Inter-agency Guiding Principles on **UNACCOMPANIED** and **SEPARATED CHILDREN**

International Committee of the Red Cross
Central Tracing Agency and Protection Division
19 Avenue de la Paix
1202 Geneva, Switzerland
T +41 22 734 60 01 **F** +41 22 733 20 57
E-mail: icrc.gva@icrc.org **www**.icrc.org

Cover photo: Marie Chordi/ICRC

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Foreword

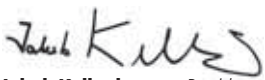
Children separated from their parents and families because of conflict, population displacement or natural disasters are among the most vulnerable. Separated from those closest to them, these children have lost the care and protection of their families in the turmoil, just when they most need them. They face abuse and exploitation, and even their very survival may be threatened. They may assume adult responsibilities, such as protecting and caring for younger sisters and brothers. Children and adolescents who have lost all that is familiar – home, family, friends, stability – are potent symbols of the dramatic impact of humanitarian crises on individual lives.

The breakdown of social structures and services accompanying major crises means that communities and States themselves may not be in a position to provide the necessary protection and care for children without families. It is therefore imperative that humanitarian organizations ensure that the most vulnerable children are protected.

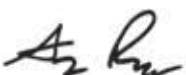
The range and complexity of situations in which children become separated from their families, and the diverse needs of the children themselves, means that no single organization can hope to solve the problem alone. Complementary skills and mandates must be brought to bear in a concerted approach to respond to this issue. Close inter-agency collaboration in the 1990's led to the reunification of tens of thousands of Rwandan children with their families, in the aftermath of the crisis in the Great Lakes Region in Africa. This is a heartening testimony to what can be achieved by working together.

It is against this backdrop that the Inter-agency Working Group on Unaccompanied and Separated Children was set up in 1995. It brought together key organizations with field experience of issues concerning separated children. The objectives of the group are to promote and support preparedness, coordination and good practice based on lessons learnt.

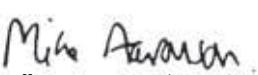
The Inter-agency Guiding Principles on Unaccompanied and Separated Children, developed by this group for the purpose of guiding future action, are based on international human rights, humanitarian and refugee law. They seek to ensure that all actions and decisions taken concerning separated children are anchored in a protection framework and respect the principles of family unity and the best interests of the child. All stages of an emergency are addressed: from preventing separations, to family tracing and reunification, through to interim care and long-term solutions. The pooling of complementary skills and expertise that has resulted in these principles has to be matched by an equal level of collaboration on the ground if the rights and needs of separated children are to be effectively addressed. We jointly endorse these principles and count on the support of all actors concerned with the welfare and protection of unaccompanied and separated children to make them a reality at both policy-making and field levels.



Jakob Kellenberger, *President*
International Committee of the Red Cross



George Rupp, *President and CEO*
International Rescue Committee



Mike Aaronson, *Director General*
Save the Children/UK

Carol Bellamy, *Executive Director*
United Nations Children's Fund

Ruud Lubbers, *High Commissioner*
United Nations High Commissioner for Refugees

Dean Hirsch, *President/CEO*
World Vision International

Contents

Introduction 12

1. A comprehensive approach 15

2. Preserving family unity 21

a) Preventing separation 22

b) Evacuation 24

c) Legal identity and birth registration 27

3. Tracing and family reunification 29

a) Assessment 30

b) Identification, registration and documentation 33

c) Tracing 35

d) Verification and family reunification 37

e) Follow-up of placement and reunification 39

f) Confidentiality 39

4. Care arrangements 41

a) Emergency care and assistance 42

b) Community-based care 43

c) Fostering 44

d) Institutional care 46

e) Guardianship 47

f) Health care and nutrition 48

g) Education 49

h) Psycho-social aspects 50

i) Child-headed households 51

5. Durable arrangements 53

a) Alternative long-term placement 54

b) In-country and inter-country adoption 55

6. Special issues related to refugee children 59

a) Refugee status determination 60

b) Rejected asylum-seekers 61

c) Children living in families from the host/asylum country 61

d) Durable long-term solutions 62

7. Promoting children's rights 65

a) Advocacy 66

b) Capacity-building 67

Key international instruments relating to unaccompanied and separated children 68

Selected reference material 70

Information on the organizations that contributed to the present publication

ICRC

International Committee of the Red Cross (ICRC)
19, avenue de la Paix, CH-1202 Geneva, Switzerland
http://www.icrc.org

The ICRC is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to relieve, and where possible prevent, suffering caused by such situations. It does this by taking direct action for the victims, by playing the role of neutral and independent intermediary, and by influencing the behaviour of all actual and potential perpetrators of such violence through dialogue, establishing standards of conduct and promoting knowledge of and respect for humanitarian law and the principles of the International Red Cross and Red Crescent Movement.

The ICRC's Central Tracing Agency directs and coordinates all activities related to restoring family links, reuniting families and searching for missing persons, conducted by the international network of Red Cross and Red Crescent Societies. In addition to its role of coordinator, the ICRC's Central Tracing Agency has been recognized by the States as a technical adviser to National Societies and governments.

International Rescue Committee (IRC)
122 East 42nd Street, 12th Floor
New York, NY 10168, USA
Tel: (212) 551-3000
http://www.theIRC.org

Founded in 1933, the International Rescue Committee is the leading non-sectarian, voluntary organization serving refugees and victims of oppression or violent conflict. IRC is committed to freedom, human dignity and self-reliance. The IRC is currently at work in some 30 countries.

Overseas, the IRC provides emergency water and sanitation, shelter, health services, emergency education, and psycho-social care and protection for vulnerable children and youths, often operating in the midst of conflict. For those who are granted refugee status by the US government, 15 regional offices provide access to housing, education, job placement, and other services to help them begin life in their new land.

The IRC's Children Affected by Armed Conflict Unit addresses the immediate and longer term psycho-social needs of conflict-affected children and adolescents. Its services include child and adolescent protection; education; rehabilitation and reintegration of former child soldiers; care, tracing and family reunification of separated children; and programmes to aid child victims of sexual violence and exploitation.

Information on the organizations that contributed to the present publication

Save the Children

Save the Children UK (SCUK)
17 Grove Lane,
London, SE5 8RD, United Kingdom
Tel: +44 (0)20 - 7703 5400
http://www.savethechildren.org.uk

Save the Children UK (SCUK) has been working to improve the lives of children around the world for 80 years. During this time SCUK has gained valuable experience of working in more than 70 countries on a broad range of issues that shape children's lives. The key sectors SCUK works in are: health, nutrition, education, social welfare and protection, child labour and HIV/AIDS. The breadth of SCUK's work and experience has enabled links to be drawn between children's situations and concerns in different countries, regions and sectors, influencing policy development in addition to providing a platform for advocacy work. SCUK takes a developmental approach to emergency relief and responds to the immediate needs of children and their families in emergencies while planning for long-term recovery and development. As part of SCUK's emergency-preparedness measures, family tracing kits have been pre-positioned for immediate dispatch when needed.

Save the Children UK has almost two decades of experience of working with separated children and is one of the leading agencies in this field. SCUK works closely with other agencies, both governmental and non-governmental organizations, in the prevention of separation, the protection of separated children and in family tracing activities. SCUK has published a field guide for working with separated children and guidelines for working with child soldiers and children associated with the fighting forces. Upholding and defending children's rights is central to all of SCUK's work.

United Nations Children's Fund (UNICEF)
3 UN Plaza, New York, N.Y. 10017, USA
http://www.unicef.org

UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children. UNICEF insists that the survival, protection and development of children are universal development imperatives that are integral to human progress. UNICEF mobilizes political will and material resources to help countries, particularly developing countries, ensure a 'first call for children' and to build their capacity to form appropriate policies and deliver services for children and their families.

UNICEF is committed to ensuring special protection for the most disadvantaged children – victims of war, disasters, extreme poverty, all forms of violence and exploitation and those with disabilities. UNICEF responds in emergencies to protect the rights of children. In coordination with United Nations partners and humanitarian agencies, UNICEF makes its unique facilities for rapid response available to its partners to relieve the suffering of children and those who provide their care.

UNICEF is non-partisan and its cooperation is free of discrimination. In everything it does, the most disadvantaged children and the countries in greatest need have priority. UNICEF aims, through its country programmes, to promote the equal rights of women and girls and to support their full participation in the political, social, and economic development of their communities. UNICEF works with all its partners towards the attainment of the sustainable human development goals adopted by the world community and the realization of the vision of peace and social progress enshrined in the Charter of the United Nations.

Information on the organizations that contributed to the present publication

United Nations High Commissioner for Refugees (UNHCR)
Case Postale 2500, CH-1211, Geneva 2, Switzerland
http://www.unhcr.ch

UNHCR is mandated by the United Nations to lead and coordinate international action for the worldwide protection of refugees and the resolution of refugee problems. UNHCR offers protection and assistance to refugees and others in an impartial manner, on the basis of their need and irrespective of their race, religion, political opinion or gender. In its efforts to protect refugees and to promote solutions to their problems, UNHCR works in partnership with governments, regional organizations, international and non-governmental organizations.

Action by UNHCR to protect and care for refugee children is central to the fulfilment of its mandate. The Convention on the Rights of the Child is a normative frame of reference for UNHCR in its international protection work with unaccompanied and separated children. The aim of UNHCR is to prevent separations, to identify children who have become separated from their families, to ensure that such children receive the protection and assistance they need, and to reunite them with their families. UNHCR works to achieve these goals through a variety of inter-agency initiatives involving action at both policy and operational levels.

World Vision International (WVI)
6, chemin de la Tourelle, CH-1209, Geneva, Switzerland
http://www.wvi.org

World Vision is a Christian relief and development partnership which serves more than 85 million people in some 89 countries. World Vision seeks to follow Christ's example by working with the poor and oppressed in the pursuit of justice and human transformation.

Children are often most vulnerable to the effects of poverty and World Vision is committed to promoting the rights of children. World Vision works with each partner community to ensure that children are able to enjoy improved nutrition, health and education. Where children live in especially difficult circumstances, surviving on the streets, suffering in exploitative labour, or exposed to abuse and trauma in the world, World Vision works to restore hope and bring justice.

World Vision recognizes that poverty is not inevitable. Our Mission Statement calls us to challenge those unjust structures, which constrain the poor in a world of false priorities, gross inequalities and distorted values. World Vision desires that all people be able to reach their God-given potential, and thus works for a world which no longer tolerates poverty.

Introduction

In almost all armed conflicts, mass population displacements, natural disasters and other crises, a number of children become separated from their families or from other adults responsible for them. These children form one of the most vulnerable groups in these situations, often deprived of care and protection. Most can be reunited with parents, siblings, members of the extended family or other adults whom they know and who are willing to provide for their care.

Action on behalf of unaccompanied and separated children should be guided by principles enshrined in international standards. The validity of these principles has been confirmed by experience and lessons learnt from conflicts and natural disasters in recent years.

The objective of the present publication is to outline the guiding principles which form the basis for action in this regard.

These Guiding Principles are intended primarily for national, international and non-governmental organizations and other associations concerned with separated children. They are also designed to assist governments and donors in meeting their obligations and taking funding decisions.

This publication was prepared by a number of leading humanitarian organizations on the basis of their combined field experience and the relevant provisions of international law. The organizations which took part are:

International Committee of the Red Cross (ICRC)

International Rescue Committee (IRC)

Save the Children UK (SCUK)

United Nations Children's Fund (UNICEF)

United Nations High Commissioner for Refugees (UNHCR)

World Vision International (WVI)

The contents of this publication reflect a common commitment to the application of the aforementioned principles and to their promotion.

When an armed conflict or other disaster occurs, many children become separated from their parents or other care-givers. Because their status is seldom immediately clear, they are referred to as 'separated' or 'unaccompanied children' rather than orphans.

- **A child** means any person under the age of 18, unless under the (national) law applicable to the child, majority is attained earlier (Convention on the Rights of the Child, or CRC, Article1).

- **Separated children** are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

- **Unaccompanied children** (also called unaccompanied minors) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

- **Orphans** are children, both of whose parents are known to be dead. In some countries, however, a child who has lost one parent is called an orphan.

1
A comprehensive approach

Boris Heger/ICRC

1 A comprehensive approach

The survival of unaccompanied and separated children may be threatened in armed conflict or other disasters. These children are most likely to have their basic rights violated and to risk abuse, exploitation or recruitment into armed forces.

All children are entitled to protection and care under a broad range of international, regional and national instruments. Of particular relevance for separated children are:

- the right to a name, legal identity and birth registration;
- the right to physical and legal protection;
- the right not to be separated from their parents;
- the right to provisions for their basic subsistence;
- the right to care and assistance appropriate to their age and developmental needs;
- the right to participate in decisions about their future.

Primary responsibility for ensuring children's survival and well-being lies with parents, family and community. The national and local authorities are responsible for ensuring that children's rights are respected. Efforts must be made in an emergency to protect family unity and avoid child-family separation.

The **principle of family unity** – or integrity of the family – states that all children have a right to a family, and families have a right to care for their children. Unaccompanied and separated children must be provided with services aimed at reuniting them with their parents or primary legal or customary care-givers as quickly as possible. If large numbers of children are separated from their parents or other relatives in an emergency, priority should be given to the most vulnerable, whether accompanied or unaccompanied, taking into account that the latter are likely to be more vulnerable.

The **best interests** of the child constitute the basic standard for guiding decisions and actions taken to help children, whether by national or international organizations, courts of law, administrative authorities, or legislative bodies. These Inter-agency Guiding Principles should be taken into account when determining the best interests of the child in a given situation.

A **child's opinion** should be listened to and given due weight in relation to the child's age and maturity. Children must be kept informed about plans being made for them. This includes decisions about placement and care, tracing and reunification. Programmes should actively engage children in the prevention of and responses to separation.

Non-discrimination: one of the basic tenets of international humanitarian law is that the protection and guarantees it lays down must be granted to all without discrimination. Thus all four Geneva Conventions and both Additional Protocols provide that the "specific categories of person they protect must be treated humanely (...) without adverse distinction founded on sex...". The Convention of the Rights of the Child reinforces this key principle and states that girls have additional, specific needs which have to be taken into account in programming for their care and protection.

The special needs of girls must be taken into account throughout armed conflicts and their aftermath. Appropriate responses must be developed at all stages of programming. See for example, Security Council Resolution 1261 (1999) on children and armed conflict which urges all parties to armed conflicts to take special measures to protect children, in particular girls.

The concept of **'protection'** refers to all activities aimed at ensuring full respect for the rights of the individual – in this case a child – as set out in the relevant human rights instruments and international humanitarian law. There are essentially three complementary types of action to help unaccompanied and separated children: [1]

[1] *Workshop on protection for human rights and humanitarian organizations – Doing something about it and doing it well,* Report on the fourth workshop held at the ICRC, Geneva, 18-20 January 1999.

- **responsive action** aimed at preventing, putting a stop to, and/or alleviating the immediate effects of a specific pattern of abuse;

- **remedial action** aimed at restoring dignified living conditions through rehabilitation, restitution and reparation;

- **environment building** aimed at creating and/or consolidating an environment (political, institutional, legal, social, cultural and economic) conducive to full respect for the rights of the individual.

An overall protection framework must guide all actions on behalf of separated children.

The organizations concerned must ensure that their activities are carried out impartially (not on the basis of race, national or ethnic origin, religion, gender or other similar criteria). Every organization must take into account the overall need for protection and act according to its mandate, expertise or mode of action. Policies, programmes and decisions adopted with regard to separated children must be in keeping with the provisions of:

- the Convention on the Rights of the Child (1989) and its two Optional Protocols (2000);

- the four Geneva Conventions (1949) and their two Additional Protocols (1977);

- the Convention relating to the Status of Refugees (1951) and its Protocol (1967);

- other relevant international treaties.

Complementarity and cooperation among all organizations concerned are critical for the care and protection of separated children. It is important that all action be coordinated with the relevant government authorities, unless this is not in the best interests of the children. Dialogue and coordination mechanisms need to start in the early phases of the emergency, and be maintained throughout the process.

Specific lead roles must be established for key areas, such as child care and tracing, according to each organization's mandate, expertise and capacity to deal with the given situation. Any organization wishing to work on behalf of separated children must liaise with the other partners involved. In addition, a

communication strategy – through the media, for instance – needs to be considered to support the protection framework. Organizations should strive to reach a common understanding and coherent action in line with the present Inter-agency Guiding Principles. Organizations are strongly encouraged to endorse these Guiding Principles.

Action to help separated children requires **long-term commitment** – often lasting years – from the organizations involved. These should begin considering at the early stages of their involvement when and how they will end that involvement and hand over their activities to national or other entities.

Thierry Gassmann/ICRC

2

Preserving family unity

2 Preserving family unity

a) Preventing separation

There are many reasons why children become separated from their families in emergencies. Separation occurs either accidentally – when fleeing from danger or during evacuation – or deliberately when children are abandoned or given over to the care of another individual or a residential centre, perhaps in the belief that they will have a better chance of survival or access to services.

It is possible to prevent children from being separated from their families, even in extreme emergencies. Approaches can be made to the relevant authorities and other parties so as to reduce the risk of separation. These contacts aimed at preventing accidental and deliberate separation and promoting reunification must be based on an understanding of the causes of separation.

- Awareness of ways to prevent separation should be raised among governments, donors, staff of national and international agencies, religious groups and communities, especially women as they are in many cases the primary care-givers in emergencies.

- Families should be made aware of measures that they can take in emergencies to minimize the risk of their children becoming separated. Parents and schoolteachers should teach children their name, address and details of where they come from, to facilitate tracing should they become separated. Name tags may be useful to identify children, particularly young children, if they are forced to flee.

- Families and communities must be made aware of the particular vulnerability of girls as they are especially susceptible to marginalization, poverty and suffering during armed conflicts. Girls are also particularly at risk of neglect and abuse, including sexual abuse and exploitation.

- When appropriate in a particular situation, special measures must be taken to protect children, in particular girls, from rape and other forms of sexual and gender-based violence in situations of armed conflict.

- In areas where unrest is anticipated, those engaged in prevention work should strike a balance between anticipating problems and taking care not to aggravate people's sense of insecurity.

- Deliberate separations can be prevented by ensuring that all households have access to basic relief supplies and other services, including education, and that providers of emergency care for children apply appropriate screening procedures.

- Organizations must ensure that their actions do not inadvertently encourage family separations. Separation can be provoked when families entrust their children to organizations hoping that they will get better care and services from them.

- All sectoral services including health, food aid and logistics must be reviewed to ensure that their systems and practices do not cause family separation.

b) Evacuation

Whenever possible, children should be evacuated from their place of residence together with adult family members. Evacuating children without family members should be a last resort, carried out only after it has been carefully determined that protection and assistance cannot be provided in place and that evacuation of the entire family is not feasible. Separation of these children from their families is meant to be temporary.

International humanitarian law provides guidance to facilitate the return of evacuated children to their families and country. (Additional Protocol I to the 1949 Geneva Conventions, Article 78).

- Priority must be given to protection and assistance to enable families to meet the needs of the children in their care. This involves clearly identifying needs and addressing them effectively so that people are able to choose to remain where they are and to keep their families together.

- Evacuating all children from a particular location may not be feasible. The choice of which children to evacuate should be reasonable, fair and based on clearly agreed criteria. Such criteria must strike a balance between the safety of the child and the benefits of the child remaining in his or her own environment.

- Reception and care arrangements at the destination must be confirmed prior to evacuation. Ways must be found to maintain contact between child and family, and measures taken to ensure early reunification. If the principles devised to protect the best interests of the child cannot be respected, the evacuation should be reconsidered.

- The humanitarian act of evacuating children where necessary does not exempt humanitarian organizations from providing those children's families with the assistance they require.

- Agencies or individuals should evacuate children only as part of a coordinated plan of action.

- Any decision to send children away must be based on the informed consent of their parents. This must include information about the evacuating agency to whom they are entrusting their children, the intended child-care arrangements and the risks and possible

consequences of evacuation. Parents should give written consent prior to evacuation. The wishes of parents regarding the children's care, culture and religious education must be considered.

- Children should be given the opportunity to express their opinion, and it should be taken into consideration.

- Care-giving adults known to the children should accompany those evacuated without their families.

- The personal and family particulars of each child must be recorded in a personal profile and history file. This file should also include complete information as to the identity of the entrusting agency and copies of the parents' written consent. A copy of the file should travel with the child. Further copies should be given to the parents, national authorities – if appropriate, the organization responsible for the evacuation – and a neutral monitoring agency, such as the ICRC's Central Tracing Agency. Documentation for children should include sufficient travel documents to enable easy return to the country of origin.

- In extreme situations, where life is at immediate risk, full documentation may not be possible before evacuation, but every effort must be made to record at least rudimentary details such as names of the child and parents, date of evacuation and usual place of residence. Full documentation should be completed as soon as possible.

- Any evacuation, whether for safety or for medical reasons, should be limited to a place as close as possible to the child's home and family. The best interests of the child should determine the place of evacuation.

- Evacuated children have the same rights as all children. Special additional measures may be needed to deal with particular risks arising from the circumstances of the evacuation itself. For example, adequate documentation and record-keeping will prevent small children's names and identities from being lost.

- The care and placement of children should be supervised by national or local welfare services to ensure that these children receive care that meets at least the minimum standards. The most appropriate form of placement must be determined for each child. Family care is likely to be best.

- Every effort should be made to preserve the culture, language and religion of the children, with full respect for the expressed preferences of their families, particularly when considering placement.

- Communication between the child and his or her family must be maintained and special efforts should be made to facilitate that communication. If necessary, the International Red Cross and Red Crescent family news network can be used.

Evacuation, reception and care should be planned with a view to the earliest possible reunification of the children with their parents. It must be clearly explained to guardians or foster parents that, although the duration of separation may be long, the objective is family reunification.

c) Legal identity and birth registration

The Convention on the Rights of the Child calls for all children to be registered "immediately after birth". However, one third of all births go unregistered. Many children are registered later in life, such as when they enrol in school.

This leaves many children without proper birth registration at the time they are separated from their family. The implications are serious, since a birth certificate is needed for a number of services and offers a degree of legal protection. In addition, there is a risk of the child losing his/her identity and being given a new name.

- All children must be legally registered as soon as possible after birth. Special attention must be given to possible disparities regarding registration of boys and girls.

- The child's identity, including nationality as well as the identity of his or her family must be recorded and preserved. Organizations caring for separated children must seek to obtain the documentation needed to record children's identity and filiation, if known.

- If a child's identity is not known, the relevant authorities should take appropriate measures to ascertain it. A new identity should be established only as a last resort.

Josué Anselmo/ICRC

3

Tracing and family reunification

3 Tracing and family reunification

a) Assessment

An assessment must be conducted to establish the extent of family separation and the situation of affected children. This should be carried out at the earliest possible stage of any emergency as part of a broader situation analysis in order to develop an appropriate response.

Assessments always have an impact. They constitute in themselves an 'intervention'. An ethical approach demands the following:

- a commitment to follow-up action, if required;
- refraining from taking action if the local community can cope by itself, unless the community's action violates the basic rights of children;
- avoiding methods that could stigmatize children, endanger them in any way or increase the incidence of family separation. In extreme cases, assessments may jeopardize the safety of the intended beneficiaries, for example by attracting the attention of groups that exploit children;
- avoiding the creation of false expectations.

Assessments must include:

- an analysis of the various political, economic, logistical and other causes and patterns of separation, and the intended or unintended part played by various entities and policies;
- a study of the community's customary attitudes towards 'orphaned' or otherwise separated children and the care it provided, including orphanages, prior to the emergency;

- the identification and estimated numbers of all unaccompanied and separated children in various locations desegregated by age, sex and situation. In particular, groups of children at special risk should be identified, such as those with disabilities, child soldiers and those living in child-headed households;

- a review of the policies of all national and local authorities pertaining to separated and orphaned children;

- an analysis of measures taken by the community itself, and its resources;

- an analysis of the potential impact of relief programmes on family unity and the basic subsistence and rights of separated children;

- the identification of factors with potential to cause new separations or to aggravate the circumstances of children already separated. These may include particular patterns and degrees of violence, mortality rate and displacement, lack of food, security and access to basic services, possible recruitment of minors into armed forces and the establishment of orphanages;

Assessments should be conducted:

- as far as possible by a multidisciplinary team conversant with the issues related to separated children in emergencies, having knowledge of the historical, social and political situation as well as expertise in assessment methods;

- at the least by a team that has been thoroughly briefed on separated children's issues of the region;

- with the active participation of members of the affected community. Careful judgement must be exercised in the choice of local team members. This is particularly relevant in highly politicized circumstances in which some individuals may seek to use the assessment to pursue their own agenda;

- in a way that builds on existing knowledge and documentation, and after a review of any prior assessments involving the same population;

- periodically, as the situation of separated children typically changes over time, sometimes radically so, owing to the emergence of new factors;

- jointly by two or more of the specialized agencies, as inter-agency cooperation beginning with the initial assessment paves the way for a strong coordinated response later on. In cases where joint assessments are not possible, findings should be shared between concerned agencies;

- in the field by direct observation, interviews and focus groups with a broad range of key community informants and leaders. These include children, religious leaders, women's groups, local and national authorities, teachers, soldiers, prison authorities, orphanage staff, local and international NGOs, and UN staff;

- in such as way as to sensitize the community, the authorities, non-governmental organizations and others regarding the issues related to separated children.

b) Identification, registration and documentation

Identification is the process of establishing which children have been separated from their families or other care-givers, and where they may be found.

Registration is the compilation of key personal data: full name, date and place of birth, father's and mother's name, former address and present location. This information is collected for the purpose of establishing the identity of the child, for protection and to facilitate tracing.

Documentation is the process of recording further information in order to meet the specific needs of the child, including tracing, and to make plans for his or her future. This is a continuation of the registration process and not a separate undertaking.

When an emergency arises, it is imperative to identify, register and document both unaccompanied and separated children as quickly as possible. This process will promote the protection and assistance of children and the tracing of their families. It is especially important in countries where legal registration is not properly carried out.

- Identifying unaccompanied and separated children is a priority in any emergency or other situation that leads to family disruption.
- The identification of unaccompanied and separated children must be approached very carefully to ensure that all genuine cases are found, while not attracting false cases. This should be verified through interviews with the child and members of the community.
- Registration and documentation must be carried out as soon as possible after a separated child is identified. Forms should always be kept by or with the child, and a record made of any change of location.
- Clear information about the objectives of registration and documentation must be provided to the population concerned, and criteria for defining which children are to be documented must be made absolutely clear to everyone involved.

- Maximum information must be collected through interviews with the child and with anyone else who can give details about the child or his or her family.

- Each child should be interviewed in a quiet place by trained staff and made to feel as secure and comfortable as possible, to minimize distress. All staff must respect the confidential nature of the information collected, and systems must be put in place for safe forwarding and storage of information. In some situations there are specific security risks posed by the storage of information, and these must be carefully assessed.

- Whenever possible, photographs should be taken as part of the registration/documentation process. In the case of younger children in particular, these must be taken as soon as possible after separation.

- Where necessary because of a large caseload, priority in registration/documentation and photographing should be given to children who cannot provide complete information about their identity.

- For children about whom there is insufficient knowledge to carry out immediate tracing, careful documentation is the most important part of the tracing process. Adequate time and resources should be devoted to this at a very early stage, including use of specially trained personnel. The documentation process should continue after the first interview by working together with those who are caring for the child who, through continued contact with him or her, may be able to glean more information.

- Clothing and all items found with children who have inadequate information for tracing should be kept and if possible, photographed, as they might help to identify the child.

c) Tracing

Tracing, in the case of children, is the process of searching for family members or primary legal or customary care-givers. The term also refers to the search for children whose parents are looking for them. The objective of tracing is reunification with parents or other close relatives.

Tracing must be carried out for all separated children at the earliest possible time. When large groups of children are separated from their parents, priority should be given to unaccompanied and very young children. Even if immediate family reunification is not possible, tracing is important for restoring links with their families.

- In emergencies, the aim is to reunite families as quickly as possible, and to this end tracing should be started without delay. Immediate efforts must be made to find family or care-givers who may still be in the area, in order to maximize the possibility of the child being rapidly taken back into the care of someone he/she knows.

- All those engaged in tracing should use the same approach, with standardized forms and mutually compatible systems. This will facilitate cooperation and information-sharing and prevent duplication of activities.

- Even if immediate reunification is not possible, tracing should be carried out on behalf of every separated child with a view to at least restoring contact with close or extended family members, or with previous primary care-givers. The Red Cross/Red Crescent family news network or other communications systems may be used for this.

- Tracing should be proactive, but the safety of the child and his/her family must be paramount. Protection is the first priority, and in insecure circumstances tracing may even endanger the life of the child or family. In such cases tracing may have to be delayed.

- Tracing methods may vary and should be innovative, as long as their first priority is to protect the child. The decision on which method or methods to use should be made locally and within an

agreed and coordinated operational framework that involves all agencies taking part.

- The child should be kept informed of these efforts and of any progress made.

- Sharing information within and between countries is essential for tracing, but the protection and best interests of the child should govern the extent to which it is shared and the type of information involved. The basic principle of information sharing is that the maximum information necessary for tracing should be shared at the minimum risk to the child and the family.

- In situations where tracing activities take place between a number of countries, there should be close coordination, cooperation and joint planning between the governments, the ICRC, UNHCR, UNICEF and other implementing agencies in all countries concerned. This should include the centralization of information.

- Tracing should not be abandoned unless all reasonable efforts to locate family members have failed.

- No action should be taken that may hinder eventual family reunification such as adoption, change of name, or movement to places far from the family's likely location until all tracing efforts have been exhausted.

d) Verification and family reunification

Verification is the process of establishing the validity of relationships and confirming the willingness of the child and the family member to be reunited.

Reunification is the process of bringing together the child and family or previous care-provider for the purpose of establishing or re-establishing long-term care.

Under human rights law and international humanitarian law, separated children have a right to be reunited with parents, relatives or guardians. Obviously, this is also of particular importance for the children's safety and well-being.

- Verification must be carried out for every child.
- The national legal framework for the reunification of children with their families must reflect international human rights standards – in particular the Convention on the Rights of the Child – and international humanitarian law.
- Reunification programmes should be implemented in line with the policies of the government and within the legal framework of the country. In situations where government services are not functioning, the advice of lawyers knowledgeable about child-welfare laws may be required.
- Ideally, reunification will be with one or both parents. If it is not possible to reunite the child with his parents, reunification with other family members is usually the preferred alternative.
- When tracing is successful, an assessment should verify that family reunification is in the best interests of the child. In cases where there are serious concerns, it may be necessary to involve the appropriate local authorities, existing welfare systems, other agencies and local communities for any further action or future support required.

- As long as reunification has not taken place, every effort must be made to keep the child in touch with his/her family. Where the usual means of communication have been disrupted, the world-wide Red Cross and Red Crescent family news network can be used.

- It is critical to take particular measures in situations where children have been involved in armed violence against their own community. Preparations for the reunification of these children must take into account the need to shield them against discrimination, targeted attacks and further recruitment.

- Long-term solutions need to be found for children who cannot be reunited with their families within a reasonable period of time.

- The ICRC and the National Red Cross and Red Crescent Societies have a mandate to trace across international borders. Non-governmental agencies and any other implementing partners should therefore coordinate all cross-border tracing with these organizations, and work through UNHCR in the case of refugees.

e) Follow-up of placement and reunification

Follow-up is the term used to refer to a range of activities for children and their families to facilitate their reintegration. These activities may include social and economic support.

Follow-up is usually required for family reunification. In the case of other forms of placement, such as a foster family or adoption, follow-up is necessary.

- In all cases of follow-up, a sense of community responsibility should be promoted, highlighting children's broader rights.
- Where possible, there should be follow-up through local child-welfare systems or community structures.
- Where follow-up support is provided to the child's family, the needs of the surrounding community should also be considered.

f) Confidentiality

Confidentiality and protection of the data collected on separated children is critical and all involved must be informed of this principle.

- Organizations must ensure the permanent preservation of their records because later in life children may wish to obtain information on their origins. In certain situations it may be decided that records will be centralized under the responsibility of a specialized organization.
- Precautions must be taken when sharing and publishing information on unaccompanied and separated children, including photographs of children for tracing. It is important to know who will have access to the information collected.

Boris Heger/ICRC

4

Care arrangements

4 Care arrangements

a) Emergency care and assistance

All children are entitled to emergency care and provision for their basic subsistence. Assistance for separated children must adequately meet their basic needs at a standard comparable to the surrounding community and should be provided in a way that preserves family unity, keeps children with their relatives or other care-givers and does not lead to separation.

In emergencies, interim care must be provided for children separated from their families until they are reunited, placed with foster parents or other long-term arrangements for care are made. This may include fostering, other forms of community-based care, or institutional care.

- Child protection must be the overriding factor. All children need security and physical and emotional care in a setting that encourages their general development.
- Where possible, this care should be provided in families within the child's own community, with close monitoring.
- Interventions should build on and strengthen the systems that currently function in the community, and involve community leaders and local authorities, unless their views are not in the best interests of the child.
- Children must be kept informed of the plans being made for them, and their opinions taken into consideration.
- Cooperation between all agencies providing interim care is essential, using agreed guidelines for family and community-based programmes or institutional care.

- The provision of interim care should be based on the best interests of the child and should not be used to promote political, religious or other agenda.

- The focus must be on temporary care, with commitment to carrying out family tracing.

b) Community-based care

For separated children, community-based care is preferable to institutional care as it keeps the child within his or her community and provides continuity in socialization and development.

- Where care arrangements are supported by organizations, this should take the form of broader projects to help the community become self-sufficient.

- As with all care arrangements, community-based care must be monitored.

c) Fostering

Fostering refers to situations where children are cared for in a household outside their family. Fostering is usually understood to be a temporary arrangement and in most cases, the birth parents retain their parental rights and responsibilities. The term fostering is used to cover a variety of arrangements as follows:

- **traditional or informal fostering**, where the child is taken into the care of a family or other household that may or may not be related to the child's family – no third party is involved in these arrangements, though they may be endorsed or supported by the local community and may involve well-understood obligations and entitlements;
- **spontaneous fostering**, where a family takes in a child without any prior arrangement – this is a frequent occurrence during emergencies and may involve families from a different community in the case of refugee children;
- **arranged fostering**, where a child is taken into the care of a family as part of an arrangement made by a third party, usually an agency involved in social welfare such as a government department, a religious organization, or a national or international NGO – this arrangement may or may not be covered by formal legislation.

- Programmes should seek to understand the impact of the emergency on the kind of fostering that is based on traditional custom and practice.
- Local ability to manage foster care should be developed, using appropriate local structures. Follow-up should be linked to the development of community-welfare structures and should include a commitment to provide guidance and support for foster families.

- The community should be involved in defining criteria for and selecting foster families. This should reduce the likelihood of the children being neglected or badly treated. Wherever possible, foster families should belong to the same community as the child.

- Fostering of refugee children by families of the host country should be discouraged, as this puts these children at additional risk of abuse and exploitation, and their situation is difficult to monitor.

- The status of all children in foster families must be monitored. Although children are generally better off growing up in a family setting than in an institution, there are still risks in living in a foster family where children may be neglected, abused, exploited or have other rights denied.

- The situation of all children in fostering arrangements should be analysed with regard to their civil rights and legal status.

- Regarding informal arrangements, as long as the foster family agrees to continue caring for the child and the child is happy to stay, the arrangement should be allowed to continue. However, there should be an understanding that if the child's own family is traced, reunification is to go ahead.

- In general, payment of individual foster families should be avoided. However, families should be helped to obtain basic means of support such as ration cards. Programmes should focus, in the context of wider community-based activities, on increasing the ability of families to support the children in their care.

- In some cases, it may be necessary to remove children from foster families for their protection. Local laws or conventions should, to the extent possible, govern any actions regarding the removal of children from foster families. If there are problems enforcing such laws, the government should be informed, human rights bodies consulted and policies formulated in consultation with the agencies working directly with the children and communities concerned.

d) Institutional care

Many children in institutions are not orphans. They may be placed there for safety, education, or for economic or social reasons. Residential institutions can rarely offer the developmental care and support a child requires and often cannot even provide a reasonable standard of protection. Even during emergencies, institutions should be viewed as a last resort, to be used only when children genuinely have no one to take care of them.

Priority should be given to community-based solutions that build on existing social structures. There are times, however, when family-based care is not possible and temporary institutional care and protection is required. This should follow the principles outlined below.

- Children in institutions should enjoy the same civil and political rights as the rest of the child population. Monitoring should take place to ensure that these rights are respected.

- Every institution should have the reunification of children with their families as one of its key objectives. It must be made clear that care will be provided for a short period while reunification or alternative community-based care is being sought.

- All admissions must be screened and documented. Each child should have a file containing all the information about him, which should be updated and remain with him if he moves.

- Centres should be small, temporary and organized around the needs of the child. Where possible they should be organized in small family-like units. Siblings must be kept together and, where appropriate, friends and those from the same geographical areas or community. Children, especially the younger ones, should be as close as possible to their locality of origin, in order to facilitate tracing.

- The centre must be integrated into the local community as closely as possible and should liaise with the local authorities where relevant.

- Institutions must provide adequate basic care and meet minimum standards with regard to water, sanitation, health and nutrition, as set out in documents such as the Sphere Project. The atmosphere should be stimulating, with a structured day including periods of education, recreation and rest, and household chores; the children

should be taught appropriate life skills to enable them to survive in wider society.

- Staff should consist of individuals experienced in caring for children, trained in all relevant aspects including documentation, communicating with children and caring for children with special needs. The staff should receive support when dealing with children who are distressed or who have been through particularly difficult experiences, for example child soldiers. Close collaboration with tracing teams is indispensable.

- The primary responsibility for monitoring the standards of protection and care provided by the institutions lies with the government.

- Donors need to look beyond the immediate and visible appeal of institutions and to consider supporting community-based care arrangements.

e) Guardianship

The precise definition, function and manner of appointment of a guardian varies from jurisdiction to jurisdiction. However, in essence the term **guardianship** refers to the designation of responsibility to an adult or organization for ensuring that a child's best interests are fully represented.

One specific example of this function in many jurisdictions is that of guardian in administrative or judicial proceedings. The function of such a guardian is to ensure that the child is properly represented; that his/her views are expressed and that any decisions taken are in his or her best interests. This is in keeping with Articles 3 and 12 of the 1989 Convention on the Rights of the Child.

- Guardianship should be used in administrative or judicial proceedings wherever the system exists to support it, as it provides an important safeguard for ensuring that children's rights and best interests are upheld.

- In large-scale crises, where it will be difficult to establish guardianship arrangements, the rights and best interests of separated children must be safeguarded and promoted by organizations working on behalf of these children.

f) Health care and nutrition

- Separated children's access to appropriate health care should be promoted and monitored.

- Children in crowded environments are vulnerable to infectious disease and wherever possible they should be accommodated in small units. Immunization must be arranged for all separated children.

- The food served to separated children should strike a balance between the need for a nutritious diet, cultural eating habits and the diet of the local community.

- Babies and young children separated from their families are extremely vulnerable and need special food and care. Ideally, babies under six months should be fed on breast milk, i.e. wet-nursed by a woman who tests HIV negative. If necessary, adequate substitutes for breast milk and the conditions for their proper use should be provided. For detailed information on the feeding of separated babies and young children, reference should be made to the Infant Feeding in Emergencies Training Modules developed by the Inter-agency Working Group on Infant Feeding in Emergencies. This group consists of representatives from WHO, UNICEF, WFP, ANCHOR, Linkages, IBFAN and the Emergency Nutrition Network.

g) Education

Separated children, like all children, have a right to education. However education needs to be organized in such a way that it does not encourage and/or prolong family separation.

- Access for separated children, including refugee children, to education including vocational training should be promoted and monitored.

- Efforts should be made in all situations, including emergencies, to ensure that separated children participate in structured activities for recreation and continued learning.

- Pre-school children should be brought together for structured play during the day. Relationships forged with carers during this time may help the children to communicate information that will assist with tracing, as well as promote their well-being and development.

- The provision of all forms of education should be avoided at centres providing interim care since this can prompt parents to place their children in centres. Separated children should attend local schools where available.

- If there are no locally available educational and skills-training opportunities, facilities provided to separated children should also be available to other children.

- Assistance with school fees and uniforms is often requested to facilitate the reunification of children with families, particularly if the children have been attending school during the period of interim care. To the extent possible, support of this kind should not be restricted to families being reunited with separated children, but – in order to prevent privilege based on past separation – extended to all families facing similar difficulties.

- It is important that separated refugee children return to their country of origin with school certificates or other documentation of education obtained in the country of asylum.

h) Psycho-social aspects

In addition to losses, destruction and violence experienced by all children in emergencies, those separated from their families also suffer the sudden loss of those people most important to them, often under brutal circumstances. Child-development professionals consider that key elements in promoting the child's recovery are the early meeting of basic needs, structured activities to restore a sense of normality, and care and nurturing. With this support it is unlikely that many children will need specialized intervention.

- Family reunification is critical to the child's psychological and social well-being. One of the main principles behind tracing and reunification is that recovery from harm is most likely to take place when children are cared for by people whom they know well and trust.

- For children who cannot be reunited with their families, it is important to promote community-based care that builds on local culture and provides continuity in learning, socialization and development.

- Carers play a key role in promoting children's confidence, trust and security. They require training in how to communicate with children, how to listen to them and how best to support them. Carers will themselves need support.

- Teachers should receive training in appropriate ways of responding to children who are separated from their families and may have emotional and behavioural problems.

- Where there is the need for specialized intervention, local resources should be explored and supported as long as they are in the best interests of the child.

i) Child-headed households

In a striking number of situations, groups of children are left without any adult to care for them and assume responsibility as heads of households. Massacres, genocide and HIV pandemics have created enormous demographic pressure in many developing countries, worsening prospects for millions of children and young people of having healthy and meaningful lives. Pressure on families and communities has diminished protection and worsened neglect and emotional suffering for separated children. This heightens the risk of discrimination, exploitation and abuse.

Studies of the problems facing child-headed households indicate that these are often linked to the difficulty of meeting basic needs as shelter, food, health, education and vocational skills training.

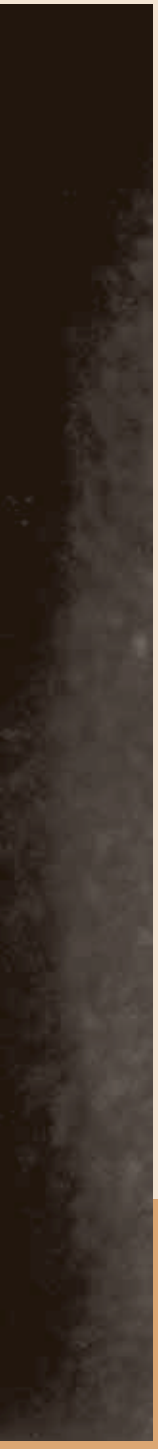
- Governments need to develop new policies and adapt existing ones in order to meet the challenges of rapidly increasing numbers of orphans; examine the expansion of educational, health-care and other social services to ensure that they identify and address the special needs of children without care-givers; and ensure that services are adequate to include the burgeoning number of children for whom such services are critical.

- Communities and poor families housing orphans need to be supported through expansion of basic services and the development of 'safety nets'. Community-based organizations – including religious organizations – providing alternative care for orphaned children need to be supported.

- Effective protection of the rights of child-headed households such as access to education, laws on adoption and fostering, on inheritance, protection of property and access to land is essential to protecting separated children from exploitation and discrimination.

- All assistance programmes for child-headed households, separated children and orphans should be integrated in any given community with overall assistance to children in need of special protection. Stigmatization should be avoided and social integration of children orphaned by war, HIV/AIDS or other misfortunes should be facilitated.

Michel Comte/ICRC



5
Durable arrangements

5 Durable arrangements

a) Alternative long-term placement

Family reunification is the first priority for separated children. Should reunification not be in the child's best interests or not possible within an appropriate period, other medium and long-term options such as foster care, group homes or adoption will need to be arranged. Any long-term solution must be planned to serve the individual child's best interests and should meet his developmental needs.

- Each case must be considered and decided individually in the context of child-welfare policy, legislation and practice in the country concerned.
- The children must be involved in the process and kept informed of any plans made for them.
- Placement should ideally be within the community to which the child belongs. If, however, children are obliged to remain outside their own community, efforts should be made at least to keep them in touch with their own culture, for example by placing them in a family from their region of origin.
- For adolescents, it may be necessary to establish small group homes or supervised living arrangements and to support them to become self-sufficient.
- Institutions can be transformed to promote community-based care of children; support can be given to groups of children who have spontaneously come together to form household units; daycare can be provided rather than residential care; care can be provided in small group homes.

b) In-country and inter-country adoption

Adoption is generally understood as the permanent and legal or customary transfer of parental rights and responsibilities to the adopters.

Experience has proven that most separated children have parents or other family members willing and able to care for them, who can be found if tracing is effective.

- Unaccompanied or separated children must not be adopted in haste at the height of the emergency.

- Any adoption must be determined as being in the child's best interests and carried out in keeping with applicable national, international and customary law.

- Priority must be given to adoption by relatives wherever they live. If this is not an option, preference will be given to adoption within the community from which the child comes, or at least within his or her own culture.

- Adoption should not be considered:

  ✓ if there is reasonable hope of successful tracing and reunification in the child's best interest;

  ✓ if it is against the expressed wishes of the child or the parents;

  ✓ unless a reasonable time has passed during which all feasible steps to trace the parents or other surviving family members have been carried out. This period of time may vary with circumstances, in particular those related to the ability to conduct proper tracing.

- Adoption should only be considered once it has been established that the child is free to be adopted. In practice, this means either that there is no hope for successful tracing and reunification or that the parents have consented to the adoption. The consent of parents must be free and informed. The national law may provide guidance. If not, the principle of a two-year period must be strictly enforced.

The 1993 Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption and its 1994 Recommendation concerning the Application to Refugee Children and other Internationally Displaced Children, provides the framework for regulating inter-country adoptions. The States party to the Hague Convention agree not to authorize adoption "unless it will be in the interest of the child".

- Adoption in a country of asylum is not normally desirable. This is particularly true if there is the possibility of voluntary repatriation "under conditions of safety and dignity" in the near future.

- A child's eligibility for inter-country adoption should be decided upon by the competent authorities of the State where the child habitually resides.

- Cross-border adoption should be considered only "if the child cannot be placed in a foster or adoptive family or cannot in any suitable manner be cared for in the child's country of origin" (CRC, Article 21.b) in order to preserve his or her own identity and culture.

The placement procedure should be carried out by the authorities themselves or by accredited non-profit professional bodies in both sending and receiving countries – not by other private intermediaries. No payment, either in cash or in kind, should be involved, with the exception of legitimate legal costs and adoption agency expenses.

- The Hague Convention on Inter-country Adoption stipulates that each State Party should establish a national central authority with overall responsibility for protecting children potentially or actually involved in inter-country adoption.

- The government of the country of origin must ensure that the relevant authorities establish the child's 'adoptability' – that is, legal eligibility and psychological, medical and social suitability for adoption – and that a report is completed before consideration is given to matching the child with any prospective adoptive family.

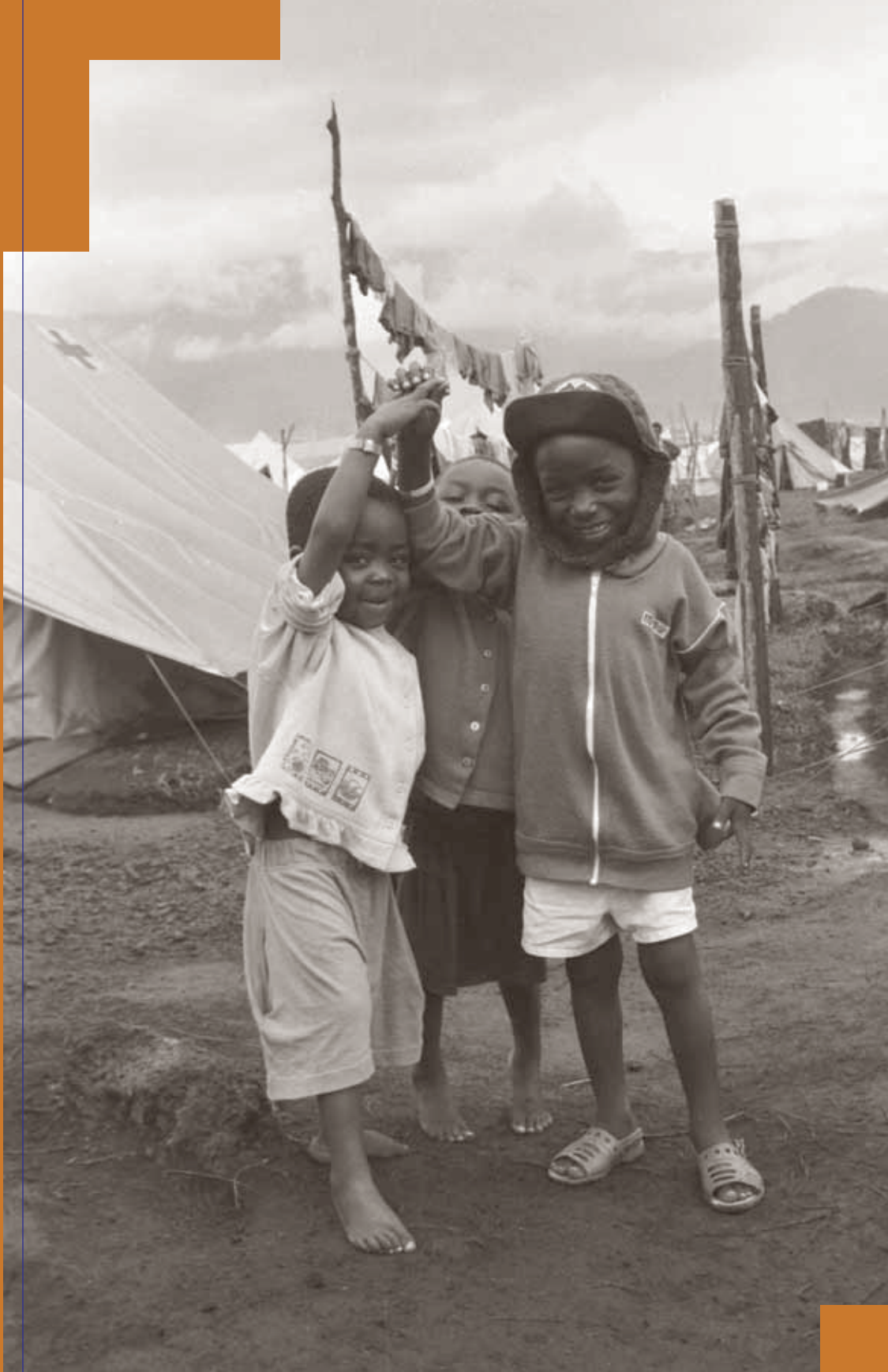
- As far as possible, according to age and maturity, children should be involved in defining the life plan proposed for them, in particular adoption. Once adoption is contemplated, the child – even one very young – must be prepared for the coming changes.

- When inter-country adoptions are carried out, the children should always be accompanied by documentation of their identity.

- Children adopted by a family living in another country are entitled to the same rights as any other adopted children. In particular, they should have access to information about their identity.

- The same requirements should be made of prospective adopters, and the same standards of practice applied, as when adoption is carried out within a country.

- Regarding refugee children, the States involved must facilitate the fulfilment of UNHCR's protection mandate and must seek its cooperation in adoption cases involving refugee children.



Josué Anselmo/ICRC

6

Special issues related to refugee children

6 Special issues related to refugee children

Under the 1951 Convention relating to the Status of Refugees, a **refugee** is someone who is outside his or her country of origin and has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion". States in Africa and Latin America have expanded this definition to include persons fleeing their country of origin for reasons of civil disturbance, war, or massive human rights violations. The expanded refugee definition is contained in the 1969 Organization of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa and in the 1984 Cartagena Declaration on Refugees.

Some separated children may also be refugees who have fled their home countries. Such children are the most at risk. Their parents/care-givers may still be in the country of origin or even in a third country. In addition, they have lost the protection of their own government. The needs of separated refugee children are the same as those of other separated children. However, the following special issues also need to be considered.

a) Refugee status determination

- Separated children seeking refugee status should be admitted to the territory of an asylum country.
- Refugee or asylum-seeking children should not be detained. However, in situations where they are detained, this detention must be used as a measure of last resort and should be for the shortest period of time (CRC, Article 37).
- When assessing an individual child's claim for refugee status, the following aspects should be taken into account: the child's age and views, noting in particular the need for expert assessment; the appointment of a legal representative as well as a guardian to

promote a decision that will be in the child's best interests; and a recognition that the child should be given the benefit of the doubt should there be some concern regarding the credibility of his or her story.

- In cases of large-scale refugee movements where individual refugee status determination is not possible, States may grant refugee status to all members of a group. In such circumstances all separated children are entitled to be granted the same status as other members of such a group.

b) Rejected asylum-seekers

Children who are rejected asylum-seekers are those who have not been granted refugee status after going through the entire (including appeal stage) refugee status determination procedure.

- Return to the country of origin should be considered when family reunification can be arranged; or when, having consulted the responsible authorities in the country of origin, an adult care-giver, or an appropriate governmental or non-governmental organization has agreed and is able to provide immediate protection and care upon arrival.

c) Children living in families from the host/asylum country

Unaccompanied refugee children staying with host families from the country of asylum face a heightened risk of exploitation and denial of basic rights. Monitoring is particularly difficult in such circumstances. In addition, placement with host families from the country of asylum hinders the opportunity of returning home once repatriation becomes possible.

- Special efforts should be made at the earliest possible stage to identify unaccompanied refugee children staying with host families from the country of asylum.

- Steps need to be taken in collaboration with UNHCR and responsible authorities to legitimize their civil status.

- The situation of unaccompanied refugee children in the care of host families must be closely monitored.

- Placement of children in their own refugee community should be promoted. Fostering by families from the host country should be discouraged.

d) Durable long-term solutions

As is the case for all children, family reunification should be the priority for the separated refugee child, be it in the country of asylum, in the country of origin through voluntary repatriation or in a third country.

- The decision on the return of a child to the country of origin for family reunification should be based on the best interests of the child. Each case should be reviewed individually by balancing the desirability of family reunification with the following non-exhaustive list of factors:

  ✓ conditions in the proposed place of return in the country of origin in terms of threat to the child's physical security and/or the risk of persecution;

  ✓ conditions in the country of asylum;

  ✓ the wishes of the child;

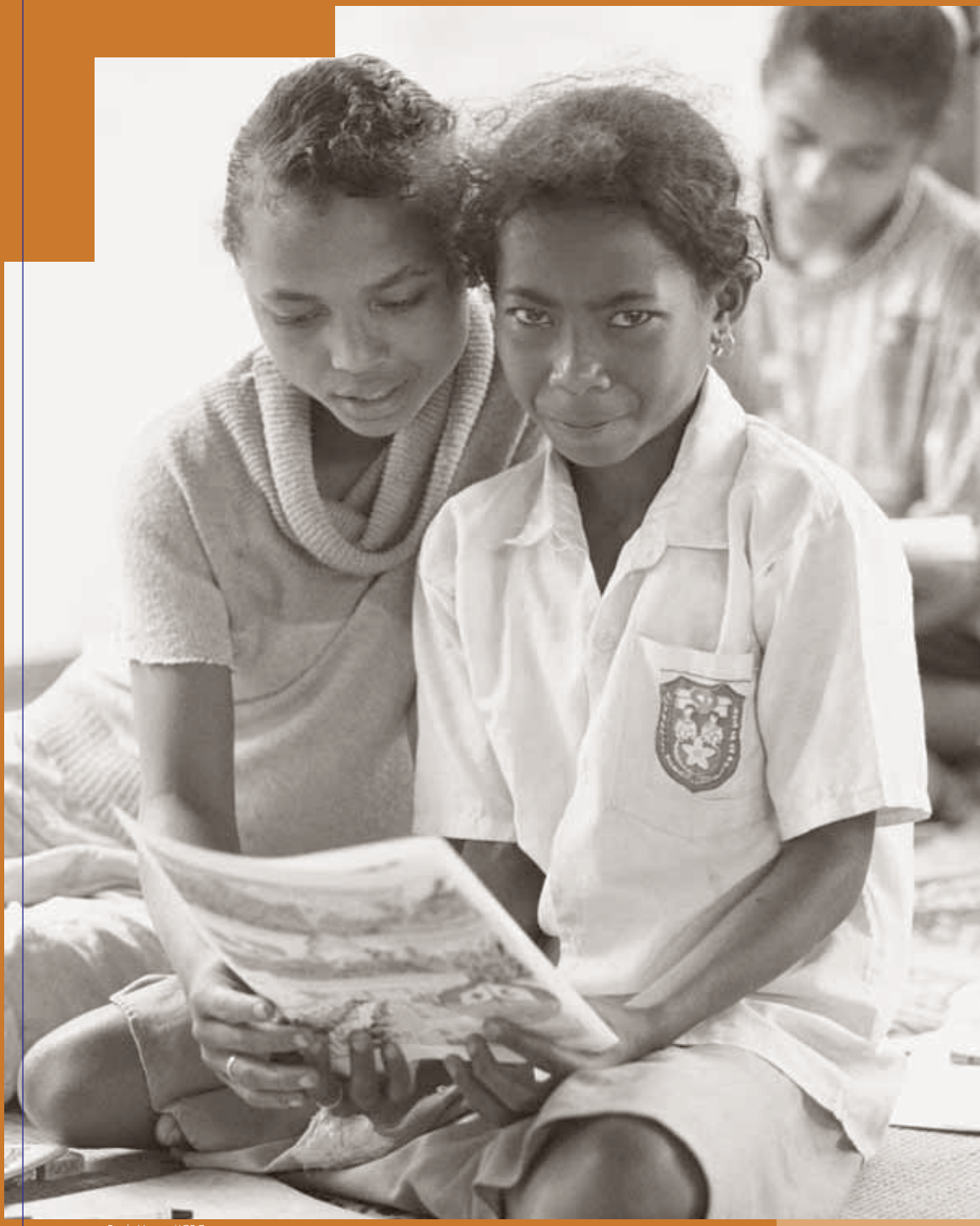
  ✓ the wishes of the parents and their capacity to care for the child;

  ✓ the quality of care arrangements in the country of asylum.

- Where relatives other than parents/primary care-givers have been traced in the country of origin but parents/primary care-givers have not yet been found, caution should be exercised before proceeding with this family reunification as it could result in permanent separation from the child's parents/primary care-givers.

- If reunification is not possible despite all efforts, finding an alternative placement for the child in the country of origin is the preferred solution providing that fundamental changes have taken place there that make voluntary repatriation possible. Careful planning and monitoring of transfer, reception and care arrangements are essential upon return. All relevant documentation must accompany the child.

- Placing the child in an adoptive family in another country either through local integration in the asylum country or resettlement in a third country, i.e. inter-country adoption, should be considered only if the child cannot be suitably cared for in the country of origin. In addition to the usual criteria for adoptions outlined earlier in these guidelines, inter-country adoption should take place only if voluntary repatriation to the country of origin in conditions of safety and dignity does not appear feasible in the near future and options in that country would not better provide for the child's well-being.



Boris Heger / ICRC

7

Promoting children's rights

7 Promoting children's rights

a) Advocacy

Advocacy consists of public and private efforts to improve and promote practice, legislation and policies required to protect the rights and interests of unaccompanied and separated children. Advocacy is needed to promote measures which will prevent family separation, create a nurturing environment, and foster good practices for immediate and long-term care.

Advocacy must be continuous and is more effective if directed at a wide audience, that is, among others, the authorities – including the military – donors, various organizations, religious groups, the private sector and the media.

Advocacy can focus on subjects such as:

- adherence to instruments of international humanitarian, human rights and refugee law, and promotion of new treaties and customary law as appropriate;
- reviewing national legislation in the light of relevant international law and, where necessary, advocating harmonization with that law;
- promoting and monitoring implementation at national level of international legislation on children;
- disseminating information about relevant laws and standards and promoting good practice in protection for and care of unaccompanied and separated children;
- implementing these Inter-agency Guiding Principles on Unaccompanied and Separated Children.

b) Capacity-building

Primary responsibility for coordinating programmes at central and local levels lies with the government. National child-welfare services or other relevant local authorities should provide an overall framework for, and coordinate action on behalf of, separated children.

- Organizations must support government efforts to review policies and legislation to ensure that they are in line with internationally agreed standards.

- When there is a lack of ability or willingness to apply internationally agreed standards or when government structures and policies are disrupted, responsibility for protecting separated children can be delegated temporarily to organizations that have a mandate or expertise in this area. Support for the government should be continued in order to allow its services to take over coordination of the work as soon as possible.

- UNICEF and UNHCR (in the case of refugees) have a fundamental duty to assist governments in meeting their responsibilities. This includes coordination and raising awareness about child rights among government officials.

- Organizations should help to build the capacity of relevant ministries handling child-welfare issues, NGOs and local communities, by providing technical assistance, training and material resources at national and local level. Developing relevant policies and promoting standard approaches should be key objectives of this capacity-building process.

- As soon as conditions permit, in particular those essential for the protection of children and their families, agencies should involve the ministry of social welfare and other ministries relevant to child-welfare work.

Key international instruments relating to separated children

1. Child-specific human rights instruments

- Convention on the Rights of the Child 1989
- Optional Protocol to the Convention on the Rights of the Child – the Involvement of Children in Armed Conflict, 2000
- Optional Protocol to the Convention on the Rights of the Child – the Sale of Children, Child Prostitution and Child Pornography, 2000
- International Convention against Transnational Organized Crime, 2000
- Rome Statute of the International Criminal Court, 1998
- The Hague Conference on Private International Law
  - ✓ Convention for the Protection of Minors, 1961
  - ✓ Convention on the Civil Aspects of International Child Abduction, 1980
  - ✓ Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993 and its Recommendation concerning the application to Refugee Children and other Internationally Displaced Children, 1994
  - ✓ Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, 1996
- Rules for the Protection of Juveniles Deprived of their Liberty, 1990

2. Humanitarian law instruments

- The four Geneva Conventions of 12 August 1949
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977

3. Instruments covering refugees and stateless persons

- Convention Relating to the Status of Refugees, 1951
- Protocol Relating to the Status of Refugees, 1967
- Convention Relating to the Status of Stateless Persons, 1954
- Convention on the Reduction of Statelessness, 1961

4. Regional instruments and declarations

- Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969
- African Charter on the Rights and Welfare of the Child, 1990
- Cartagena Declaration on Refugees, 1984

5. Additional general human rights instruments

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights of 1966, and its Optional Protocol, 1976
- International Covenant on Economic, Social and Cultural Rights, 1966
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment, 1984
- International Convention on the Elimination of all Forms of Racial Discrimination, 1965

Selected reference material

- *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees,* UNHCR, Geneva, 1992

- *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum,* UNHCR, Geneva,1997

- *Separated children: Action for the Rights of Children ARC, Ressource Pack,* Save the Children Alliance, UNHCR, UNICEF and OHCHR, Geneva, 1998

- *Refugee Children: Guidelines on Protection and Care,* UNHCR, Geneva, 1994

- *Working with Unaccompanied Children: A Community-based Approach*, UNHCR, Geneva, 1996

- *Working with Separated Children: Field Guide,* Save the Children UK, London,1998

- *Working with Separated Children: Training Manual,* Save the Children UK, London, 1998

- *Workshop on protection for human rights and humanitarian organizations – Doing something about it and doing it well*, Report of the fourth workshop held at the ICRC, Geneva, 18-20 January 1999

- *Restoring family links: a guide for National Red Cross and Red Crescent Societies*, International Committee of the Red Cross, Geneva, 2000

- *Separated Children in Europe Programme: Statement of Good Practice,* Save the Children Alliance and UNHCR, 2000

- UNHCR and UNICEF *Unaccompanied Children – Priority Actions Handbook for UNICEF/UNHCR field staff,* UNICEF and UNHCR, Nairobi, 1996

- *Evacuation of Children from Conflict Areas – Considerations and guidelines*, UNICEF and UNHCR, Geneva, 1992

- *The Lost Ones – Emergency Care and Familiy Tracing and Reunification of Children from Birth to Five Years,* UNICEF and IRC, New York, 2003

- *Infant and Young Child Feeding in Emergencies*, Interagency Working Group on Infant and Young Child Feeding in Emergencies, Dublin, 2001