse which is perpetrated in the name of instilling discipline. Children are subjected to corporal punishment due to ignorance of other ways of positively disciplining children. In some cases, children in government homes are beaten and harassed by staff while others have become victims to sexual abuse (Bhuvaneswari & Deb, 2016).

### 2.5 Theoretical Framework

Beneficence ethical theory guided the study. The theory was developed by Immanuel Kant in 1970. Beneficence are actions promoting the health of people by going beyond preventing harm through acting with the best interest in mind. It requires that one goes beyond the moral duty to do good based on a supererogatory onus to prevent harm, promote good, remove evil and prevent

the infliction of harm. It requires one to produce good and prevent evil or harm. The beneficence theory addresses both the concern over doing no harm and taking actions to control the situation and support the welfare of the recipient of a service. This is because if one fails to control certain aspects, undesirable consequences may follow and therefore prevent adherence to the principle of beneficence (Frakena, 2001).

The history of ethical theory shows that there are many ways to think about beneficence and benevolence. Several landmark ethical theories have embraced these moral notions as central categories, while proposing strikingly different conceptual and moral analyses. Prime examples are found in the moral-sentiment theory of David Hume, where benevolence is the central "principle" of human nature in his moral psychology, and in utilitarian theories such as John Stuart Mill's, where the principle of utility is itself a strong and very demanding normative principle of beneficence. In these writer's beneficence is close to the essence of morality. Other writers, including Kant, have given less ascendency to beneficence, but still give it a central place in morality.

Hume's moral psychology and virtue ethics make motives of benevolence all important in moral life. He argues that natural benevolence accounts, in great part, for what he calls the origin of morality. A major theme is his defense of benevolence as a principle in human nature, in opposition to theories of psychological egoism. Much in Hume's moral theory is directed against Bernard Mandeville's (and likely Hobbes's) theory that the motive underlying human action is private interest and that humans are naturally neither sociable nor benevolent. Hume argues that egoism rests on a faulty moral psychology and maintains that benevolence is an "original" feature of human nature. Benevolence is Hume's most important moral principle of human nature, but he also uses the term "benevolence" to designate a class of virtues rooted in goodwill,

generosity, and love directed at others. Hume finds benevolence in many manifestations: friendship, charity, compassion, etc. Although he speaks of both benevolence and justice as social virtues, only benevolence is a constitutive principle of human nature. Rules of justice, by contrast, are normative human conventions that promote public utility. The virtues of benevolence and justice are therefore extraordinarily different virtues in Hume's ethics.

In his inquiries into the principle of self-love, Hume does not reject all aspects of the egoists' claims about the absence of impartial benevolence in human motivation. He acknowledges many motives in human nature and uses metaphors of the dove, wolf, and serpent to illustrate the mixture of elements in our nature. Principally, he sees human nature in the domain of moral conduct as a mixture of benevolence and self-love. Whereas the egoist views human nature as limited to motives such as survival, fear, ambition, and the search for happiness, Hume regards persons as motivated by a variety of passions, both generous and ungenerous. He maintains that these elements vary by degree from person to person. Lacking distinctive information about a particular individual, we cannot know whether in that person benevolence typically dominates and controls self-love, or the converse.

In Utilitarianism, John Stuart Mill argues that moral philosophers have left a train of unconvincing and incompatible theories that can be coherently unified by a single standard of beneficence that allows us to decide objectively what is right and wrong. He declares the principle of utility, or the "greatest happiness" principle, to be the basic foundation of morals: Actions are right in proportion to their promotion of happiness for all beings, and wrong as they produce the reverse. This is a straightforward principle of beneficence and potentially a very demanding one. Mill and subsequent utilitarians mean that an action or practice is right (when compared with any alternative action or practice) if it leads to the greatest possible balance of

beneficial consequences (happiness for Mill) or to the least possible balance of bad consequences (unhappiness for Mill). Mill also holds that the concepts of duty, obligation, and right are subordinated to, and determined by, that which maximizes benefits and minimizes harmful outcomes. The principle of utility is presented by Mill as an absolute principle, thereby making beneficence the one and only supreme or preeminent principle of ethics. It justifies all subordinate rules and is not simply one among a number of basic principles.

Mill's theory of morality is welfare-oriented at its core because moral rightness is determined by goodness, which is itself to be understood in terms of the welfare of individuals. It is a consequentialist theory because the moral rightness and obligatoriness of actions are established by their beneficial results. It is an aggregative theory because a judgment about right or obligatory action depends on an appraisal of the effects of different possible actions on the welfare of all affected parties, which entails summing positive benefits and negative effects over all persons affected. Beneficence has rarely occupied such a central role in a moral theory.

Kant rejects the utilitarian model of a supreme principle of beneficence, but he still finds a vital place in the moral life for beneficence. He seeks universally valid principles (or maxims) of duty, and beneficence is one such principle. A motive of benevolence based on sentiment—highly admired by Hume—is morally unworthy in Kant's theory unless the motive behind benevolent action is a motive of duty. The motive likewise cannot rest on utilitarian goals.

Kant argues that everyone has a duty to be beneficent, i.e. to be helpful to others according to one's means, and without hoping for any form of personal gain thereby. Benevolence done from friendly inclination he regards as "unlimited", whereas beneficence from duty does not place unlimited demands on persons. Nonetheless, the limits of duties of beneficence are not clear and precise in Kant. While we are obligated to some extent to sacrifice some part of our welfare to

benefit others without any expectation of recompense, it is not possible in the abstract to fix a definite limit on how far this duty extends. We can only say that everyone has a duty to be beneficent, according to that person's means, and that no one has an unlimited duty to do so.

The four guiding principles of the Convention on the Rights of the Child are subsumed in this theory. This is because the guiding principles hold that all angles of a decision be carefully scrutinized as a matter of primary consideration for all children without discrimination. Decision makers evaluate the interest of the child based on the issue at hand, the nature of the issue, the short term and long-term implications on the child in an objective manner.

Child opinions must also be consulted, and the decisions taken should promote the development of the child. United Nations Committee to the Convention on the Rights of the Child emphasizes the best interest of a child is a threefold concept. Firstly, as a substantive right where a child's rights are appraised and prioritized when competing interests are simultaneously considered. Secondly, that when legal interpretations are sought, then the one adhering to the best interest of the child be selected. Thirdly, that the impact of a decision on the lives of concerned children be considered (Otieno, 2012). In this view, the beneficence theory clearly guides caregivers towards ensuring that the decisions taken do not produce or inflict harm and that duty bearers remove aspects that may cause harm. To situate the theory in the area of study, it therefore means that deinstitutionalization within the stipulated three years in Kenya ensures that children are reintegrated to families to avoid prolonged separation from families which is harmful in institutional care as espoused by numerous studies.

The study constructs that for the rights of children residing in CCIs to be upheld, the Do No Harm principle must be put into consideration. The Do No Harm principle was pioneered by Mary Anderson in the humanitarian context although it has its origins in ethics it the medical

field and it is applicable in many other disciplines. In the humanitarian/protection field, it postulates that the provision of relief services intended to do good and alleviate human suffering may inadvertently cause harm. Interventions should minimize harm that may be caused and at all cost avoid causing more harm than good.

The thinking underpinning the argument is acknowledged in the UNCRC. It serves a guide to ensure that duty bearers' interventions geared to affect a child's life are carefully examined to ensure that they cause no harm whatsoever to the child concerned. If any harm in the proposed interventions or prevailing circumstances is foreseen, then alternative measures ought to be sought in a bid to guarantee that no harm is caused to the child. Thus, the study utilizes the Do no Harm principle as a lens through which CCIs will be examined to determine whether they acknowledge the importance of deinstitutionalization and hence promote the rights of children.

# CHAPTER THREE: RESEARCH METHODOLOGY

## 3.1 Introduction

This chapter entails the methods that were adopted by the researcher. This includes the research site and design. Other key areas discussed in this section include target population; sampling; data collection methods; data analysis and ethical issues.

## 3.2 Research site

Kiambu County served as the target area. Kiambu County borders Nakuru and Kajiado to the West, Murang'a and Nyandarua to the North and Nairobi to the South. The county is adjacent to the northern border of Nairobi County and has a population of 1,623,282. Kiambu is close to the city; it is cosmopolitan enough to offer a diverse source of primary data as compared to CCIs based in rural areas.

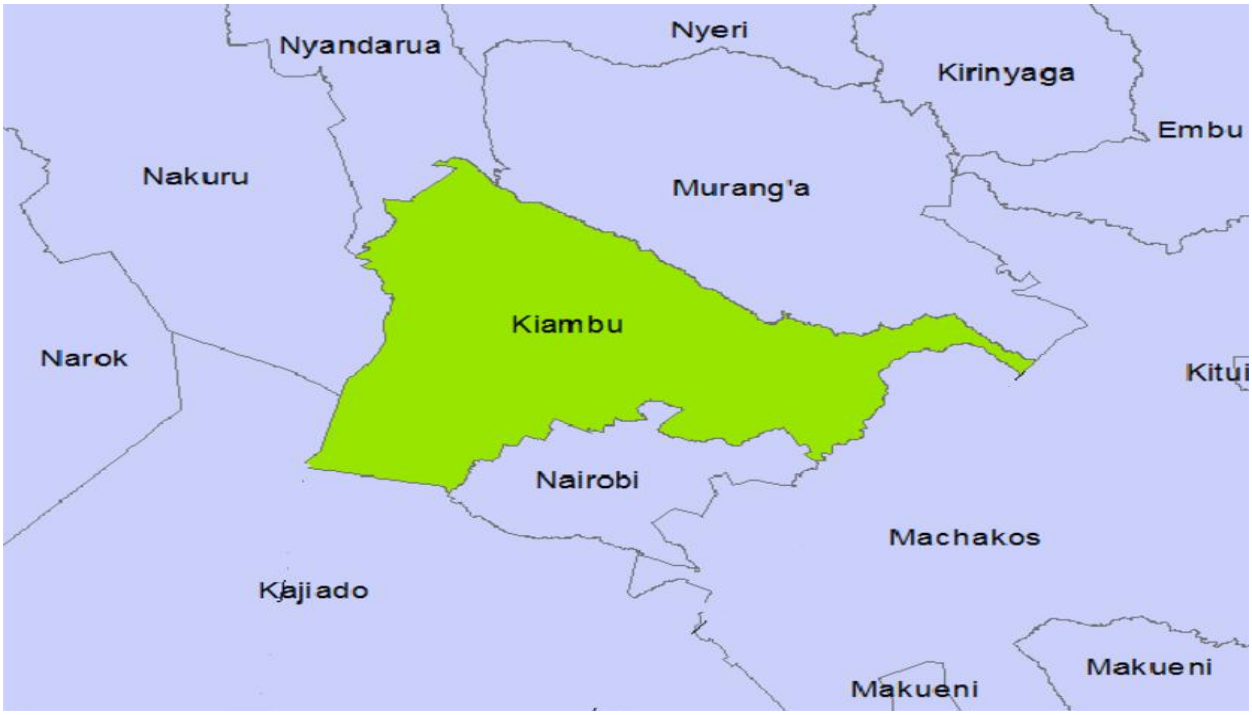


**Figure 3.1: Kiambu County**

Source: Google maps, 2019

### 3.3 Research design

A descriptive research formed the design. Deinstitutionalization of CCIs in Kiambu County is described. The design identified the challenges hindering deinstitutionalization and how its de-prioritization violates human rights.

### 3.4 Target population

82 CCIs in Kiambu County were targeted. The unit of analysis was a CCI. The employees of CCIs were the primary source of information in the study as they can objectively fulfil the objectives of the study. This involved the employees involved in child care within the CCIs. Key informants to beef up the data collected from employees were involved. Key informants such as managers of CCIs, representatives of civil societies and civil servants from the Department of Children Services were interviewed in order to gain insight on addressing deinstitutionalization.

### 3.5 Sample and sampling procedures

Twenty-seven (27) CCIs were sampled out of the 82. This is 32.9% of the population. This is sufficient as Mugenda and Mugenda (2012) recommends more than 30% of the target population. The CCIs were selected using systematic sampling. Every 3$^{rd}$ CCI on the list of CCIs in Kiambu was selected. The sampling interval was calculated using the Black' (2004) formula of systematic sampling:

$K^{th}$= N/n

=82/27

=3$^{rd}$

Where $K^{th}$ is sampling interval

N is target population

n is the sample

4 employees were selected from each of the CCIs sampled. This gave a sample population of 108 respondents. The employees were selected using purposive sampling. The key informants were purposively sampled.

### 3.4 Data collection Methods

Survey and key informants' interviews were used. The questionnaires were used to collect data in the surveys and issued to the employees. The questionnaire was divided into three sections and ensure ease of data collection. The questionnaire was administered by the research assistants. This involved the research assistant asking the questions and enter the responses as given by the respondent. Four sections existed in the questionnaire. The first section related to demographics. Sections II, III and IV had questions on the three variables of the study.

To ensure that the questionnaire was reliable, the researcher conducted a pilot study on 5 employees and re-administered after a week. The participants in the pilot test did not participate in the main study. University supervisor made changes and gave recommendations on the questions in the questionnaire to ensure its validity.

Interview schedule was used for key informants because it ensured that higher response rate and its flexibility gave room for clarifications and probing guaranteeing a rich or in-depth understanding of the phenomenon. The questions were open ended and based on the objectives. This allowed interviewees enough liberty to exhaustively discuss the issues at hand. The need to establish rapport with the informants is central to the key informant interviews.

### 3.5 Data analysis

For quantitative data computation of descriptive statistics in terms of percentage, frequency, mean and standard deviation was done. Tables were used in presentation of the data. Content analysis was used for qualitative data. Hypothesis testing was done through Chi square.

### 3.6 Ethical issues in the study

In conducting the research and disseminating the findings, care was taken to ensure that we upheld the ethical rights of the participants as outlined in the research policy of the university. The state of confidentiality means that no information that the participants divulges is made public or available to others. The anonymity of a person or an institution is protected by making it impossible to link aspects of data to a specific person or institution confidentiality and anonymity is guaranteed by ensuring the data obtained is used in such a way that no one other than the researcher knows the source. The participants were informed that they could withdraw at any time if they wished to. In the study, information was kept confidential with the data used for the study and respondents informed before filling the questionnaire.

The researcher acquired a letter of authorization to collect data from the University. This letter provided information to the study participants that the information they provide only be used for this academic research. In order to undertake research in Kenya, there is need for ethical approval from National Commission for Science Technology and Innovation (NACOSTI). The researcher sought a research permit from NACOSTI.

# CHAPTER FOUR: PRESENTATION AND DISCUSSION OF FINDINGS

## 4.1 Introduction

This chapter presents a discussion of the findings. The findings are based on the objectives of the study and the demographic information relating to the CCIs and staff.

### 4.1.1 Response rate

Researcher issued 108 questionnaires with 83 duly complete. This is 76.9% which is sufficient as return rate of more than 70% is recommended as excellent.

## 4.2 Demographics

Demographic information is very important in a social research. Demographics based on gender, education, time worked in the CCI and the number of children in the CCI are analysed. The findings are presented in the subsequent sections.

### 4.2.1 Gender of the respondents

Gender of the employees is critical in child care.

**Table 4.1: Respondents' Gender**

| | Frequency | Percent | Cumulative Percent |
|---|---|---|---|
| Male | 31 | 37.3 | 37.3 |
| Female | 52 | 62.7 | 100.0 |
| Total | 83 | 100.0 | |

Majority of the respondents as shown by 62.7% indicated that they were female and 37.3% were male. This is an indication that majority of the care givers in CCIs are women. The higher proportion of female respondents could be based on the fact that child care is a female-

dominated field with women accounting for the vast majority of care givers in CCIs in Kiambu county.

### 4.2.2 Respondent's Level of Education

Education is critical in child care as the children in CCIs need people who are educated and understand technical aspects of care. On table 4.2 are results on the education of the respondents.

**Table 4.2: Respondent's Level of Education**

| | Frequency | Percent | Cumulative Percent |
|---|---|---|---|
| No education | 2 | 2.4 | 2.4 |
| Primary | 13 | 15.7 | 18.1 |
| Secondary | 47 | 56.6 | 74.7 |
| College | 9 | 10.8 | 85.5 |
| University | 12 | 14.5 | 100.0 |
| Total | 83 | 100.0 | |

74.7% respondents had education below college level. Only 25.3% had college and university education. This means care givers in CCIs in Kiambu have basic education. This may be attributed to the fact that CCIs in Kenya operate as businesses and may not be willing to pay professional care givers.

### 4.2.3 Years in CCI

The respondents were asked how long they had worked in their current CCIs. The time that a person has worked is key to social research. The findings on the period worked in current CCI is shown by tabular presentation below.

**Table 4.3: Years in CCI**

| | Frequency | Percentage | Cumulative Percent |
|---|---|---|---|
| Below 1 year | 2 | 2.4 | 2.4 |
| 1-5 years | 14 | 16.9 | 19.3 |
| 6-10 years | 25 | 30.1 | 49.4 |
| More than 10 years | 42 | 50.6 | 100.0 |
| Total | 83 | 100.0 | |

80.7% indicated more than 6 years. Only 19.3% indicated less than 5 years. This is an indication that majority of the care givers have worked in their current CCIs for more than 5 years. This means that the care givers had enough experience in child care to be able to answer the questions relating to deinstitutionalization. The interviewed CCI managers noted that their institutions had operated for more than 10 years. This concurs with the findings from the care givers.

### 4.2.4 Children in CCIs

The researcher asked the respondents about the children in their CCIs. Tabulation was done as shown below for the children in CCIs.

**Table 4.4: Number of children in CCIs**

| | Frequency | Percent | Cumulative Percent |
|---|---|---|---|
| Less than 10 | 3 | 3.6 | 3.6 |
| 10-20 | 6 | 7.2 | 10.8 |
| 21-30 | 15 | 18.1 | 28.9 |
| 31-40 | 35 | 42.2 | 71.1 |
| More than 40 | 24 | 28.9 | 100.0 |
| Total | 83 | 100.0 | |

71.1% indicated that their CCIs had more than 30 children. Only 29.9% had less than 30 children. This indicates that CCIs in Kiambu have more than 30 children per CCI. Given that the number of caregivers in the CCIs is small (an average of 3) the children may not get personalized care that would ensure that their rights are upheld.

### 4.3 Factors influencing deinstitutionalization

The first objective of the study was to identify the factors causing slow progress in the implementation of deinstitutionalization in CCIs in Kiambu county. There are various factors that affect deinstitutionalization in CCIs.

**Table 4.5: Extent factors affect the deinstitutionalization of CCIs**

| Factor | Mean | Std deviation |
|---|---|---|
| Personalization of services | 2.4337 | .84381 |
| Lack of finances and resources | 3.8434 | .77274 |
| Difficulties of coordination across agencies and budgets | 3.8795 | .94220 |
| Legal framework | 3.3373 | .66767 |
| Lack of governance and accountability arrangements | 4.1325 | .65836 |
| Organizational complexity | 2.4217 | .79818 |
| Budgetary allocations | 3.7831 | .71650 |
| High staff turnover | 2.3133 | .79523 |

A rating of great extent was given on effect of lack of governance and accountability arrangements on deinstitutionalization (mean is 4.1325). A rating of great extent was also given on difficulties of coordination across agencies and budgets (Mean is 3.8795), lack of finances and resources (Mean is 3.8434) and budgetary allocations (mean is 3.7831). The respondents indicated the extent to which legal framework affected deinstitutionalization as moderate (mean is 3.3373). However, the extent to which personalization of services, organizational complexity and staff turnover affected deinstitutionalization was found to be little with mean of 2.4337, 2.4217 and 2.3133 respectively. This shows that various factors influence deinstitutionalization of CCIs in Kiambu County with lack of governance and accountability arrangements being the main factors. In this case, the government and CCIs lack accountability systems that would ensure that the CCIs follow the policy to the letter. CCIs lack guidelines that govern how officials make decisions regarding the length of stay and who bears responsibility for the harm that flows when children are not reintegrated to their families. The findings differ with those of

Bhuvaneswari and Deb (2016); Archabault (2010); Chebii (2012); Braitstein (2015); Kauffman and Bunkers (2012); Dozier et al, (2012); Morantz et al, (2013); and Muthoni, (2007) who found that various factors influenced deinstitutionalization in child care centres.

The findings from the interviews showed that the key informants had dealt with issues relating to children deinstitutionalization for a long time. The findings from the interviews indicate that different factors limited deinstitutionalization in CCIs. They included lack of mapping of families interested in adoption, lack of foster care systems, mistreatment of children by guardians when they visit their homes, and poor cooperation from guardians and parents. Other factors included oversight, unskilled workforce and irresponsibility among care givers.

Staff of CCIs indicated that children refused to exit CCIs because of mistreatment by guardians and parents; infringement of rights outside the CCI, hunger, poverty and family violence. The managers interviewed indicated that children stayed in their CCIs more than expected due to stigma, unreceptive family members, rejection of children by community, truant children, lack of enforcement by government and inability of guardians to handle irresponsible children. Key informants from the Department of Children Services indicated reasons like lack of punitive measures for keeping children in the CCI illegally, laxity by the government, and greed across CCIs. The findings from the key informants concur with the findings of the caregivers in the CCIs in that the managers of CCIs and officers from civil society indicated that there is laxity in the side of government on the enforcement of the deinstitutionalization policy. The CCI staff and managers also concur in that the children fear that they may sleep hungry due to poverty in their families or may be mistreated by the guardians and family. This has made the children fear leaving the CCIs for the deinstitutionalization policy to take shape.

### 4.4 Deinstitutionalization and human rights

The study was to examine the human rights violations occasioned by de-prioritization of deinstitutionalization. The respondents were asked whether they thought de-prioritization of deinstitutionalization affected the human rights of children in their CCI.

**Table 4.6: Whether de-prioritization of deinstitutionalization affect human rights of children**

| | Frequency | Percent | Cumulative Percent |
|---|---|---|---|
| Yes | 63 | 75.9 | 75.9 |
| No | 20 | 24.1 | 100.0 |
| Total | 83 | 100.0 | |

75.9% indicated deinstitutionalization de-prioritization to have an effect on human rights of children in their CCI. However, 24.1% indicated that de-prioritization of deinstitutionalization did not affect human rights of children in their CCI. This indicates that de-prioritization of deinstitutionalization affects human of children in CCIs in Kiambu County.

The findings from the managers of CCIs showed that de-prioritization of deinstitutionalization positively affected human rights. This is because the policy would infringe the rights of the children where they may be exposed to violence, poverty and rejection from their care givers outside the CCI. Officers from the Department of Children Services indicated that de-prioritization of deinstitutionalization negatively affected human rights. This was mainly through infringement of various children rights like the right to family life, protection, affection/love, freedom of association with community, legal custody, play and identity. The findings concur with those of Archabault (2010) who found that family-based care options foster continuity of

desirable child rights. The civil society informants indicated that de-prioritization of deinstitutionalization affected human rights negatively due to lack of oversight, sense of permanency and poor development/growth of children.

**Table 4.7: Human Rights**

| This CCI facilitates the right to | Mean | Std deviation |
|---|---|---|
| education | 3.6386 | .78985 |
| be cared by parents | 2.0120 | .94345 |
| preserve identity (Name and family relations) | 2.0843 | .82941 |
| rest and play | 3.8675 | .65836 |
| association | 2.2651 | .62634 |
| religion | 2.1807 | .87156 |
| information | 2.3133 | .83997 |
| be protected from abuse and economic exploitation | 3.6867 | .60340 |
| health | 2.1084 | .84120 |
| adequate standard of living | 3.6145 | .62139 |

On rights of Children in CCIs, respondents agreed that their CCIs facilitated the right to rest and play (mean is 3.8675). They also agreed that their CCIs protected the children from abuse and exploitation (mean is 3.6867), education as shown by mean of 3.6386, plus adequate standard of living (mean is 3.6145). The respondents, on the other hand, disagreed that their CCIs did not facilitate the right to information (mean, 2.3133), association (mean is 2.2651), religion (mean is 2.1807), health (mean, 2.1084), preserve identity as shown by mean of 2.0843 and be cared by parents (mean, 2.012). This means that various children rights are infringed in CCIs in Kiambu county. However, key rights are upheld in the CCIs especially the right to rest and play. The

findings concur with those of Lumo (2018), and Bhuvaneswari and Deb (2016) who found that human rights were infringed in institutional care.

**Table 4.8: Deinstitutionalization and human rights**

| Statement | Mean | Std deviation |
|---|---|---|
| Institutionalization lead to impairment of child development | 3.7470 | .69569 |
| Institutions offer impersonal care to children | 3.7952 | .57930 |
| A child should not be institutionalized without a primary caregiver | 4.0602 | .73831 |
| Children in institutional care have a low level of intelligence | 3.6024 | .84015 |
| Children live in poor living conditions in CCIs | 2.3735 | .72769 |

Findings on the agreement on statements relating to deinstitutionalization and human rights are shown above. Findings agree that children should not be institutionalized without a primary caregiver (mean is 4.0602). It was agreed that institutions offer impersonal care to children (mean is 3.7952), institutionalization lead to impairment of child development (mean is 3.7470) and that children in institutional care have a low level of intelligence as shown by the mean of 3.6024. However, the respondents disagreed that children lived in poor living conditions in CCIs as shown by the mean of 2.3735. This shows that institutionalization requires a primary care giver giving personalized services to the children in such institutions.

The impersonal care in institutional care has a detrimental effect on young children who require close caregiver and child relationship as postulated by the attachment theory. The findings concur with those of Smyke et al. (2007) whose findings were that putting children under children institutions impaired development in social and interpersonal, physical growth and cognitive domains. They also concur with those of Williamson and Greenberg (2010) who found that a child should not be institutionalized without a primary caregiver. The findings differ with

those of Cantwell and Gillioz (2018), and Lumos (2018) who found that children in institutional care were exposed to poor living conditions.

### 4.5 Implementation of Deinstitutionalization

The third objective explores the ways in which CCIs implement deinstitutionalization. This was based on respondents' awareness of the deinstitutionalization policy, mapping of families, counselling of caregivers/children, monitoring systems, adherence to guidelines, obstacles to deinstitutionalization and strategies used in deinstitutionalization.

**Table 4.9: Awareness on deinstitutionalization policy**

| | Frequency | Percentage | Cumulative Percentage |
|---|---|---|---|
| Yes | 47 | 56.6 | 56.6 |
| No | 36 | 43.4 | 100.0 |
| Total | 83 | 100.0 | |

56.6% were aware of the deinstitutionalization policy. However, 43.4% indicated otherwise. This indicates that care givers in CCIs in Kiambu county are aware of the deinstitutionalization policy in Kenya. It was indicated that deinstitutionalization policy meant closing down the CCIs, preventing placement of children in CCIs, removal of children from CCIs and registering the unregistered CCIs. This shows that care givers in CCIs in Kiambu County view deinstitutionalization in different ways with majority assuming that it involved the closure of CCIs. The findings differ to those of Radeva (2018) who defined de-institutionalization as the process of replacing institutional care of children with family based and community-based alternatives.

The interviews with the management of CCIs indicated that the deinstitutionalization policy was prioritized. However, other key informants indicated that the policy was not prioritized among the CCIs despite the government efforts to enforce the policy. The findings differed with those of Cantwell and Gillioz (2018) found that family-based options were prioritized over institutional care.

**Table 4.10: Mapping and identification of potential families**

| | Frequency | Percentage | Cumulative Percentage |
|---|---|---|---|
| Yes | 54 | 65.1 | 65.1 |
| No | 29 | 34.9 | 100.0 |
| Total | 83 | 100.0 | |

On whether CCIs mapped and identified potential families and relatives where they intended to take the children from the CCIs, table 4.10 displays a 65.1% mapped and identified potential families and relatives. 34.9% indicated that mapping and identification was not done in their CCIs. This shows that CCIs in Kiambu county map and identify potential families and relatives where they intended to take the children from the CCIs.

**Table 4.11: Counselling of children and caregivers**

| | Frequency | Percentage | Cumulative Percentage |
|---|---|---|---|
| Yes | 19 | 22.9 | 22.9 |
| No | 64 | 77.1 | 100.0 |
| Total | 83 | 100.0 | |

On whether CCIs had put in place mechanisms and provisions for counselling both the children and the would-be caregivers, table 4.11 displays a majority (77.1%) indicating their CCIs did not

counsel children and would be caregivers. 22.9% indicated that their CCIs counsel children and would be caregivers and had mechanisms allowing counselling. This shows that there are no mechanisms for counselling of children and would be caregivers in CCIs in Kiambu County. This hinders the exit of the children as the would be care givers may not understand the children brought under their care. Wesonga (2017) support by concluding that professional full-time counsellors must be available for psychosocial assistance of the children and the care givers.

**Table 4.12: Monitoring Systems**

| | Frequency | Percent | Cumulative Percent |
|---|---|---|---|
| Yes | 12 | 14.5 | 14.5 |
| No | 71 | 85.5 | 100.0 |
| Total | 83 | 100.0 | |

The study sought to establish whether there were monitoring/tracking systems to know how the children were faring on after deinstitutionalization to prevent a scenario where the children went back to the conditions that sent them to the CCI. 85.5% indicated that there were no monitoring systems in their CCIs. 14.5% indicated their CCIs had monitoring systems. This shows that CCIs in Kiambu County do not have monitoring/tracking systems that would show how the children are faring outside the CCI. This leads to cases of children returning to CCIs. United Nations General Assembly (2010) recommended that mechanisms for oversight should be in place to ensure effective monitoring of the children once they leave the CCI to be in community or family care.

**Table 4.13: Adherence to the guidelines**

| | Frequency | Percent | Cumulative Percent |
|---|---|---|---|

| | | | |
|---|---|---|---|
| Yes | 24 | 28.9 | 28.9 |
| No | 59 | 71.1 | 100.0 |
| Total | 83 | 100.0 | |

The study sought to establish whether children institutions adhered to the guidelines on processing exit strategy of the children within the stipulated timeframe of three years. From table 4.13, majority of the respondents as shown by 71.1% indicated that their CCIs did not adhere to the guidelines. 28.9% indicated that their CCIs adhered to the guidelines. This shows that CCIs in Kiambu county do not adhere to the guidelines on processing exit strategy of the children within the stipulated timeframe of three years. This has created a challenge in the implementation of the deinstitutionalization policy. They indicated that deinstitutionalization was not implemented in their CCIs due to lack of government support, poor monitoring systems, poor reception of children by families, infringement of rights outside the CCI.

**Table 4.14: Obstacles to Deinstitutionalization**

| | Mean | Std Deviation |
|---|---|---|
| Poverty | 4.2264 | .75042 |
| Family disintegration | 3.8679 | .76051 |
| Single parenthood | 2.9623 | .75860 |
| Substance abuse | 3.8302 | .84889 |
| Sexual and gender-based violence | 3.8113 | .73528 |

On the extent obstacles hindered deinstitutionalization in Kiambu county (table 4.14), it was found that CCIs faced poverty greatly (mean is 4.2264). They also faced family disintegration

(mean is 3.8679), substance abuse (mean is 3.8302), and sexual and gender-based violence (mean is 3.8113) greatly. They faced the obstacle of single parenthood moderately (mean is 2.9623). This shows that CCIs in Kiambu county face obstacles to deinstitutionalization. The findings concur with those of Ucembe (2015) who found that poverty is was the leading cause of placement in institutional care with CCIs. They also concur with findings of Braitstein (2015) who found that child abuse and neglect where children are left without adequate social support system, medical care and physical protection left the CCIs as the only option for such children.

**Table 4.15: Deinstitutionalization strategies by CCIs**

| | | Frequency | Percentage |
|---|---|---|---|
| Support services for parent responsibilities towards children | Yes | 20 | 24.1 |
| | No | 63 | 75.9 |
| Improved quality and effectiveness of alternative forms of care | Yes | 29 | 34.9 |
| and services | No | 54 | 65.1 |
| Transfer to a non-institutional environment | Yes | 39 | 47.0 |
| | No | 44 | 53.0 |
| Preventing the removal of children from their families | Yes | 25 | 30.1 |
| | No | 58 | 69.9 |
| Development of new family-oriented services in the | Yes | 27 | 32.5 |
| community | No | 56 | 67.5 |
| Ensuring that children visit their families | Yes | 66 | 79.5 |
| | No | 17 | 20.5 |

The findings on the deinstitutionalization strategies adopted by CCIs are shown above. 79.5% adopted the strategy of ensuring children visited their families. However, they indicated that their CCIs did not adopt strategies relating to support services for parent responsibilities towards children (75.9%), preventing the removal of children from their families (69.9%), development of new family-oriented services in the community (67.5%), improved quality and effectiveness of alternative forms of care and services (65.1%), and transfer to a non-institutional environment (53%). This means that the main deinstitutionalization strategy adopted by CCIs in Kiambu county is ensuring that children visit their families. The key informants indicated that deinstitutionalization in their CCIs is implemented through adoptions, and reintegration of children with their families.

The key informants indicated that in order to ensure successful implementation of deinstitutionalization, various strategies should be adopted. The managers of CCIs recommended addressing the delays by the Department of Children Services in facilitating adoptions and foster care, educating men on the adoption process in Kenya, creating a pool of funding by government to cater for the children outside the CCIs, providing additional government social protection programmes, and awareness creation among the masses on the policy for societal change. Civil society and Department of Children Services recommended addressing the push and pull factors for institutionalization, government oversight, and drastic reintegration of poor children.

The CCI managers and officers from civil society recommended understanding the characteristics & category of children especially the systems, enhancing gate keeping measures, creating awareness in CCIs, advocacy work, and closing the funding tap of CCIs through restrictions. Recommendations made by officers from civil society recommended change of the Kenyans mindset towards child care, creation of incentives for foster families who take care of

children from CCIs, establishing a child policy on foster care to hold parents accountable in case of abuse, seal loopholes in CPS systems in Kenya, tightening systems on foster care, frequent counselling of guardians/parents and integration of children in the community.

### 4.6 Hypothesis testing

**Table 4.16: Hypothesis one**

| | Personalization of services | inadequate finances | coordination | Legal framework | governance | Organizational complexity | Budgetary allocations | staff turnover |
|---|---|---|---|---|---|---|---|---|
| Chi-Square | 41.289[a] | 126.819[b] | 74.289[b] | 65.771[a] | 118.108[a] | 46.783[a] | 50.735[a] | 32.518[a] |
| df | 3 | 4 | 4 | 3 | 3 | 3 | 3 | 3 |
| Asymp. Sig. | .000 | .000 | .000 | .000 | .000 | .000 | .000 | .000 |

a. 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 20.8.
b. 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 16.6.

From the table 4.16, the factors show an asymptotic significance of 0.000 which shows that the factors have a significant effect on deinstitutionalization of CCIs. In this case, we reject the null hypothesis that inadequate finances is the only factor slowing down deinstitutionalization of CCIs in Kiambu County. Hence, we conclude inadequacy in finances is not the only factor slowing down deinstitutionalization of CCIs in Kiambu County.

**Table 4.17: Hypothesis two**

| | education | Care | preserve identity | rest and play | association | religion | information | Protection from abuse and exploitation | Health | Adequate standard of living |
|---|---|---|---|---|---|---|---|---|---|---|
| Chi-Square | 38.398[a] | 26.831[a] | 38.880[a] | 78.880[a] | 117.145[a] | 38.976[a] | 81.000[a] | 83.892[a] | 79.229[b] | 84.277[a] |
| df | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 4 | 3 |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Asymp. Sig. | .000 | .000 | .000 | .000 | .000 | .000 | .000 | .000 | .000 | .000 |

a. 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 20.8.
b. 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 16.6.

From the table 4.17, the factors show an asymptotic significance of 0.000 which shows that the rights are violated. In this case, we reject the null hypothesis that de-prioritization of deinstitutionalization does not violate child rights. Hence, we conclude that de-prioritization of deinstitutionalization violates child rights.

**Table 4.18: Hypothesis three**

| | Support services | Improved alternative forms of care | Transfer to a non-institutional environment | Preventing the removal of children from their families | Development of new family-services | Children visit their families |
|---|---|---|---|---|---|---|
| Chi-Square | 22.277[a] | 7.530[a] | .301[a] | 13.120[a] | 10.133[a] | 28.928[a] |
| df | 1 | 1 | 1 | 1 | 1 | 1 |
| Asymp. Sig. | .000 | .006 | .583 | .000 | .001 | .000 |

a. 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 41.5.

From the table 4.17, the factors show an asymptotic significance of 0.000 except Transfer to a non-institutional environment. In this case, we reject the null hypothesis that CCIs in Kiambu implement deinstitutionalization only through closure of CCIs. Hence, we conclude that CCIs in Kiambu implement deinstitutionalization through various strategies apart from closure of CCIs.

## 4.7 Conclusion

The findings reflect that care and protection in CCIs is rendered mainly by females, who have worked for more than 5 years and have below college education. The fact that CCIs are knowledgeable on de-institutionalization regardless of the different meanings they attach to it is lauded. However, it is noted with concern that CCIs consider the family environment less safe than care within a CCI. The fact that respondents acknowledged that some children rights are

infringed when children overstay in CCIs is also noted. It is appalling that despite being aware of the policy of deinstitutionalization and its link to upholding children rights in relation to the beneficence ethical theory and the do no harm principle, they are still hesitant to implement the policy. The indication that lack of governance and accountability systems is the main determining factor shows that CCIs would be compelled to implement the policy if provisions were in place to ensure its strict implementation.

# CHAPTER FIVE: DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

## 5.1 Introduction

From the findings, discussions, conclusions and recommendations are made. The study sought to evaluate the implementation of deinstitutionalization in Charitable Children Institutions in Kiambu County. Specifically, the study sought to identify the factors causing slow progress in the implementation of deinstitutionalization in CCIs; examine the human rights violations occasioned by de-prioritization of deinstitutionalization and explore the ways in which CCIs implement deinstitutionalization.

## 5.2 Summary of the Findings

### 5.2.1 Factors influencing deinstitutionalization

The caregivers indicated a great extent on the effect of lack of governance and accountability arrangements on deinstitutionalization. The caregivers also showed great extent on difficulties of coordination across agencies and budgets; lack of finances and resources; and budgetary allocations. The caregivers indicated that legal framework affected deinstitutionalization to a moderate extent. However, the caregivers indicated a little extent on personalization of services; organizational complexity and high staff turnover.

The key informants indicated that different factors limited deinstitutionalization in CCIs. They included lack of mapping of families interested in adoption, lack of foster care systems, mistreatment of children by guardians when they visit their homes, and poor cooperation from guardians and parents. Other factors included oversight, unskilled workforce and irresponsibility among care givers.

The care givers indicated that children refused to exit CCIs because of mistreatment by guardians and parents; infringement of rights outside the CCI, hunger, poverty and family violence. The managers interviewed indicated that children stayed in their CCIs more than expected due to stigma, unreceptive family members, rejection of children by community, truant children, lack of enforcement by government and inability of guardians to handle irresponsible children. Officers from the Department of Children Services indicated reasons like lack of punitive measures for keeping children in the CCI illegally, laxity by the government, and greed across CCIs.

### 5.2.2 Deinstitutionalization and Human Rights

The study found that deinstitutionalization affected human rights of children in CCIs. The key informants indicated that de-prioritization of deinstitutionalization affected human rights. This was mainly through infringement of various children rights like the right to family life, protection, affection/love, freedom of association with community, legal custody, play and identity. Other effects indicated by the key informants included lack of oversight, sense of permanency and poor development/growth of children.

The caregivers agreed that their CCIs facilitated the right to rest and play. They also agreed that their CCIs facilitated child protection, education, and gave an adequate standard of living. There was no facilitation of the right to information, association, religion, health, preserve identity and be cared by parents in the CCIs.

On statements relating to deinstitutionalization and human rights, the caregivers agreed that a child should not be institutionalized without a primary caregiver. The caregivers further agreed that institutions offered impersonal care to children, institutionalization leads to impairment of

child development, and that children in institutional care have a low level of intelligence. However, the caregivers disagreed that children lived in poor living conditions in CCIs.

Articles 18, 26 and 27 of the convention on the rights of the child stipulate the need for social security and assistance to parents to enable them to provide for their children. With Kenya being a developing country, this remains a progressive right because it remains unachievable due to the prevailing economic conditions, but steps should be taken towards its realization.

On a balance, it was agreed that de-prioritization of deinstitutionalization negatively affects rights of children. Several rights that are violated were listed by the respondents and the key informants. The CRC stipulate that governments are responsible for ensuring special protection in alternative care art 20 and that they are protected from violence abuse and neglect art 19. In this vein, the onus is on the government to enforce the deinstitutionalization policy.

### 5.2.3 Implementation of deinstitutionalization

On the awareness of the deinstitutionalization policy in Kenya, it was found that there was a high level of awareness on the deinstitutionalization policy. Deinstitutionalization meant closing the CCIs, preventing children from being placed in CCIs, removal of children from CCIs and registering the unregistered CCIs.

The government officers interviewed stated that deinstitutionalization policy was prioritized. However, the CCI managers and officers from civil society indicated that the policy was not prioritized among the CCIs despite the government efforts to enforce the policy.

The study found that CCIs mapped and identified potential families and relatives where they intended to take the children from the CCIs. However, the CCIs did not put in place mechanisms and provisions for counselling both the children and the potential caregivers. On

monitoring/tracking systems to know how the children were faring on after deinstitutionalization to prevent a scenario where the children went back to the conditions that sent them to the CCI, the caregivers indicated that there were no monitoring systems in their CCIs.

The caregivers indicated that their CCIs did not adhere to the guidelines on processing exit of children within the stipulated timeframe of three years. This was due to lack of government support, poor monitoring systems, poor reception of children by families, and infringement of rights outside the CCI.

The study found that CCIs faced major obstacles to deinstitutionalization like family disintegration, poverty, substance abuse, and sexual and gender-based violence. Other obstacles were single parenthood as highlighted by the caregivers.

On the deinstitutionalization strategies adopted by CCIs, majority of the caregivers indicated that they ensured that children visited their families. However, majority indicated that their CCIs did not adopt strategies such as support services for parent responsibilities towards child care, restricting the separation of children from families, development of new family-oriented services in the community, improved quality and effectiveness of alternative forms of care and services, and transfer to a non-institutional environment. The CCI managers indicated that deinstitutionalization in their CCIs is implemented through adoptions, and reintegration of children with their families.

The key informants indicated that in order to ensure successful implementation of deinstitutionalization, various strategies should be adopted. They include addressing the delays by department of children services, educating men on the adoption process in Kenya, government funding to cater for the children outside the CCI, ensuring government social

protection programmes, and awareness creation among the masses on the policy for societal change. Other key informants recommended addressing the push and pull factors for institutionalization, government oversight, drastic reintegration of poor children.

The key informants recommended understanding the characteristics/category of children especially the systems that lead to children being committed to CCIs in a bid to enhance gate keeping measures, creating awareness in CCIs, advocacy work, and closing the funding tap through restrictions. Other recommendations made were change the Kenyan mindset towards adoption, creation of incentives for foster families who take care of children from CCIs, establish a child policy on foster care to hold parents accountable in case of abuse, seal loopholes in Child Protection Systems in Kenya, tight systems on foster care, frequent counselling of guardians/parents and integration of children in the community.

### 5.3 Conclusions

The study found that various factors influenced deinstitutionalization of CCIs in Kiambu County with lack of governance and accountability arrangements being the major factor. The children in the CCIs refuse to leave or come back to the CCI upon exit due to poverty facing their families. The least factor affecting deinstitutionalization of CCIs in Kiambu County is staff turnover which influences it to the least extent.

Regarding human rights and deinstitutionalization, it was concluded that de-prioritization of deinstitutionalization affects human rights of children in CCIs in Kiambu County. Despite CCIs upholding the right to education, various children rights are infringed in CCIs in Kiambu county. Institutionalization requires a primary care giver giving personalized services to the children in such institutions.

The findings also demonstrated that care givers are aware of the deinstitutionalization policy in Kenya. However, the policy is not prioritized in the CCIs. Deinstitutionalization is viewed by the care givers and managers as closure of CCIs by the government.

It was also determined that CCIs in Kiambu county map and identify potential families and relatives where they intended to take the children from the CCIs. However, the CCIs do not have counselling mechanisms for children and would be caregivers. The CCIs do not have monitoring/tracking systems that would show how the children are faring outside the CCI. Poverty is the main obstacle towards the implementation of deinstitutionalization policy in Kenya.

A further conclusion drawn is that CCIs in Kiambu county do not adhere to the guidelines on processing exit strategy of the children within the stipulated timeframe of three years. This has created a challenge in the implementation of the deinstitutionalization policy. This shows that CCIs in Kiambu County face obstacles to deinstitutionalization with family disintegration and poverty being the main obstacles.

To a large extent, implementation of the deinstitutionalization policy may only be encouraged through a systems changes championed by the Department of Children Services under the National Council for Children Services. In a broader outlook, the Government of Kenya must also put in place social security safety nets which are outlined in the UN Convention on the Rights of the Child. According to Article 18, states are required to provide support services that help parents to take care of their children and Article 9, stipulate that separation form families is discouraged and when children must be placed in alternative care, they must be accorded special protection. In this vein, all efforts must be made to foster implementation of the deinstitutionalization policy.

## 5.4 Recommendations

### 5.4.1 Policy Recommendations

The study recommends that the CCIs implement deinstitutionalization. The study also recommends adoptions, and reintegration of children with their families. The study further recommends addressing the delays by department of children services in facilitating family care, increased government funding to cater for the children outside the CCI, implementation of government social protection programmes, and awareness creation among the masses on the policy for societal change. There is need for systems change by the government to improve safety nets which in turn would address further infringement of children's human rights.

An understanding of the characteristics/category of children especially the systems that lead to children being committed to CCIs in a bid to enhance gate keeping measures be encouraged, creating awareness in CCIs, advocacy work, close the funding tap through restrictions is recommended. Other recommendations made were change the Kenyan mindset towards child adoptions, creation of incentives for foster families who take care of children from CCIs, establish a child policy on foster care to hold parents accountable in case of abuse, seal loopholes in children social systems in Kenya, tight systems on foster care, frequent counselling of guardians/parents and integration of children in the community.

### 5.4.2 Recommendations for Further Research

A similar study in a rural county like Migori County is recommended. During the key informant interviews, it emerged that Kenya has piloted Alternative Family Care project with a focus on deinstitutionalization in Kisumu County drawing participation of children officers from neighbouring counties such as Migori. It would be interesting to study how the impact of the

project in Kisumu county rubs off on Migori county.  A study on the challenges facing statutory child care institutions can also be done to compare results.

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## APPENDICES

### Appendix I: Consent form

"***EVALUATING THE IMPLEMENTATION OF THE POLICY OF DEINSTITUTIONALIZATION IN CHARITABLE CHILDREN INSTITUTIONS IN KIAMBU COUNTY***"

Dear respondent,

My name is Damaris Njoki, a student at the University of Nairobi undertaking a master's programme in Human Rights. I am carrying out a study on the implementation of deinstitutionalization in charitable children institutions in Kiambu County.

Anonymity of your personal and work details will be maintained and will not be disclosed to the public. The sole purpose of this study is towards fulfilment of academic requirements and no financial benefit will accrue from your responses. No risks are associated with this study.

Signature _____ Date _____

Damaris Njoki

University of Nairobi

I volunteer to participate in this research.

Respondent Signature _____ Date _____

Age: _____

**Appendix II: Questionnaire for staff of charitable children institutions**

Thank you for taking time to participate in this research. Anonymity of your personal and work details will be maintained and will not be disclosed to the public. The sole purpose of this study is towards fulfilment of academic requirements and no financial benefit will accrue from your responses. Kindly provide answers to the following questions by ticking (√) against the most suitable alternative or giving narrative responses in the spaces provided.

Section I: Demographics

1. Gender

Male [ ] Female [ ]

2. Level of Education

No education [ ] Primary [ ] secondary [ ] college [ ]

University [ ]

3. How many years have you been in your CCI?

Below one [ ] one to five [ ] six to ten [ ]

more than ten [ ]

4. What is your area of operation in your CCI?

_____

5. How many children are in your CCI?

Less than 10 [ ] 10-20 [ ] 21-30 [ ] 31-40 [ ] More than 40 [ ]

Section II: Factors influencing deinstitutionalization

6. Which of these factors affect the deinstitutionalization of CCIs? where 1 is very little extent, 2 is little extent, 3 is moderate extent, 4 is great extent, 5 is very great extent

| Factor | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| Personalization of services | | | | | |
| Lack of finances and resources | | | | | |
| Difficulties of coordination across agencies and budgets | | | | | |
| Legal framework | | | | | |
| Lack of governance and accountability arrangements | | | | | |
| Organizational complexity | | | | | |
| Budgetary allocations | | | | | |
| High staff turnover | | | | | |

7. What are some of the reasons that make children not exit CCIs?

_____

_____

Section III: Deinstitutionalization and human rights

For Likert questions in this section use (1-strongly disagree, 2-disagree, 3 - Neutral, 4 - Agree, 5 - Strongly agree)

8. Do you think deinstitutionalization affect the human rights of children?

Yes [ ] No [ ]

9. If yes for question 8, how?

_____

_____

10. Agree or disagree on these statements

| This CCI facilitates the right to | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| education | | | | | |
| be cared by parents | | | | | |
| preserve identity (Name and family relations) | | | | | |
| rest and play | | | | | |
| association | | | | | |
| religion | | | | | |
| information | | | | | |
| Be protected from abuse and economic exploitation | | | | | |
| Health | | | | | |
| Adequate standard of living | | | | | |

11. Agree or disagree on these statements

| Statement | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| Institutionalization lead to impairment of child development | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| Institutions offer impersonal care to children | | | | | |
| A child should not be institutionalized without a primary caregiver | | | | | |
| Children in institutional care have a low level of intelligence | | | | | |
| Children live in poor living conditions in CCIs | | | | | |

Section III: Implementation of Deinstitutionalization

12. Are you aware of the deinstitutionalization policy in Kenya?

Yes [ ] No [ ]

13. If yes for question 5, explain what it means

_____

_____

_____

14. Have you mapped and identified potential families and relatives where you intend to take the children from the CCI's? Yes [ ] No [ ]

15. Have you counselled or put in place mechanisms and provisions for counselling both the children and they would be caregivers? Yes [ ] No [ ]

16. Is there a monitoring/tracking system to know how the children are faring on after deinstitutionalization so as to prevent a scenario where the children go back to the conditions that sent them to the CCI Yes [ ] No [ ]

17. Does your institution adhere to the guidelines on processing exit strategy of the children within the stipulated timeframe of three years?

Yes [ ] No [ ]

18. If deinstitutionalization is not happening in this CCI, explain why?

_____

_____

19. What is the most likely obstacle to deinstitutionalization in Kiambu county? (Where 1 is very little extent, 2 is little extent, 3 is moderate extent, 4 is great extent, 5 is very great extent)

| | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| Poverty | | | | | |
| Family disintegration | | | | | |
| Single parenthood | | | | | |
| Substance abuse | | | | | |
| Sexual and gender-based violence | | | | | |

20. Which of the deinstitutionalization strategies are adopted by your CCI?

| | Yes | No |
|---|---|---|
| Support services for parent responsibilities towards children | | |
| Improved quality and effectiveness of alternative forms of care and services | | |
| Transfer to a non-institutional environment | | |

| | | |
|---|---|---|
| Preventing the removal of children from their families | | |
| Development of new family-oriented services in the community | | |
| Ensuring that children visit their families | | |

21. What do you think should be done to enhance the implementation of deinstitutionalization of CCIs?

_____

_____

_____

Thank you

**Appendix III: Interview Guide**

1. How long has your CCI been in operation?

_____

_____

2. How long have dealt with issues relating to children institutionalization?

_____

_____

3. How is deinstitutionalization implemented in CCIs?

_____

_____

4. Do you think deinstitutionalization is prioritized for children in Kenya?
5. How does de-prioritization of deinstitutionalization affect the rights of children in Kenya?

_____

_____

6. Which factors do you think limit deinstitutionalization of children in Kenya?

_____

_____

7. Why do you think children have stayed in this CCI longer than they should?

_____

_____

8. What strategies should be adopted to ensure successful implementation of deinstitutionalization in CCIs?

_____

_____

9. In your view what do you think can be done to bridge the gap between policy and practice in deinstitutionalization of children?

_____

_____

**Appendix V: List of CCIs in Kiambu County**

1. Action for Children Conflict Interim Care Centre (AFCIC)
2. Alpha Joy children's home
3. Amiccable children's home
4. BBSI children home
5. Bethel children centre
6. Caroline Wambui children's home
7. Christ Our Refuge children's home
8. Comet house children's home
9. Community of hope children centre
10. Cura children's home
11. Divine intervention missionary ministry
12. Divine mercy children's home
13. Dr. Njenga children's home
14. Ebenezer restoration Christian centre
15. El Shaddai children's home
16. Familia Moja childrens home
17. Fountain of hope children's centre
18. Gathaithi OVC centre
19. Gathiga children's home
20. Gatundu children's home
21. Give hope ministries
22. Happy life children's home

23. Harvest blessing centre

24. Haven on a hill children home

25. Haven rescue home

26. Home of delegates

27. Hope and faith children's home

28. Hosanna projects for the destitute

29. House of mercy children's home

30. Immanuel Afrika children's home

31. Jesus helper children's home

32. Joseph Kimani memorial children's home

33. Joy blessed childrens home

34. Joy Childrens home

35. Karai Munsingen children's home

36. Kiota children's home

37. Kipepeo children's home

38. Kusitawi village

39. Limuru children's centre

40. Macheo children centre

41. Maisha Mema children's home

42. Makimei children's home

43. Mama Dhahabu childrens home

44. Mama Maria children's centre

45. Mama Obed childrens home

46. Morning star residential children

47. Mother’s mercy home

48. Moyo children centre

49. Msamaria mwema children’s home

50. Muthaara love nest children home

51. Muthiga hope centre

52. Namrata shah children’s home

53. Napastaa Heimen boys centre

54. Nazareth joy home

55. New hope children’s centre

56. New vision children rescue centre

57. Nuru Africa children’s centre

58. Orphan children centre (afpic)

59. Otto Hofmann centre

60. Pendekezo letu

61. Praise gate children’s home

62. Revelation orphans and destitute centre

63. Ruiru rehabilitation centre

64. Salem children’s home

65. Sanctuary of hope children’s home

66. Save a soul children’s centre

67. Shade children foundation

68. St Anthony children’s home

69. St. Mary’s children’s home

70. St. Monica children’s home

71. Star of hope children’s home

72. Talia Angler girls’ shelter

73. The ark children’s home

74. The nest children’s home

75. Thika rescue centre

76. Tumaini ministries children’s home

77. Upendo children’s home

78. Ushuhuda children home

79. Utugi Angels’ children’s home

80. Watu wa Maana children centre

81. Young life children’s home

82. Zabibu centre

## Appendix VI: Research Permit

THIS IS TO CERTIFY THAT:
*MS. DAMARIS WANJIKU NJOKI*
of UNIVERSITY OF NAIROBI, 347-900
Kiambu,has been permitted to conduct
research in *Kiambu County*

on the topic: *EXAMINATION OF IMPLEMENTATION OF DEINSTITUTIONALIZATION IN CHARITABLE CHILDREN INSTITUTIONS IN KIAMBU COUNTY*

for the period ending:
*23rd July,2020*

.....
*Applicant's Signature*

Permit No : NACOSTI/P/19/35959/30318
Date Of Issue : 24th July,2019
Fee Recieved :Ksh 1000

.....
*Director General*
*National Commission for Science, Technology & Innovation*

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