



Country fact sheet for the CRC

COUNTRY: SOUTH AFRICA (not reviewed by a local contact)

REPORT N°	<ul style="list-style-type: none"> Second Periodic Report (UNCRC) – delayed, was due in 2002
PRE-SESSION/SESSION	<ul style="list-style-type: none"> Pre-sessional: 73rd (February 2016) Sessional: 73rd (September 2016)
LAWS (THC-1993, GUIDELINES, DOMESTIC LAWS)	<ul style="list-style-type: none"> UNCRC: 1995 OP on the sale of children: 2003 1993 Hague Convention on Intercountry Adoption: 2003 Children’s Act 38 of 2005 Children’s Amendment Act of 2007 A second amendment to the Children’s Act 2005 is currently being drafted and debated Guidelines on domestic and intercountry adoption are under review for approval National Plan of Action for Children in South Africa 2012–2017
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<ul style="list-style-type: none"> Situation: South Africa has the world’s largest number of HIV-infected people. There are an estimated 3.7 million orphans in South Africa - close to half of them have lost their parents to AIDS-related diseases. About 150,000 children are believed to be living in child-headed households. In addition, children mainly from Zimbabwe, Mozambique, Swaziland and Lesotho regularly migrate to South Africa. During the 2008/2009 period, it is estimated that nearly 4,000 migrant children were living independently of close relatives and outside of their country of origin. Responses: The HIV/AIDS burden has had considerable impact on the availability of community responses and ability of the extended families to care for the affected children. However, the community Isibindi model – a home-visiting service – is being rolled out to provide such community responses and operates in all of the country’s nine provinces. Isibindi was launched by the National Association of Childcare Workers and is a recruitment and training programme of child and youth care workers using innovative distance-learning techniques. Care workers visit identified orphans and vulnerable children in their homes and provide comprehensive services. They work with some of South Africa’s most vulnerable children, including those affected by HIV/AIDS where children are orphaned and live in child-headed households. A range of services are provided. According to <i>Family and Parenting Support – Policy and provision in a global context</i>, however, the non-governmental sector is the principal provider of support to families, including parenting, in South Africa. Informal social networks have played the major role, with grass-roots community organisations, religious organisations and national NGOs operating in a limited number of areas of high need, yet where human and financial resources are available. Policy: A National Plan of Action for Children in South Africa 2012–2017 was adopted and includes relevant goals, objectives and strategies, such as ensuring broad-based parenting support and strengthening programmes; creating public awareness on different types and forms of family in South Africa; family preservation programmes for families at risk,

	<p>including prevention and early intervention services; and scaling up family preservation and reunification programmes. The Department of Social Development is the lead agency.</p> <p>Sources: UNICEF South Africa, http://www.unicef.org/southafrica/protection_6631.html; <i>Moving Forward: Implementing the Guidelines for the Alternative Care of Children</i>, Isibindi, http://www.alternativecareguidelines.org/Default.aspx?tabid=2572&language=en-GB; National Plan of Action for Children in South Africa 2012-2017, http://www.unicef.org/southafrica/SAF_resources_npac.pdf; UNICEF, <i>Family and Parenting Support – Policy and provision in a global context</i>, 2015, http://www.bettercarenetwork.org/sites/default/files/Family%20and%20Parenting%20Support%20-%20Policy%20and%20Provision%20in%20a%20Global%20Context.pdf.</p>
<p>ALTERNATIVE CARE OPTIONS</p>	<ul style="list-style-type: none"> ▪ Situation: According to the <i>National Plan of Action for Children in South Africa 2012-2017</i>, the Children’s Act (2005) is a significant achievement in law reform in respect of the care and protection of children. The Act adopts a developmental approach that emphasises the state’s role in the provision of social services to strengthen the capacity of families and communities to care for and protect children. ▪ Alternative care: The National Plan of Action intends to ensure that all children in alternative care are legally placed, well supported and have development plans in accordance with their specific needs and situation. In particular, it focuses on the implementation of the national strategies on adoption and on family preservation and reunification. The Children’s Act includes the following care options: foster care with a suitable – relative or non-relative – foster parent; foster care with a group of persons or an organisation operating a cluster foster care scheme; temporary safe care, pending an application for, and finalisation of, the adoption of the child; shared care where different care-givers or centres alternate in taking responsibility for the care of the child at different times or periods; or a child and youth care centre that provides a residential care programme suited to the child's needs. ▪ Informal and kinship care: According to <i>South Africa’s progress in realising children’s rights: A law review</i>, in 2011 the country had approximately 1.5 million maternal and double orphans. Almost all of these orphans lived with relatives. The majority are in “informal kinship care”, with a smaller proportion having being formally placed by the courts into statutory foster care with relatives. This indicates that the majority of orphans are currently being cared for in a family environment and only a very small proportion are in Child and Youth Care Centres. ▪ Foster care: South Africa's Children's Act promotes family and kinship care whenever possible and residential care as a last resort. The 2005 Children’s Act sets out three types of foster care: with a relative (related foster care), with a non-relative (traditional foster care) and cluster foster care (in a group setting of up to six children), and outlines the rights and responsibilities of foster parents and cluster foster care. In promotion of family fostering, the Social Assistance Act (2004) provides fostering parents with a monthly subsidy (Foster Care Grant). Significant implementation challenges exist. Fostering placements are formalised through legal custodial processes, needing review every two years by court process and significant backlogs have been documented. According to <i>Family and Parenting Support – Policy and provision in a global context</i>, the foster care programme expanded 10-fold over the past decade and about 80 per cent of children in formal, court-ordered foster care are orphans placed with extended families. ▪ Residential care: According to <i>Public Perceptions, Beliefs and Experiences of Fostering and Adoption: A National Qualitative Study in South Africa</i> published in 2015, data on children in residential care are sparse and inconsistent; available estimates from 2007 suggest that at least 15,590 children were placed in registered residential care facilities, likely an underestimation given the proliferation of unregistered homes [NB: The country report mentions 21,047]. According to a 2009 report, residential care placements are common as a result of either: abuse and neglect (30%), abandonment (24%) or orphaning (11%). Encouragingly, fostering has increased over the last decade, but unfortunately the numbers of children (in particular HIV-infected children) placed in residential care has also increased,

	<p>according to a report in 2010. Given the challenge of ensuring that all centres caring for children are registered, the Centre for Child Law, at the University of Pretoria, published a guide for the registration of Child and Youth Care Centres, and efforts are also made at governmental level to promote the registration of all centres, as stated in the country report to the Committee. With regards to the number of these centres, the only recently-available number is the one provided in the 2015 country report, <i>i.e.</i> 355 alternative care facilities in 2011/2012.</p> <ul style="list-style-type: none"> ▪ Child-headed households: As mentioned above, it is estimated that about 150,000 children are believed to be living in the latter (UNICEF, http://www.unicef.org/southafrica/protection_6631.html). The Children’s Amendment Act of 2007 includes policy and provision for child-headed households. More recently, the National Plan of Action 2012-2017 included goals, objectives and national strategies to ensure that the rights of children living in these households are protected, including the establishment and implementation of an information management system in respect of child-headed families. <p>Sources: Children’s Act of 2005, http://www.justice.gov.za/legislation/acts/2005-038%20childrensact.pdf; <i>National Plan of Action for Children in South Africa 2012-2017</i>, http://www.unicef.org/southafrica/SAF_resources_npac.pdf; Rochat, T.J., Mokomane, Z., Mitchell, J. and The Directorate, ‘<i>Public Perceptions, Beliefs and Experiences of Fostering and Adoption: A National Qualitative Study in South Africa</i>’, Children and Society, 2015, http://onlinelibrary.wiley.com/doi/10.1111/chso.12122/full; UNICEF, <i>Family and Parenting Support – Policy and provision in a global context</i>, 2015, http://www.bettercarenetwork.org/sites/default/files/Family%20and%20Parenting%20Support%20-%20Policy%20and%20Provision%20in%20a%20Global%20Context.pdf; Centre for Child Law, at the University of Pretoria, http://www.centreforchildlaw.co.za; Proudlock, P. (Ed.), <i>South Africa’s progress in realising children’s rights: A law review</i>, Children’s Institute, University of Cape Town and Save the Children, 2014, http://www.ci.org.za/depts/ci/pubs/pdf/researchreports/; Meintjes H and others, <i>Home Truths: The Phenomenon of Residential Care for Children in a Time of AIDS</i>, University of Pretoria, 2007, https://open.uct.ac.za/bitstream/handle/11427/4094/CI_researchreports_residentialcare_2007-06.pdf?sequence=1; <i>Situation Analysis of Children in South Africa</i>, The Presidency and UNICEF, 2009, http://www.thepresidency.gov.za/docs/pcca/gdch/situation-analysis.pdf.</p>
ADOPTION	<ul style="list-style-type: none"> ▪ The Children’s Act of 2005 intends to implement the HC-1993. Amendments to the Children’s Act are currently being drafted and guidelines on domestic and intercountry adoption should be approved soon. The intercountry adoption procedure and relevant actors are also described in the Hague Conference’s Country Profile. ▪ Customary practices that are similar to adoption but which are not undertaken in the framework of existing legislation and are not officially monitored appear to be common practice. ▪ It is worth highlighting that a form of open adoption exists in South Africa and adoption by same-sex couples is also possible. <p>Sources: Children’s Act of 2005, http://www.justice.gov.za/legislation/acts/2005-038%20childrensact.pdf; HCCH, Country Profile: South Africa, https://assets.hcch.net/upload/wop/adop2010pd03a_sa.pdf; South Africa Department of Women, Children and People with Disabilities, <i>South Africa Periodic Country Report on the UNCRC</i> (reporting period: January 1998 - April 2013): http://www.dwcpd.gov.za/index_html_files/UNCRC%20report.pdf.</p>
STATISTICS	<ul style="list-style-type: none"> ▪ Official adoption statistics are difficult to access. However, some recent figures include the following: there has been a steep decline in the number of adoptions in South Africa in the past nine years. It found that only 1,699 adoptions took place in 2013, from 2,840 in 2004. This was based on a review of the Registry of Adoptable Children and Parents from November 2013. The statistics compiled in the research report showed that 60% of the children had been abandoned and less than 40% were formally consented for adoption by the parents or family. More than 3,500 babies were abandoned in South Africa in 2010,

	<p>according to Child Welfare SA. In 2013, over 11 million children were registered for child support grants and over half a million children for foster care grants. Foster care grants had increased by over 70% over the same period, the report said.</p> <ul style="list-style-type: none"> ▪ Intercountry adoption statistics remain low. The numbers compiled by the ISS/IRC in relation to South Africa for 2014 estimate the latter at 176. <p>Source: 'Decline in child adoption rate – report', <i>news24</i>, 20 May 2014, http://www.news24.com/SouthAfrica/News/Decline-in-child-adoption-rate-report-20140520; ISS/IRC Monthly Review № 195 of October 2015.</p>
RISKS	<ul style="list-style-type: none"> ▪ Even though foster care has been widely promoted and has increased considerably over the past decade, there is a need to ensure that, specifically, the number of children entering residential care, is reduced and in general, that the number of children entering care also decreases, <i>i.e.</i> there is a need for stronger gatekeeping mechanisms. ▪ Some specific aspects of the adoption procedure remain to be strengthened, such as the training of prospective adoptive parents, post-adoption follow-up and a solid matching process. ▪ Whilst customary adoption/informal foster care may be a positive option for many children as these appear to remain within their extended family and community, some form of monitoring should be considered in order to ensure that all their rights are being protected.
POTENTIAL QUESTIONS	<ul style="list-style-type: none"> ▪ How will the second amendment to Children's Act as well as the guidelines on domestic and intercountry adoption further strengthen the above-mentioned aspects? ▪ What efforts are being undertaken to ensure that children can remain with their parents or extended family with adequate support and to further develop family-based care options? ▪ What additional efforts are being considered to further strengthen foster care?