

Foundations

Durable Solutions: Resettlement

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¹ All considerations relating to identification and tracing are covered in the module on Separated Children

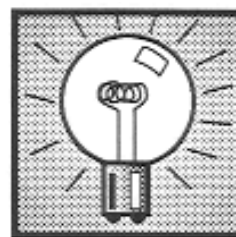
Resettlement: Introduction



KEY CONCEPTS

- Among cases to be promoted for resettlement, priority attention should be given to those refugees with acute legal and physical protection needs and, in particular, to women at risk and unaccompanied children for whom resettlement has been found to be in their best interests.
- The importance of resettlement as a protection tool extends to certain cases where it preserves or restores the basic dignity of a refugee's life, for example through family reunification.
- Unaccompanied (or separated) minors are a priority concern to UNHCR as well as minors who are under physical threat, disabled, traumatised or in need of medical care.
- Adoption is not normally thought of as a resettlement possibility, because in almost all cases where a child needs to be adopted there will be extended family members, others from the child's community of origin or from the country of asylum, who can fulfil this need.
- Every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor are met.

Resettlement: Guidance for Facilitators



If you are new to training we provide a number of ways to help you maximise your use of the material.

1

ARC Facilitator's Toolkit. For those new to training this guide is intended to provide the basic principles. Read it and think about the key points when planning your training session. You can also use it as a support when using particular training methods as it provides guidelines and ideas about how to use all the methods included in this module.

2

Training materials. Each Topic includes a box with suggested training materials and is followed, in some cases, with further suggestions for training which could be developed by facilitators.

3

Sample training programmes. These are designed to be used as examples of training sessions that stand alone or can be combined to build up longer programmes covering a number of different modules.

4

Exercises with learning points and clear instructions about use. These can be used in your own training programmes or integrated into the standard format training programmes. They can be supplemented with handouts, overheads and other materials and are clearly linked to the Topics.

RESOURCES REQUIRED

Check that you have all the necessary resources and materials required to run a training programme. Some resources will be specific to the exercises, others are more general requirements.

Plenary room and small-group discussion areas; whiteboard / blackboard and pens / chalk; 3-4 flipchart stands, paper and marker pens; overhead projector, blank overhead transparencies and overhead transparency pens.

ARC Resources Pack (including copy of the CRC, 'Refugee Children: Guidelines on Protection and Care', and the ARC Facilitator's Toolkit).

One copy of each of relevant prepared overhead transparencies (for the facilitator only).

Copies of relevant Readings for each participant (if possible these should be handed out in time to allow participants to read them in advance of the training sessions).

Copies of relevant handouts for each participant.

Copies of relevant exercise Participant's Notes for each participant.

Copy of the ARC leaflet for each participant.

Adhesive tape (masking tape is best because it is easily removed) and / or Blu Tack for sticking cards and flipchart sheets onto walls. Blank index cards in different colours

Folder and basic stationery for each participant.

Resettlement Topic 1: Refugee Children and Resettlement



KEY LEARNING POINTS

- *under the Convention on the Rights of the Child, children and adolescents are “entitled to special care and assistance”*
- *their developmental needs, their dependency, and their lower legal and social status make this special attention essential for minors*

UNHCR resettlement activities for refugees under the mandate of the Office are linked to considerations of protection and appropriate durable solutions.

Resettlement should be considered when refugees are at risk in their country of refuge or have particular needs. Before a decision is taken to promote the resettlement of a refugee, every effort should, in the first instance, be made to fully explore the possibility of local solutions. At the same time, the possibility that voluntary repatriation will be feasible or foreseeable within an acceptable time frame should be evaluated.

These issues are of particular importance for children. The focus of this section of the Durable Solutions module is a consideration of how resettlement criteria should be applied to minors.

Under the Convention on the Rights of the Child, children and adolescents are “entitled to special care and assistance.” Their developmental needs, their dependency, and their lower legal and social status make this special attention essential. This Section will discuss how resettlement criteria should be applied to minors.

The Convention on the Rights of the Child (CRC) applies to everyone below the age of eighteen years unless, under the applicable law, majority is attained earlier (article 1). In other words it applies to all minors. The terminology of the CRC causes confusion, however. Article 1 says that, “For the purpose of the present Convention, a child means” Confusion is caused because the word child in the treaty is being used in an unusual way. According to the dictionary, a child is a person who has not yet reached puberty or sexual maturity, and in common usage it is not applied to anyone over 14 or 15 years. A person who is no longer a child but not yet an adult is an adolescent. It is helpful to remember that article 1 of the CRC is defining a word in a legal text, and is not defining real life human beings. In lawyers’ jargon, the term child is a legal fiction, that is, an artificial definition in a legal text.

This clarification is important because the trend of referring to all persons under 18 as *children* may inadvertently add to the “invisibility” of adolescents during decision-making: invisibility both as to their existence and to their capabilities and needs. While this section of the module

sometimes follows this trend by using *child* to refer to all minors, care must be taken to remember that this is an artificial usage; the capacities and needs of adolescents are fundamentally different from those of infants and other children.

TRAINING MATERIALS FOR TOPIC 1

Handout R H1.1: Key Concepts	Summarises the key concepts covered in the module.
Handout R H1.2: Criteria for Determining Resettlement as the Appropriate Durable Solution	Summarises the main considerations for determining whether resettlement is the most appropriate durable solution.
Overhead R Ov1.1: Key Concepts	Summarises the key concepts covered in the module.
Overhead R Ov1.2: The Resettlement of Minors	Outlines why minors must be given special attention in resettlement
Overhead R Ov1.3: Definition of Orphan	Clarifies the difference between orphan and unaccompanied minor.
Overhead R Ov1.4: Refugee Status and the Child's Best Interests	Summary of how the best interests principle applies to unaccompanied minors

FURTHER SUGGESTIONS FOR TRAINING

Resettlement Topic 2: Family Reunification



KEY LEARNING POINTS

- *family reunification is a major principle which is underpinned by the CRC*
- *one of the main functions of UNHCR in facilitating family reunification is to obtain the overall co-operation of the authorities of the States concerned*
- *because of the special needs of children and adolescents for a stable family environment, the reunification of unaccompanied minors with their parents or guardians should be treated as a matter of urgency*

The importance of resettlement as a protection tool extends to certain cases where it preserves or restores the basic dignity of a refugee's life, for example, through family reunification. When refugees leave their country of origin, family members are frequently left behind or dispersed during flight. Such separation leads to hardship and sometimes to tragic consequences. It may also create serious obstacles to a refugee's integration in a new country. Guided by both humanitarian and practical considerations, and pursuant to its responsibility under the Statute of the Office to provide international protection to refugees, to promote measures designed to improve the situation of refugees and to facilitate their integration within new national communities, UNHCR seeks to ensure the reunification of refugee families separated by the circumstances of their persecution or flight.

In some cases, the separation of refugee families can also occur when a family member has not been able to accompany the rest of the family to a country of resettlement because the family member does not meet that country's criteria for admission.

Countries have taken a variety of approaches with regard to the reunification of refugee families across international borders. Some States consider such cases within overall resettlement quotas, others have created separate quotas for the purpose of family reunification, while again some process applications for family reunification on an individual basis under general provisions of their immigration laws. Corresponding to these approaches, countries apply varying types of procedures and criteria. There are also differences in the type of status the person may receive, for example, a family member may be granted a residency status that provides less protection against deportation than does refugee status.

The criteria and policies set out in this Module (as well as in the UNHCR Resettlement Handbook) are to be followed by UNHCR staff in handling family reunification cases, despite the fact that UNHCR criteria may not always correspond with those applied by the State to which applications for family reunification are submitted.

THE PRINCIPLE OF THE UNITY OF THE FAMILY

UNHCR's action in promoting family reunification is supported by the principle, set forth in both the Universal Declaration of Human Rights of 1948 and the Covenant on Civil and Political Rights of 1966, that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

In its Final Act, the Conference of Plenipotentiaries which adopted the 1951 Convention relating to the Status of Refugees, unanimously approved the following recommendation on the subject of family unity in the case of refugees:

The Conference,

Considering that the unity of the family, the natural and fundamental group unit of society, is an essential right of the refugee, and that such unity is constantly threatened, and

Noting with satisfaction that, according to the official commentary of the Ad Hoc Committee on Statelessness and Related Problems the rights granted to a refugee are extended to members of his family,

Recommends Governments to take the necessary measures for the protection of the refugee's family, especially with a view to:

- (1) Ensuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country,
- (2) The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption."

The need to promote the reunification of dispersed families was also underlined by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts of 1977.²

Family reunification was also considered by the Executive Committee of the High Commissioner's Programme (EXCOM) which adopted conclusions on this matter at several sessions.

The 1989 Convention on the Rights of the Child (CRC) confirms the view that "the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community." Articles 9 and 10 of this Convention refer to split families and emphasise that the reunification of

² Article 74 of Protocol I Additional to the Geneva Convention of 1949.

children and their parents should be dealt with in a “positive, humane and expeditious manner.”

PROMOTIONAL ACTIVITIES

One of the main functions of UNHCR in facilitating family reunification is to obtain the overall co-operation of the authorities of the States concerned and the adoption on their part of criteria and resources permitting reunification. This ongoing task of laying the political, legal, administrative and operational groundwork for the smooth and regular solution of family reunification cases is a normal part of UNHCR’s protection activities. Besides promoting liberal admission policies, the Office seeks to ensure that family members are granted, whenever appropriate, the same legal status and facilities as refugees.

In seeking to promote the reunion of separated refugee families, UNHCR is guided by basic humanitarian considerations and also by the Statute of the Office which entrusts the Organisation, inter alia, with the functions of improving the situation of refugees and facilitating the assimilation of refugees within new national communities. In the 1977 Conclusion on Family Reunion, the Executive Committee reiterated the fundamental importance of the principle of family reunion and reaffirmed the co-ordinating role of UNHCR with a view to promoting the reunion of separated refugee families through appropriate interventions with Governments and with inter-governmental and non-governmental organisations.

ELIGIBILITY FOR UNHCR ASSISTANCE WITH FAMILY REUNIFICATION

UNHCR promotes and assists the reunification of families of persons who are refugees within its mandate. In addition, UNHCR may extend such assistance to displaced persons outside their country of origin who are considered to be of concern to the Office by virtue of applicable UN General Assembly Resolutions.

<p>Except for certain special programmes, eligibility for UNHCR assistance with family reunification requires that at least one person within the family unit which is to be reunited must be a refugee under UNHCR’s mandate.</p>
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In a case where a non-refugee is being resettled in order to join a family member who is a refugee, UNHCR considers that it is the refugee who is the recipient of the Office’s assistance.

In instances where problems of mass-influx may appear to render the reunification of families temporarily impractical, Field Offices should consult with UNHCR Headquarters as to the course to be followed.

TYPES OF FAMILY REUNIFICATION PROMOTED BY UNHCR

In accordance with the principles referred to above, the following types of family reunification should receive the support of UNHCR:

REUNIFICATION OF THE NUCLEAR FAMILY

There is a consensus in the international community concerning the need to reunite members of the nuclear family consisting of husband and wife, their minor or dependent, unmarried children, and minor siblings. The following points should be noted in this connection:

PARENTS AND CHILDREN

Although some countries of asylum make a distinction between minor children and those who have come of age, it is UNHCR policy to promote the reunification of parents with dependent, unmarried children, regardless of age, who were living with the parents in the country of origin.

MINORS AND FAMILY REUNIFICATION

For individual children and adolescents, reunification with their parents, relatives or a suitable guardian should be a primary objective. If the legal status of the parents or family is unresolved, it may become necessary for UNHCR to intervene on behalf of the minor with the authorities of the resettlement country to permit family reunification.

The resettlement of an unaccompanied minor for reasons other than family reunification should not be considered unless, for example, the minor is being cared for by a foster family which is being considered for resettlement, the minor has formed a strong emotional or social bond with the family, and resettlement will not interfere with tracing and reunification with the original family.

UNACCOMPANIED MINORS WITH PARENTS OR SIBLINGS

Because of the special needs of children and adolescents for a stable family environment, the reunification of unaccompanied minors with their parents or guardians should be treated as a matter of urgency. In addition, reunification of an unaccompanied minor with another sibling should also be accorded priority because of the importance of the support that brothers and sisters can give to each other. However, family reunification may not always be the best solution for a child or adolescent. In all situations involving unaccompanied minors, an assessment should be made based on the best interests of the minor (see Topic 3 of this Module). The quality of the relationship between the child and the parent(s) and whether the parent will be able to offer guidance, support, and emotional care must be assessed, for example.

If a minor has arrived first in a country of asylum, the principle of family unity requires that the minor's next-of-kin be allowed to join the minor in that country, unless it is reasonable under the circumstances for the minor to join the relative in the country where the relative resides or in another country.

TRAINING MATERIALS FOR TOPIC 2

Overhead R Ov2.1: Family Reunification - a Rights Perspective	Summarises the three main instruments which determine the family as the fundamental group unit of society
Overhead R Ov2.2: Types of Family Reunification Promoted by UNHCR	Outlines the main categories of reunification supported by UNHCR

FURTHER SUGGESTIONS FOR TRAINING

Resettlement Topic 3: Specific Aspects in Family Reunification Cases



KEY LEARNING POINTS

- *family reunification is undertaken with a view to respecting basic rights as well as improving the prospects for integration upon resettlement*
- *the on-going task of laying the political, legal, administrative and operational groundwork for the smooth and regular resolution of family reunification cases is a normal part of UNHCR's international protection activities*
- *UNHCR assistance may extend to Tracing family members, Travel documents, Travel arrangements, Financial assistance and Resettlement processing*
- *unaccompanied children and adolescents are a priority concern for reunification*
- *if the reunification with the minor's family is to take place after a long separation, the process of re-establishing relationships must be carefully planned*

Family reunification is undertaken with a view to respecting basic rights as well as improving the prospects for integration upon resettlement. There exist several mechanisms for family tracing and reunification, including direct processing by resettlement countries and immigration procedures initiated by family members either in the country of settlement or from abroad. Some Governments have established separate quotas for family reunification cases under humanitarian categories. Others do not limit the number of family reunification cases.

UNHCR ACTIVITIES

(A) PROMOTING THE ADOPTION OF APPROPRIATE NATIONAL POLICIES

One of the functions of UNHCR in facilitating reunification of refugee families is to obtain the overall co-operation of the authorities of the States concerned and the adoption on their part of criteria and measures permitting such reunification. This on-going task of laying the political, legal, administrative and operational groundwork for the smooth and regular resolution of family reunification cases is a normal part of UNHCR's international protection activities which must be undertaken vis-à-vis both countries of asylum and countries of origin. In the 1977 Conclusion on Family Reunion, the Executive Committee reiterated the fundamental importance of the principle of family reunification and reaffirmed the co-ordinating role of UNHCR with a view to promoting the reunification of separated refugee families through appropriate interventions with Governments and with inter-governmental and non-governmental organisations.

PROMOTION OF COMPREHENSIVE FAMILY REUNIFICATION

In many cases, a refugee's next-of-kin remain behind in the country of origin, or in a country of first refuge, because they are not considered by the prospective country of reception to belong to what is known as the "family nucleus", that is to say father, mother and minor children. While there is justification in giving priority to safeguarding this basic unit, the exclusion of members of a refugee household who have been deprived of their social and economic support as a result of the break-up of the family unit, often results in hardship. While it may not always be possible to reunite entire groups which, in the country of origin, formed part of a family in the broad or traditional sense, Governments should be encouraged to give positive consideration to the inclusion of those persons, whatever their age, educational level or marital status, whose economic and social viability remains dependent on the family nucleus.

REQUIREMENTS FOR DOCUMENTARY EVIDENCE

A related problem is that of determining the marital or civil status of family members for admission purposes. While every effort should be made to establish parentage and filiation, the particular circumstances existing in the refugees' country of origin or in their country of refuge may need to be taken into account. These circumstances may make it difficult or even impossible for a refugee to meet formal requirements or to bring the documentary evidence normally required before family reunification can be authorised. When deciding on family reunification, the absence of documentary proof of the formal validity of a marriage or of the filiation of children should not, per se, be considered as an impediment.

SPECIAL MEASURES

Family reunification is often prevented or delayed by the operation of domestic immigration regulations because family members are experiencing economic, employment or housing problems in the country of settlement. As it is known that prolonged separation creates serious social problems for both sides of split families, it is highly desirable that in such cases receiving States adapt their legal provisions in this respect or take special measures to assist refugees to accommodate their dependants, thereby facilitating early reunification.

STATUS OF JOINING FAMILY MEMBERS

The status provided for refugees under the relevant international instruments and national legislation has as one of its principal aims to facilitate their integration in new national communities and to help them to cease being refugees as rapidly as possible. In order to promote the rapid integration of refugee families in the country of settlement, it is necessary to grant joining family members the same legal status and facilities as those family members already present. Unless their personal situation expressly excludes them (e.g. due to formal consideration, such as a different citizenship, the application of exclusion or cessation clauses), the family members concerned should have their status as refugees regularised, if they so wish.

(B) TYPES OF UNHCR ASSISTANCE IN INDIVIDUAL CASES

The Office encourages members of dispersed families to take the first steps towards reunification and to initiate the necessary formalities whenever this is possible without risk to themselves or other family members. In such cases, the role of the Office is limited to informing refugees of the procedures to be followed and monitoring the process.

However, in many cases, the help of UNHCR is required to bring about reunification. UNHCR assistance may extend to the following fields:

TRACING FAMILY MEMBERS

When the whereabouts of relatives are unknown, it may be necessary for UNHCR to facilitate tracing. The Central Tracing Agency of the International Committee of the Red Cross (ICRC) and its national counterparts have special competence in this area and may be of assistance. Recourse may also be made in certain circumstances to country-level UNHCR bio-data systems, or to the records of the authorities of countries of resettlement. Experience has shown, moreover, that the efforts of refugees themselves, using their own contacts, are often a most effective method of tracing. When special problems arise, such as the tracing of the families of unaccompanied minors involuntarily separated from their parents, UNHCR Headquarters should be consulted.

TRAVEL DOCUMENTS

When it is not feasible for family members to use passports issued by their country of origin, some other form of travel documentation will be necessary. In some cases, depending on the itinerary, the mode of travel and the administrative requirements of the countries involved, a letter in lieu of a visa from the authorities of the destination country may suffice. However, often a more formal travel document is needed. Certain countries of temporary stay may be willing to issue a special, or aliens, passport. In States party to the Convention and/or the Protocol, a Convention Travel Document may be granted to family members who also qualify for refugee status. When no other travel document is available and the family members are outside their country of origin, an ICRC Travel Document may be obtained. UNHCR Headquarters should be consulted if assistance is needed.

TRAVEL ARRANGEMENTS

Unless travel is arranged within the framework of an ongoing resettlement operation, the Organisation of the travel of family members is in principle the responsibility of the refugee family. However, some countries organise and pay, usually through IOM, for individual family reunification travel of refugees. UNHCR would provide assistance only if needed, as, for example, in the case of unaccompanied minors. Family members may, however, be advised to contact IOM for more information about its subsidised migration schemes. Under these schemes IOM helps refugees and other persons in need of assistance, in particular through the handling of pre-departure and transport arrangements. IOM has concluded special tariff agreements with the airline industry which allow for considerable reductions in air fares and may also provide an increased free baggage allowance. Where direct communication between family members and IOM is not possible, UNHCR Field Offices may be requested to help.

FINANCIAL ASSISTANCE

As with travel arrangements, the financing of the travel of family members from abroad is in principle the responsibility of the refugee family, unless travel is arranged within the framework of an ongoing resettlement operation.

UNHCR funding of the cost of family reunification cases may be considered once the case has been thoroughly assessed to identify whether it meets all of the following conditions:

- all family members concerned are eligible for family reunification under the established criteria; in particular:
- at least one of the family members has been determined as a refugee within UNHCR's mandate;
- the separation of the refugee family was involuntary and related to persecution or flight;
- the granting of assistance is appropriate under UNHCR guidelines (see Chapter 7.4 on Irregular Movers of the UNHCR Resettlement Handbook); and
- the family members are needy and therefore unable to meet the travel expenses; and
- no other source of funding is available (receiving country, relatives, sponsors or charitable organisations); and
- adequate financial resources under the project are available.

RESETTLEMENT PROCESSING

When members of a refugee family are in one or more countries of temporary refuge, it may be necessary for UNHCR Field Offices in those countries to intervene so as to ensure their admission to the same country of resettlement in accordance with family reunification principles. Such intervention is often required to prevent the separation of foster children, adult dependants, fiancés, or other relatives from the basic family unit. The assistance of UNHCR Headquarters should be requested when the matter cannot be resolved by the Field Offices concerned.

SEPARATION DUE TO ADMISSION CRITERIA

A refugee family may be separated because a family member has not been able to accompany the rest of the family to a country of resettlement because he or she does not meet that country's criteria for admission. In such cases, it is often necessary for the Office to approach the authorities with a view to the family member being admitted on humanitarian grounds or on the basis of international obligations.

CONSIDERATIONS IN CASES OF UNACCOMPANIED MINORS

Problems related to family reunification have assumed considerable importance with regard to the situation of unaccompanied minors, especially infants and young children. Unaccompanied children and adolescents are a priority concern of UNHCR. Particularly in refugee emergencies, there will usually be minors who are separated from their families.

Objectives for the family reunification of unaccompanied minors can be summarised as follows:

- to reunite each unaccompanied minor with his or her family wherever and as quickly as possible (following an assessment that this is in the best interests of the minor);
- to ensure, pending family reunification, the survival, protection and well-being of unaccompanied minors through interim care that meets their emotional, psychological and developmental needs and is appropriate to the age and culture of each child or adolescent;
- to arrange appropriate long-term care for any minor for whom family reunification cannot be achieved within a reasonable period of time; and
- when it is not possible to reunite with their families, such children and adolescents should be placed in the care of foster families, preferably from their own community. Once identities and relationships have been confirmed, the minor and the relatives are counselled separately and prepared for the process leading to eventual reunification. It is important to:
 - inform the parents/relatives about the state of the child and ascertain whether they are both willing and able to look after the child;
 - inform the minor about the circumstances and wishes of the parents/relatives and establish the minor's feelings towards them and members of the extended family, and determine if the minor is willing to live with them or only wants to establish contact; and
 - investigate carefully any accounts of previous abuse or neglect of the child by parents or relatives.

If the reunification with the minor's family is to take place after a long separation, the process of re-establishing relationships must be carefully planned. Particularly where the separation has been for more than a few weeks, or when either the minor or other members of the family have been seriously traumatised, there is a need for periodic monitoring to ensure the minor is receiving appropriate care.³

TRAINING MATERIALS FOR TOPIC 3

Exercise R Ex3.1: Family Reunification	Uses a case study to examine the arguments concerning the reunification of a refugee family.
Overhead R Ov3.1: Objectives of Family Reunification of Unaccompanied Minors	Summary of the main objectives for the family reunification of unaccompanied minors

FURTHER SUGGESTIONS FOR TRAINING

³ Other aspects of the special responsibility of the High Commissioner to promote the best interests of refugee unaccompanied minors as well as further issues related to the tracing and reunification of family members are treated in Chapters 4.7 and 5.8 of the UNHCR Resettlement Handbook

Resettlement Topic 4: Unaccompanied and Separated Children



KEY LEARNING POINTS

- *unaccompanied or separated children are a priority concern to UNHCR*
- *when a child is unable to articulate a claim, or it is not possible to determine the refugee status of a minor, a decision should be made as to what durable solution would be in the minor's best interests*
- *every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met*
- *in dealing with such unaccompanied minors, efforts should be made to trace and to reunite them with their parents or with other close relatives able and willing to accept them, before the solution of resettlement is considered*

An unaccompanied minor is a person under 18 years who is separated from both parents and is not being cared for by an adult who, by law or by custom, is responsible for doing so.

The terms unaccompanied minor or separated minor should be distinguished from orphan. A person is an orphan only if both parents are dead. This always requires careful verification and must never be merely assumed.

It may be difficult for an unaccompanied minor to establish refugee status using the same refugee criteria and procedures applied to adults. When a child is unable to articulate a claim, or it is not possible to determine the refugee status of a minor, a decision should be made as to what durable solution would be in the minor's best interests. In the context of resettlement, it should be borne in mind that some countries require that every individual, including children, meets the refugee definition. UNHCR encourages countries to consider the best interests of the child when determining the refugee status of a minor, and to determine refugee status using the broadest possible interpretation.

UNHCR has developed comprehensive guidelines on protection and care of refugee children which set forth clear principles and procedures to ensure the protection and care of all refugee children including the most vulnerable, namely those who are unaccompanied. In the context of a determination as to whether resettlement is the appropriate solution for an unaccompanied minor, the following issues have to be considered:

- Any intervention on behalf of unaccompanied minors, particularly their movement, must follow the existing guidelines given in UNHCR's *Refugee Children: Guidelines on Protection and Care*. It must be ensured that the best interests of the child are met.
- Resettlement of unaccompanied minors should only be considered on a case-by-case examination where other solutions are not appropriate. Decisions concerning durable solutions for unaccompanied refugee children must be taken by competent bodies that include experienced child welfare personnel. The possibility of voluntary repatriation should always be given full consideration in the first instance, particularly if the minor has family remaining in the country of origin.
- The procedure should permit the effective participation of the refugee child and, as with status determination, arrangements should be made for the minor to be represented. It should be ensured that the minors be informed that what is happening affects their future. Too often, things are done to, for or on behalf of children and adolescents, ostensibly in their interest, but without letting the minors know. Where possible, the views of the parents, or others who perform this role, should be obtained.
- Unaccompanied refugee minors over the age of 16 are usually mature enough to make their own decisions about long-term solutions and some even at an earlier age. Depending on their degree of maturity, children over the age of nine or ten may be able to make rational choices if provided with adequate information. Their preferences should, therefore, receive consideration.
- Children below nine or ten years of age may not be sufficiently mature to make an independent judgement; but they should always be given the chance to express their views. In each case, a minor's evolving mental maturity must be determined in the light of the personal, family and cultural background.
- Where the resettlement, local integration or repatriation of a family caring for a child or adolescent other than their own is being considered, the nature and durability of the relationship between the minor and the family must be carefully assessed by an experienced child welfare worker to determine whether they should remain together. There must be assurances that the family will continue to provide for the minor. It is important to balance the minor's need for continuity of care and the degree of attachment to the foster family against the possibility of ultimate family reunification.

Every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met.

In addition to the information provided in this Module, the UNHCR publication *Refugee Children: Guidelines on Protection and Care* gives recommendations on meeting the special needs of unaccompanied minors. The guidance provided in Chapters 10 and 11 of those guidelines is required reading for all persons involved in resettlement of unaccompanied minors.

Problems related to family reunification have assumed particular importance with regard to the situation of unaccompanied minors, especially infants and young children. In dealing with such unaccompanied minors, efforts should be made to trace and to reunite them with their parents or with other close relatives able and willing to accept them, before the solution of resettlement is considered. If resettlement does take place it is important to ensure that tracing of parents and close relatives continues, and that the possibility of the minors' subsequent reunification with them be maintained until their family situation can be determined in a satisfactory manner. Legal adoption of unaccompanied minors, which is in most cases an

irrevocable measure precluding any further possibility of being reunited with their next of kin, should therefore be envisaged only after it has become reasonably certain that a possibility of reunification no longer exists.

Unaccompanied children and adolescents should usually be reunited as promptly as possible with their parents or guardians as well as with siblings. However, family reunification may not always be the best solution for an individual minor. In all situations involving unaccompanied minors, an assessment should be made based on their best interests (see Topic 8 of this Module).

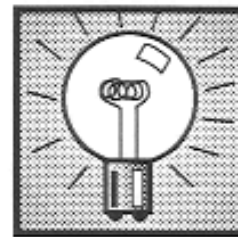
Where family reunification is not possible or is judged to be contrary to the minor's best interests, continued care with foster families within their own communities is preferred, especially for young children. Ideally, this would be with the families who have been caring for them on an interim basis. Follow-up supervision may need to be provided to such families for an extended period, and arrangements made to ensure that they receive the assistance and support available to all families and young persons through general community assistance programmes.

TRAINING MATERIALS FOR TOPIC 4

Overhead R Ov4.1: Unaccompanied Minors	Definition of unaccompanied minors.
Overhead R Ov4.2: Participation of Unaccompanied Minors	Guidelines on how to involve unaccompanied minors in decisions about resettlement.

FURTHER SUGGESTIONS FOR TRAINING

Resettlement Topic 5: Specific Aspects Relating to Resettlement of Children and Adolescents



KEY LEARNING POINTS

- *UNHCR has developed comprehensive guidelines which set clear principles and procedures to ensure the protection and care of all children and adolescents*
- *the best interests of the minor is the overriding consideration in all decisions and actions concerning young persons separated from their families*

UNHCR has developed comprehensive guidelines which set clear principles and procedures to ensure the protection and care of all children and adolescents, including the most vulnerable, such as unaccompanied minors. Refugee minors who do not have the protection of their family are at special risk.

1. BASIC RIGHTS OF CHILDREN AND ADOLESCENTS

BEST INTERESTS

The best interests of the minor is the overriding consideration in all decisions and actions concerning young persons separated from their families. When tracing is successful, an assessment must still be undertaken to determine whether family reunification is in the best interest of the minor.

PROTECTION

All minors, including those who are separated from their families, are entitled to protection of their personal security and rights under national and international law, to provision for their basic subsistence and to care that is nurturing and appropriate to their age and individual needs.

PARTICIPATION

Children and adolescents of all ages, in keeping with their degree of mental, emotional and social maturity, have the right to express their views and have those views taken into account in decisions regarding arrangements for themselves and their siblings.

LEGAL REPRESENTATION AND RIGHTS

Unaccompanied minors have a right to physical and legal protection as their individual circumstances require. This includes legal representation and designation of guardians, where needed, and securing land and other inheritance rights when all immediate family members have died.

FAMILY UNITY

All children have a right to a family, and families have a right and responsibility to care for their children. All reasonable measures should be taken to help families stay together and to reunite families which become separated. Action should never be taken if it might encourage family separations or make family tracing and reunification more difficult.

REUNIFICATION OF SEPARATED FAMILIES

Unaccompanied minors have a right to be reunited with parents, guardians or extended family members. Those intervening on behalf of unaccompanied minors have an obligation to assist them to find, communicate with and rejoin family members through tracing and other services. Family tracing is pursued as a priority for all children and adolescents separated from their families.

2. APPROPRIATE CARE

SAFETY AND WELL-BEING

Pending family reunification, unaccompanied minors should be cared for in ways which assure their safety, protect them from abuse and exploitation, and meet their individual emotional and developmental needs as well as their physical needs.

COMMUNITY INTEGRATION

Separated minors should be integrated with the rest of their communities, their needs met and services provided to a similar level and, to the extent possible, in the same manner available to other young persons.

STABILITY AND CONTINUITY

Continuity should be preserved as much as possible in separated minor's relationships with adults and other youngsters, and in their cultural and religious traditions. Sibling groups should be kept together. The care of unaccompanied minors should be provided by members of their own community wherever possible, or by other persons with the same cultural and linguistic background, and monitored by an organisation with child welfare expertise.

COMMUNITY RESPONSIBILITY

Communities and local authorities have a responsibility for assuring the protection and care of unaccompanied minors, and assisting family reunification.

NO SEPARATE EVACUATION

Separated minors should be evacuated from an area only if it is deemed necessary to evacuate all young persons living in the area or community concerned. However, this is not an absolute policy in all situations. Some, albeit rare, situations call for the evacuation of unaccompanied minors before the evacuation of the community.

NO EARLY ADOPTION

Separated minors shall not be considered for adoption during an emergency or before extensive tracing efforts have been made without success, normally over a period of at least 2 years.

TRAINING MATERIALS FOR TOPIC 5

Overhead R Ov5.1: Basic Rights of Children and Adolescents	Summary of how basic rights of children and adolescents apply to minors separated from their families
Overhead R Ov5.2: Appropriate Care of Children and Adolescents	Summary of the main aspects of appropriate care for minors separated from their families.

FURTHER SUGGESTIONS FOR TRAINING

Resettlement Topic 6: Special Situations



KEY LEARNING POINTS

- *if the physical safety of a minor is under severe threat and local solutions are not available, immediate resettlement may be the only practical means to guarantee his or her protection*
- *in cases of resettlement for treatment, the rest of the minor's family, or the guardian, should always be resettled with the minor, even if these other family members would have no independent grounds for resettlement*
- *adoption is not normally thought of as a resettlement possibility, but in each of the limited situations where adoption is considered strict compliance with legal standards must be observed*
- *it is UNHCR's policy that children in an emergency context are not available for adoption*

1. MINORS WHO ARE UNDER PHYSICAL THREAT

Minors may, due to their own actions or perceived actions, be particularly targeted by authorities or other parties and find themselves in circumstances where resettlement may be the only solution to ensure their protection. Another source of threat is when minors are recruited into the military as soldiers or porters or in some other support capacity. There may also be social practices that pose a threat to a minor, as in the case of early or forced marriages.

If the physical safety of a minor is under severe threat and local solutions are not available, immediate resettlement may be the only practical means to guarantee his or her protection.

Where it is found necessary to resettle a minor who is accompanied by family, resettlement will have to be sought for the family unit.

2. MINORS WHO ARE DISABLED, TRAUMATISED OR IN NEED OF MEDICAL CARE

Minors who are unable to get adequate treatment in their country of refuge or who suffer from health conditions that cannot be addressed due to lack of appropriate medical facilities may be considered for resettlement. As with adult refugees, priority is given to serious cases in which the condition represents a significant obstacle to leading a normal life and the eventual achievement of self-sufficiency.

Physically and mentally disabled or sick minors who have been traumatised or tortured or are survivors of sexual violence should be given top priority, both for emergency and urgent resettlement.

In cases of resettlement for treatment, the rest of the minor's family, or the guardian, should always be resettled with the minor, even if these other family members would have no independent grounds for resettlement. The resettlement of a child for treatment purposes should not result in long-term separation from parents or the guardian. Even short-term separations can be very damaging because it is normal for the child to experience fear, anxiety, and feelings of rejection and abandonment when separated. Humanitarian efforts to protect physical health must give equal importance to psychological well-being. A child who is evacuated for treatment should always be accompanied by a close relative, or someone with whom the child has an emotional bond. In extraordinary circumstances where this may not be possible, the child must be accompanied by someone who speaks the child's language and can provide emotional support.

3. ADOPTION

Adoption is not normally thought of as a resettlement possibility because in almost all cases where a child needs to be adopted there will be extended families members, others from the child's community of origin, or from the country of asylum, who can fulfil this need. If efforts are made to locate these persons, and perhaps to provide some initial support services, then there is rarely a need for international adoption.

In the resettlement context, adoption might be sought by extended family members or by persons who are unrelated to the child. In such cases, strict compliance with legal standards must be observed. The Convention on the Rights of the Child requires that "the best interests of the child shall be the paramount consideration", that is, the welfare of the child must never be compromised by competing interests, including those of the proposed adoptive parents. Furthermore, the Convention requires, among other things, that all necessary steps are taken to "ensure that the adoption of the child is authorised only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary". (CRC article 21(a))

The Convention also requires that "due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background" (CRC article 20.3). This article does not prohibit inter-ethnic, -religious, or -racial adoptions. Instead, all factors must be considered, with the final judgement made on a case-by-case basis, with the child's best interests being the paramount consideration.

International adoption is also regulated by the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) with respect to State parties to the treaty.

UNHCR'S POLICY ON ADOPTION

It is UNHCR's policy that children in an emergency context are not available for adoption. Any adoption of an unaccompanied child of concern to the High Commissioner must be determined as being in the child's best interests and carried out in keeping with applicable national and international law. It should **not** be carried out if:

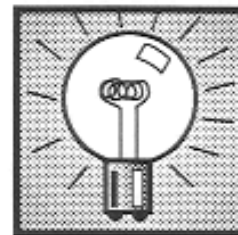
- There is a reasonable hope for successful tracing and family reunification in the child's best interests;
- A reasonable period (normally at least two years) during which time all feasible steps to trace the parents or other surviving family members have been carried out has not elapsed;
- It is against the expressed wish of the child or the parent;
- Voluntary repatriation in conditions of safety and dignity appears feasible in the near future and options in the child's country of origin would provide better for the psycho-social and cultural needs of the child than adoption in the country of asylum or a third country.

TRAINING MATERIALS FOR TOPIC 6

Overhead R Ov6.1: Intercountry Adoption	A summary of UNHCR's policy on inter-country adoption.
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FURTHER SUGGESTIONS FOR TRAINING

Resettlement Topic 7: Basic Considerations Relating to the Resettlement of Children



KEY LEARNING POINTS

- *when working with children and adolescents, care should be exercised to select interpreters who have the necessary skills*
- *all cases submitted for resettlement would benefit from a special needs assessment*

PREPARING AND CONDUCTING AN INTERVIEW

The documents referred to in the Readings section contain important information on how to prepare and conduct interviews in a refugee context. Of particular relevance is the Training Module on Interviewing Applicants for Refugee Status in which issues pertaining to the effects of trauma (Chapter Three) and interviewing children (Chapter Five) are elaborated upon.

WORKING WITH INTERPRETERS

Interpreters play a vital communication role in interviews with refugees. The majority of interviews are held with the assistance of an interpreter. Interpreting is a skill, and interpreters should have access to special training so they may carry out their task more efficiently and professionally.

It is important to be sensitive to a refugee's culture and background when selecting an interpreter. When working with children and adolescents, care should be exercised to select interpreters who have the necessary skills.

Interpreters should be both neutral and objective in their role. Where refugee interpreters are employed, it is important to ensure that they are not in any way related to the refugee, either through family relationship, or other ties such as political associations.

THE SPECIAL NEEDS SECTION OF THE UNHCR RESETTLEMENT REGISTRATION FORM

The purpose of a special needs assessment is to provide valuable background information concerning the particular needs of refugees in order to assist the resettlement country in the selection process and in post-arrival service delivery.

While all cases submitted for resettlement would benefit from a special needs assessment, a duly completed Special Needs section of the RRF is compulsory for:

- survivors of violence and torture
- medically-at-risk/disabled refugees
- unaccompanied minors

Information provided in the Special Needs section should include:

- simple description of the refugee;
- family situation;
- living conditions;
- daily activities;
- prospects for self-reliance;
- efforts made to promote local integration or voluntary repatriation.

The Special Needs section of the Resettlement Registration Form must be completed on the basis of an assessment by UNHCR staff, preferably a Community Services Officer, or by qualified implementing partners.

SUGGESTIONS FOR TRAINING

Ask participants to identify what they see as the most important characteristics of a good interpreter for children. Facilitators may find it useful to refer to the ARC materials on communicating with children.

Photocopy onto an overhead transparency a Resettlement Registration Form which is used locally and use it to focus a discussion on the Special Needs section.

Resettlement Topic 8: Best Interests of Children and Adolescents



KEY LEARNING POINTS

- *the best interests rule should be considered to apply in any State's decision that affects a minor who is present in that State, and this includes all refugee or asylum seeking minors*
- *the requirement in Article 3 that the best interests of minors be "a primary consideration" is a minimum standard*
- *the best interests rule is composed of four elements: principles, attitudes, procedures and structures*

The best interests rule is one of the fundamental rights in the 1989 Convention on the Rights of the Child (CRC). But while the phrase best interests of minors is a simple expression, applying it to real life situations is not so easy. The best interests rule is contained in Article 3 of the Convention on the Rights of the Child. It states that:

In all matters concerning [minors], whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of [minors] shall be a primary consideration.

The best interests rule covers all persons under the age of 18 years, or the age of majority (legal adulthood) in any country where majority is attained earlier. Because the CRC has been almost universally ratified, the best interests rule should be considered to apply in any State's decision that affects a minor who is present in that State, and this includes all refugee or asylum seeking minors. Furthermore, because UNHCR adopted the CRC as its normative frame of reference the rule should be applied in any decision made by the Office which affects a minor of concern to UNHCR.

The best interests rule was originally devised to guide judges when they decide custody disputes during divorce cases or petitions for adoption. Under the "traditional" best interests rule, the welfare of the minor must be the primary or the paramount consideration, that is, the interests of the minor must over-ride the interests of either parent, or prospective parents, in these types of cases.

The best interests rule in Article 3 differs from the "traditional" rule in family court cases in several respects. Because our framework for applying Article 3 is based on the traditional rule, and because many people have at least some familiarity with the traditional rule in the context of custody disputes, it will be helpful to begin by comparing Article 3 and the traditional rule.

First, Article 3 not only applies to decisions that have an impact on an individual minor, it also applies to decisions that affect a group of minors. This complicates matters because

sometimes the interests of an individual minor will conflict with the interests of a group of minors.

Second, Article 3 expands the traditional rule because it applies to all decisions that a Government makes that may affect minors, and is not limited to just divorces and adoptions. This expansion further complicates matters because the interests of minors can sometimes conflict with the interests of other groups in society.

Third, Article 3 contracts the traditional rule: Article 3 only requires that the best interests of minors be “a primary consideration”, in contrast to the traditional rule which requires that their interests be the primary consideration. Under article 3, a Government must actively take into account the interests of minors, but their welfare does not automatically override all other societal interests. The complication here is that the best interests rule in article 3 does not tell us how to resolve conflicts between interests; it does not tell us when to give priority to the interests of an individual minor or group of minors.

Fourth, the requirement in Article 3 that the best interests of minors be “a primary consideration” is only a minimum standard. There will still be categories of situations where a minor’s interests will need to be given priority, as in the case of adoptions (CRC Art. 21).

Sometimes the traditional rule is criticized because it does not contain any standards by which judges can evaluate what course of action will be best for a young person. While this objection is superficially correct, judges do employ principles or standards in deciding custody and adoption cases. It is by identifying these underlying principles that we can construct a framework for applying the best interests rule of Article 3.

In essence, the best interests rule is composed of four elements. The rule is:

- a set of principles about the developmental needs of children and adolescents;
- a set of attitudes that a decision-maker needs to have;
- a set of procedures that a decision-maker needs to follow; and
- various institutional structures to help ensure rationality and fairness in the decision-making process.

The contents of these four elements are as follows:

a) Principles relating to developmental needs of minors

- psychological and social needs must be given equal importance to physical needs
- children and adolescents need to feel wanted and valued
- there must be continuity of a minor’s emotional bonds with the “psychological parents”
- we need to consider the infant’s and young child’s “sense of time”
- socialisation, or the learning of social and cultural values and skills, is essential
- minors must be prepared for adulthood: earning a living, parenthood, and citizenship
- continuity of a minor’s sense of identity should be maintained
- participation in decision-making is important to healthy development

(b) Attitudes that a decision-maker needs to have

The decision-maker must have a willingness to:

- separate the interests of the minor(s) from the interests of all others, including the parents, other adults, social groups, institutions, and the State itself;
- subordinate the interests of all others in favour of the minor’s welfare;
- take the thoughts and feelings of a young person seriously;
- perceive children and adolescents as bearers of human rights.

(c) Procedures that a decision-maker needs to follow

- conduct an impact-assessment on how a course of action may affect minors;
- decision-making must be individualised whenever possible;
- minors need to participate in the decision-making process;
- there should be an independent assessment of the minor’s best interests;
- there must be an opportunity for the decision-maker to receive input from persons who are experienced in child- or adolescent-welfare issues.

(d) Institutional structures

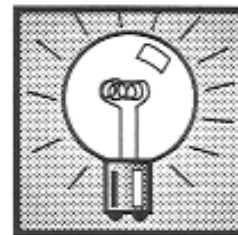
Suggestions for governmental structures include:

- an ombudsman for children and adolescents;
- an office responsible for minors’ issues, at the appropriate level of Government;
- inter-ministerial and inter-departmental committees on minors;
- independent advisory panels;
- systematic data collection and research focused on children and adolescents;
- a yearly “state of the nation’s youth” report;
- dissemination and training on the CRC;
- forums and procedures for the participation of minors;
- procedures for on-going consultations with citizens’ groups concerned with the rights and welfare of minors.

TRAINING MATERIALS FOR TOPIC 8

Handout H Ov8.1: The Elements of the Best Interests Rule	Describes the four main elements of the rule.
Exercise R Ex8.1: Return of Persons Belonging to Formerly Deported People	Uses the examples of three families belonging to formerly deported people to examine the application of the Best Interests Rule.
Overhead R Ov8.1: The Best Interests Rule	Summarises the rule.
Overhead R Ov8.2: The Elements of the Best Interests Rule	Summarises the four main elements of the rule.

Resettlement: Participant Groups



Different participants are likely to have different learning needs and priorities. We have divided participants into three broad groups: senior managers, programme officers and field staff.

Senior managers are those people who have key responsibility for an NGO's operations in a country or region or a UNHCR Section. They will have overall responsibility for strategy and resource allocation within the organisation's policy framework. Senior managers' needs are likely to be best served through briefings.

Programme staff comprise those members of NGOs who have responsibility for a particular aspect of their agency's work in a country or region or who, as UNHCR programme officers, have a responsibility for a particular function such as education or protection. Programme officers are those responsible for translating policy into practice and ensuring that programme budgets reflect the necessary resources to support good practice. Programme staff are likely to require a deeper understanding of specific issues and will need to consider programming and budgeting implications.

Field staff are those people working in the field who are responsible for implementing the programme activities. They often have considerable front-line experience. Field staff may value the opportunity to develop and practise new skills as well as develop their knowledge and understanding.

Training programmes should be designed with the responsibilities and learning needs of these different groups in mind. If possible, participants from different groups should be trained separately but if this is not possible, exercises and input should be selected which will meet the needs of all groups. It may be possible to use different small group exercises to address the needs of each type of participant.

The following table provides ideas for how to use the materials in this module with the three main participant groups.

<p style="text-align: center;">Senior Managers</p> <p style="text-align: center;">Key Learning Points</p>	<p style="text-align: center;">Suggested Participatory Exercises</p>
<ul style="list-style-type: none"> • under the Convention on the Rights of the Child, children and adolescents are “entitled to special care and assistance”. • their developmental needs, their dependency, and their lower legal and social status make this special attention essential for minors • family reunification is a major principle which is underpinned by the CRC; • one of the main functions of UNHCR in facilitating family reunification is to obtain the overall co-operation of the authorities of the States concerned; • because of the special needs of children and adolescents for a stable family environment, the reunification of unaccompanied minors with their parents or guardians should be treated as a matter of urgency • the on-going task of laying the political, legal, administrative and operational groundwork for the smooth and regular resolution of family reunification cases is a normal part of UNHCR’s international protection activities • UNHCR assistance may extend to Tracing family members, Travel documents, Travel arrangements, Financial assistance and Resettlement processing; • unaccompanied children and adolescents are a priority concern for reunification • every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met • in dealing with such unaccompanied minors, efforts should be made to trace and to reunite them with their parents or with other close relatives able and willing to accept them, before the solution of resettlement is considered • UNHCR has developed comprehensive guidelines which set clear principles and procedures to ensure the protection and care of all children and adolescents • the best interests of the minor is the overriding consideration in all decisions and actions concerning young persons separated from their families • if the physical safety of a minor is under severe threat and local solutions are not available, immediate resettlement may be the only practical means to guarantee his or her protection <p>in cases of resettlement for treatment, the rest of the minor’s family, or the guardian, should always be resettled with the minor, even if these other family members would have no independent grounds for resettlement</p>	

Senior Managers

Key Learning Points (contd.)

- adoption is not normally thought of as a resettlement possibility but in each of the limited situations where adoption is considered strict compliance with legal standards must be observed
- it is UNHCR's policy that children in an emergency context are not available for adoption
- all cases submitted for resettlement would benefit from a special needs assessment
- the best interests rule should be considered to apply in any State's decision that affects a minor who is present in that State, and this includes all refugee or asylum seeking minors
- the requirement in Article 3 that the best interests of minors be "a primary consideration" is a minimum standard
- the best interests rule is composed of four elements: principles, attitudes, procedures and structures

**Suggested
Participatory
Exercises**

<p style="text-align: center;">Programme Staff</p> <p style="text-align: center;">Key Learning Points</p>	<p style="text-align: center;">Suggested Participatory Exercises</p>
<ul style="list-style-type: none"> • under the Convention on the Rights of the Child, children and adolescents are “entitled to special care and assistance”. • their developmental needs, their dependency, and their lower legal and social status make this special attention essential for minors • family reunification is a major principle which is underpinned by the CRC; • one of the main functions of UNHCR in facilitating family reunification is to obtain the overall co-operation of the authorities of the States concerned; • because of the special needs of children and adolescents for a stable family environment, the reunification of unaccompanied minors with their parents or guardians should be treated as a matter of urgency • the on-going task of laying the political, legal, administrative and operational groundwork for the smooth and regular resolution of family reunification cases is a normal part of UNHCR’s international protection activities • UNHCR assistance may extend to Tracing family members, Travel documents, Travel arrangements, Financial assistance and Resettlement processing; • Unaccompanied children and adolescents are a priority concern for reunification • every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met • in dealing with such unaccompanied minors, efforts should be made to trace and to reunite them with their parents or with other close relatives able and willing to accept them, before the solution of resettlement is considered • UNHCR has developed comprehensive guidelines which set clear principles and procedures to ensure the protection and care of all children and adolescents • the best interests of the minor is the overriding consideration in all decisions and actions concerning young persons separated from their families • if the physical safety of a minor is under severe threat and local solutions are not available, immediate resettlement may be the only practical means to guarantee his or her protection <p>in cases of resettlement for treatment, the rest of the minor’s family, or the guardian, should always be resettled with the minor, even if these other family members would have no independent grounds for resettlement</p>	<p style="text-align: center;">Exercise R Ex3.1</p>

Programme Staff Key Learning Points (contd.)	Suggested Participatory Exercises
<ul style="list-style-type: none">• adoption is not normally thought of as a resettlement possibility but in each of the limited situations where adoption is considered strict compliance with legal standards must be observed• it is UNHCR’s policy that children in an emergency context are not available for adoption• all cases submitted for resettlement would benefit from a special needs assessment• the best interests rule should be considered to apply in any State’s decision that affects a minor who is present in that State, and this includes all refugee or asylum seeking minors• the requirement in Article 3 that the best interests of minors be “a primary consideration” is a <u>minimum</u> standard• the best interests rule is composed of four elements: principles, attitudes, procedures and structures	Exercise R Ex8.1

<p style="text-align: center;">Field Staff</p> <p style="text-align: center;">Key Learning Points</p>	<p style="text-align: center;">Suggested Participatory Exercises</p>
<ul style="list-style-type: none"> • under the Convention on the Rights of the Child, children and adolescents are “entitled to special care and assistance”. • their developmental needs, their dependency, and their lower legal and social status make this special attention essential for minors • family reunification is a major principle which is underpinned by the CRC; • because of the special needs of children and adolescents for a stable family environment, the reunification of unaccompanied minors with their parents or guardians should be treated as a matter of urgency • UNHCR assistance may extend to Tracing family members, Travel documents, Travel arrangements, Financial assistance and Resettlement processing; • unaccompanied children and adolescents are a priority concern for reunification • if the reunification with the minor’s family is to take place after a long separation, the process of re-establishing relationships must be carefully planned • every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met • in dealing with such unaccompanied minors, efforts should be made to trace and to reunite them with their parents or with other close relatives able and willing to accept them, before the solution of resettlement is considered • UNHCR has developed comprehensive guidelines which set clear principles and procedures to ensure the protection and care of all children and adolescents • the best interests of the minor is the overriding consideration in all decisions and actions concerning young persons separated from their families • if the physical safety of a minor is under severe threat and local solutions are not available, immediate resettlement may be the only practical means to guarantee his or her protection • in cases of resettlement for treatment, the rest of the minor’s family, or the guardian, should always be resettled with the minor, even if these other family members would have no independent grounds for resettlement • adoption is not normally thought of as a resettlement possibility but in each of the limited situations where adoption is considered strict compliance with legal standards must be observed 	<p style="text-align: center;">Exercise R Ex3.1</p>

Field Staff

Key Learning Points (contd.)

- it is UNHCR’s policy that children in an emergency context are not available for adoption
- when working with children and adolescents, care should be exercised to select interpreters who have the necessary skills
- all cases submitted for resettlement would benefit from a special needs assessment
- the best interests rule should be considered to apply in any State’s decision that affects a minor who is present in that State, and this includes all refugee or asylum seeking minors
- the requirement in Article 3 that the best interests of minors be “a primary consideration” is a minimum standard
- the best interests rule is composed of four elements: principles, attitudes, procedures and structures

**Suggested
Participatory
Exercises**

Exercise R Ex8.1

Resettlement: Sample Programmes



The following three sample programmes have been devised to provide examples of how the particular learning needs and requirements of the three broad participant groups can be addressed using materials drawn from the module.

The programmes are intended as guidance examples only. It is very important that the facilitator should think carefully about the group of participants with whom he or she will be working and devise a programme that takes into account:

- the role and responsibilities of the participants;
- the learning needs of the participants;
- their existing level of knowledge;
- their interest in the subject;
- their willingness to share experience and admit to gaps in their knowledge / skills;
- current / local issues and priorities for the participants;
- the amount of time they have available;
- their position in their organisation.

Any training programme should be devised, if possible, in consultation with the intended participants. If it is not possible to consult with all participants (for example, by sending out an application form including questions about their expectations for the training), the facilitator should try to speak to a sample of participants before making final decisions about the programme.

The facilitator should also consider:

- the range of Topics to be covered;
- the order in which Topics should be addressed;
- how to encourage the sharing of experience and information between participants;
- who will carry out the training;
- what methods will be most appropriate for the participants.

More detail on the process of training can be found in the **ARC Facilitator's Toolkit**.

Remember to build in a workshop evaluation - you will find ideas for this in the **ARC Facilitator's Toolkit**.

PROGRAMME 1: AWARENESS SESSION FOR SENIOR MANAGERS (2.5 HOURS)

This programme is aimed primarily at senior managers and officials of UN Agencies, NGOs and Government.

LEARNING OBJECTIVES

- To examine how resettlement criteria should be applied to minors
- To clarify the legal basis for family reunification.
- To establish the role of UNHCR in family reunification
- To explore the special position of unaccompanied minors in family reunification
- To identify the needs of minors in special situations
- To establish the best interests principle as it applies to minors

PREPARATION

The facilitator should prepare a comprehensive information pack for the senior managers which includes:

1. Copies of the relevant Handouts.
2. A copy of the Reading List and Readings.
3. Copies of relevant materials from the region / country / locality (e.g. research papers, monitoring reports)*.

If possible, this pack should be sent out in advance.

- * The facilitator should gather any locally relevant information on the Topics to be addressed in the training and identify individuals with specific expertise who could act as resource persons.

FACILITATOR'S NOTES

Introduction

10 mins	<p>Introduce the agreed aims of the session on Resettlement. Using the Key Concepts Overhead, introduce the relevant Key Concepts.</p>	<p>Flipchart summarising aims of session. Key Concepts Overhead</p>
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Refugee Children and Resettlement

20 min	<p>Use Overhead R Ov1.2 to remind participants why minors must be given special attention in resettlement</p> <p>Use Handout R H1.2 to introduce the criteria for determining resettlement as the appropriate durable solution.</p> <p>Open a discussion on the current position concerning unaccompanied minors in the refugee populations known to participants.</p>	<p>Overhead R Ov1.2</p> <p>Handout R H1.2</p>
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Family Reunification

30 mins	<p>Use the Topic 2 briefing and Overhead R Ov2.1 to establish the legal standards and policies which apply to family reunification.</p> <p>Use Overhead R Ov2.2 to examine situations where UNHCR would promote family reunification.</p> <p>Open an experience-sharing discussion to examine the situation concerning family reunification in the countries represented.</p>	<p>Overhead R Ov2.1</p> <p>Overhead R Ov2.2</p>
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Use the briefing notes for Topic 3 to examine the promotional activities necessary for facilitating family reunification.

Use the same notes to illustrate the assistance available in individual cases.

Unaccompanied Minors

20 mins | Use the Briefing for Topic 4 to raise the issue of unaccompanied and separated minors. Ask participants to identify examples of problems which arise in the refugee populations for which they are responsible.

Minors in Special Situations

30 mins | Use the briefing for Topic 6 to introduce whichever of the special situations are relevant to the refugee populations which are the responsibility of participants.

Divide participants into small groups and ask them to identify any action points which need to be followed up.

The Best Interests Rule

30 mins | Using **Overhead R Ov8.1** and the Topic 8 briefing, introduce the best interests rule and its legal basis.

Using **Overhead R Ov8.2, Handout H Ov8.1** and the Topic 8 briefing, introduce the four elements of the best interests rule and open a discussion on the implications for participants of each of the elements (particularly the procedures and structures)

Ask participants to identify the implications of putting the best interests rule into practice.

10 mins | Brief evaluation and closing comments.

Overhead R Ov8.1

**Overhead R Ov8.2
Handout H Ov8.1**

SAMPLE PROGRAMME 2: PROGRAMME ISSUES (HALF DAY)

This programme is aimed at programme staff from UN agencies and NGOs and those in government with responsibility for translating policy into practice and ensuring that programme budgets reflect the necessary resources to support good practice.

LEARNING OBJECTIVES

- To examine how resettlement criteria should be applied to minors
- To clarify the legal basis for family reunification
- To establish the role of UNHCR in family reunification
- To explore the special position of unaccompanied minors in family reunification
- To identify the needs of minors in special situations
- To establish the best interests principle as it applies to minors

PREPARATION

The facilitator should prepare a comprehensive information pack for the programme staff which includes:

1. Copies of the relevant Handouts.
2. A copy of the Reading List and Readings.
3. Copies of relevant materials from the region / country / locality (e.g. research papers, monitoring reports)*.

If possible, this pack should be sent out in advance.

- * The facilitator should gather any locally relevant information on the Topics to be addressed in the training and identify individuals with specific expertise who could act as resource persons.

FACILITATOR'S NOTES

Introduction

10 mins	<p>Introduce the agreed aims of the session on Resettlement. Using the Key Concepts Overhead, introduce the relevant Key Concepts.</p>	<p>Flipchart summarising aims of session. Key Concepts Overhead</p>
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Refugee Children and Resettlement

20 min	<p>Use Overhead R Ov1.2 to remind participants why minors must be given special attention in resettlement</p> <p>Use Handout R H1.2 to introduce the criteria for determining resettlement as the appropriate durable solution.</p> <p>Open a discussion on the current position concerning unaccompanied minors in the refugee populations known to participants.</p>	<p>Overhead R Ov1.2</p> <p>Handout R H1.2</p>
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Family Reunification

10 mins	<p>Use the Topic 2 briefing and Overhead R Ov2.1 to establish the legal standards and policies which apply to family reunification.</p> <p>Use Overhead R Ov2.2 to examine situations where UNHCR would promote family reunification.</p>	<p>Overhead R Ov2.1</p> <p>Overhead R Ov2.2</p>
60 mins	<p>Use Exercise R Ex3.1 to examine the arguments concerning the reunification of refugee families.</p>	<p>Exercise R Ex3.1</p>
20 mins	<p>Open an experience-sharing discussion to examine the situation concerning family reunification in the countries represented.</p> <p>Use the same notes to illustrate the assistance available in individual cases.</p>	

Use the briefing notes for Topic 3 to examine the promotional activities necessary for facilitating family reunification.

Unaccompanied Minors

20 mins | Use the Briefing for Topic 4 to raise the issue of unaccompanied and separated minors. Ask participants to identify examples of problems which arise in the refugee populations for which they are responsible. How do they address them? What still needs to be done?

Minors in Special Situations

30 mins | Use the briefing for Topic 6 to introduce whichever of the special situations are relevant to the refugee populations which are the responsibility of participants.

Use a copy of a **Resettlement Registration Form** to introduce a short discussion on Special Needs assessments. Ask participants to share their experience of current practice.

Divide participants into small groups and ask them to identify any action points which need to be followed up.

**Resettlement
Registration
Form**

The Best Interests Rule

30 mins | Using **Overhead R Ov8.1** and the Topic 8 briefing, introduce the best interests rule and its legal basis.

Using **Overhead R Ov8.2, Handout H Ov8.1** and the Topic 8 briefing, introduce the four elements of the best interests rule and open a discussion on the implications for participants of each of the elements.

Introduce **Exercise R Ex8.1** to examine the application of the Best Interests Rule.

Ask participants to identify the implications of putting the best interests rule into practice in their own work situations.

**Overhead R
Ov8.1**

**Overhead R
Ov8.2
Handout H
Ov8.1**

**Exercise R
Ex8.1**

Summary and Evaluation

5 mins

Summarise the key points covered in the sessions.

5 mins

Conduct a brief evaluation using customised forms.

Evaluation
forms.

SAMPLE PROGRAMME 3: PRACTICE ISSUES (HALF DAY)

This programme is aimed at field staff from UN agencies, NGOs and Government working directly with refugees in and out of camps.

LEARNING OBJECTIVES

- To examine how resettlement criteria should be applied to minors
- To clarify the legal basis for family reunification
- To establish the role of UNHCR in family reunification
- To explore the special position of unaccompanied minors in family reunification
- To identify the needs of minors in special situations
- To establish the best interests principle as it applies to minors

PREPARATION

The facilitator should be familiar with the issue of resettlement in the area covered by the participants attending the training. If possible, documentary evidence about the problem should be gathered. The facilitator should also identify individuals with specific expertise who could act as resource persons.

The facilitator should prepare a comprehensive information pack for the field staff which includes:

1. Copies of the relevant Handouts.
2. A copy of the Reading List and Readings.
3. Copies of relevant materials from the region / country / locality (e.g. research papers, monitoring reports).

If possible, this pack should be sent out in advance.

- * The facilitator should gather any locally relevant information on the Topics to be addressed in the training and identify individuals with specific expertise who could act as resource persons.

FACILITATOR'S NOTES

Introduction

10 mins	<p>Introduce the agreed aims of the session on Resettlement. Using the Key Concepts Overhead, introduce the relevant Key Concepts.</p>	<p>Flipchart summarising aims of session. Key Concepts Overhead</p>
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Refugee Children and Resettlement

20 min	<p>Use Overhead R Ov1.2 to remind participants why minors must be given special attention in resettlement</p> <p>Use Handout R H1.2 to introduce the criteria for determining resettlement as the appropriate durable solution.</p> <p>Open a discussion on the current position concerning unaccompanied minors in the refugee populations known to participants.</p>	<p>Overhead R Ov1.2</p> <p>Handout R H1.2</p>
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Family Reunification

10 mins	<p>Use the Topic 2 briefing and Overhead R Ov2.1 to establish the legal standards and policies which apply to family reunification.</p> <p>Use Overhead R Ov2.2 to examine situations where UNHCR would promote family reunification.</p>	<p>Overhead R Ov2.1</p> <p>Overhead R Ov2.2</p>
60 mins	<p>Use Exercise R Ex3.1 to examine the arguments concerning the reunification of refugee families.</p>	<p>Exercise R Ex3.1</p>
20 mins	<p>Open an experience-sharing discussion to examine the situation concerning family reunification in the countries represented.</p>	

Use the same notes to illustrate the assistance available in individual cases.

Use the briefing notes for Topic 3 to examine the promotional activities necessary for facilitating family reunification.

Unaccompanied Minors

20 mins | Use the Briefing for Topic 4 to raise the issue of unaccompanied and separated minors. Ask participants to identify examples of problems which arise in the refugee populations for which they are responsible. How do they address them? What still needs to be done?

Minors in Special Situations

30 mins | Use the briefing for Topic 6 to introduce whichever of the special situations are relevant to the refugee populations which are the responsibility of participants.

Use a copy of a **Resettlement Registration Form** to introduce a short discussion on Special Needs assessments. Ask participants to share their experience of current practice.

Divide participants into small groups and ask them to identify any action points which need to be followed up.

**Resettlement
Registration
Form**

The Best Interests Rule

30 mins | Using **Overhead R Ov8.1** and the Topic 8 briefing, introduce the best interests rule and its legal basis.

Using **Overhead R Ov8.2, Handout H Ov8.1** and the Topic 8 briefing, introduce the four elements of the best interests rule and open a discussion on the implications for participants of each of the elements.

Introduce **Exercise R Ex8.1** to examine the application of the Best Interests Rule.

**Overhead R
Ov8.1**

**Overhead R
Ov8.2
Handout H
Ov8.1**

**Exercise R
Ex8.1**

	Ask participants to identify the implications of putting the best interests rule into practice in their own work situations.	
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Summary and Evaluation

5 mins	Summarise the key points covered in the sessions.	
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5 mins	Conduct a brief evaluation using customised forms from the ARC Resource Pack .	
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		Evaluation forms.
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Resettlement Handouts



Handout R H1.1	Key Concepts
Handout R H1.2	Criteria for Determining Resettlement as the Appropriate Durable Solution
Handout R H8.1	The Four Elements of the Best Interests Rule

Resettlement Handout

R H1.1: Key Concepts



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- The importance of resettlement as a protection tool extends to certain cases where it preserves or restores the basic dignity of a refugee's life, for example through family reunification.
 - Among cases to be promoted for resettlement, priority attention should be given to those refugees with acute legal and physical protection needs and, in particular, to women at risk and unaccompanied children for whom resettlement has been found to be in their best interests.
 - Unaccompanied (or separated) minors are a priority concern to UNHCR as well as minors who are under physical threat, disabled, traumatised or in need of medical care.
 - Adoption is not normally thought of as a resettlement possibility because in almost all cases where a child needs to be adopted there will be extended family members, others from the child's community of origin, or from the country of asylum, who can fulfil this need.
 - Every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met.

Resettlement Handout R H1.2: Criteria for Determining Resettlement as the Appropriate Durable Solution



UNHCR resettlement activities for refugees under the mandate of the Office are linked to considerations of protection and appropriate durable solutions.

Resettlement should be considered when refugees are at risk in their country of refuge or have particular needs as detailed under the various criteria in this Chapter. Before a decision is taken to promote the resettlement of a refugee, every effort should, in the first instance, be made to fully explore the possibility of local solutions. At the same time, the possibility that voluntary repatriation will be feasible or foreseeable within an acceptable time frame should be evaluated.

This approach will ensure that the needs of refugees identified as requiring special attention are met without unnecessarily uprooting them, and that scarce resources are adequately and rationally used. This does not, however, imply a mechanical process, where certain steps have to be taken one after the other over an extended period of time. The potential for other durable solutions may be reviewed at the same time and it may not be necessary that various options for local solutions are followed through, if they are not likely to be successful.

The identification of refugees potentially in need of resettlement and the assessment of cases should be an active and systematic process. Close co-operation among all concerned staff across functional units and when applicable with implementing partners, is of considerable importance. The identification and promotion of resettlement cases should depend on the real needs of individual refugees and should not be influenced by external factors (e.g. availability of resettlement places or quotas).

However, in cases not related to immediate protection concerns, particularly those falling under the criteria of lack of local integration prospects, a decision to refer for resettlement may be influenced by the availability of places. Without reasonable assurances that cases will be considered, UNHCR abstains from referring cases because doing so may raise expectations, create an unmanageable demand, and in turn even lead to security problems. At the same time, the potential of resettlement as a durable solution for certain refugees should be brought to the attention of the Resettlement Section at UNHCR Headquarters, so that steps can be taken with a view to request an increase in quota allocations.

It is important that UNHCR resettlement activities are carried out on the basis of a correct and consistent application of the criteria and considerations detailed in this Module and further elaborated in the UNHCR Resettlement Handbook. This approach will ensure that all refugees in need of resettlement receive the appropriate attention. It will, in addition, help to avoid

frustration and aggression among refugees as well as other negative phenomena, like irregular movements, often related to inconsistent resettlement activities.

A rational and transparent approach will, furthermore, strengthen the credibility of UNHCR in general and widen the confidence of resettlement countries and other partners, which in turn should help to ensure that resettlement can be done efficiently and effectively.

Among cases to be promoted for resettlement, priority attention should be given to those refugees with acute legal and physical protection needs and, in particular, to women-at-risk and unaccompanied children for whom resettlement has been found to be in their best interests.

While the notion of integration potential should not negatively influence the selection and promotion of resettlement cases, it is important to choose the most appropriate resettlement country for an individual refugee, where such choice exists. For many refugees, moving to a country with a familiar culture, language or climate could make social adjustment and integration much easier. Often, and foremost in cases relating to protection problems, the main objective is, however, the timely relocation of the refugee at risk.

Resettlement should not be pursued because individual refugees have become a burden or because of their behaviour or solely in response to action undertaken by refugees to draw attention to their demands. Resettlement should only be considered if the case meets UNHCR's criteria. Resettlement should again not be promoted merely for reasons of pity or sorrow for a refugee's plight, because of the individual's impressive qualifications or previous professional status or as a reward for a "deserving" individual.

Decisions on whether or not to promote resettlement should not be clouded by value judgements. This is equally true for efforts to reach a decision on an individual's need for resettlement. A distinction should be drawn between a refugee's need for resettlement and the possible desire of that person for this durable solution. Some may maintain that offering the possibility of a better quality of life, which is assumed to be provided by rich countries, is inevitably in the best interests of a refugee from a poor country. Others may share, with equal conviction, an assumption that resettlement in a third country is always a traumatic and undesirable experience which should only be contemplated as a last resort. Furthermore, refugees, some claim, are not welcomed in the resettlement countries and have serious difficulties integrating and thus become a long-term burden upon the receiving nations. Particularly when resettlement is considered as a durable solution for other than protection reasons, there is a risk that decisions may be driven by such value judgements.

Resettlement Handout

R H8.1: The Four Elements of the Best Interests Rule



In essence, the best interests rule is composed of four elements. The rule is:

- a set of principles about the developmental needs of children and adolescents;
- a set of attitudes that a decision-maker needs to have;
- a set of procedures that a decision-maker needs to follow; and
- various institutional structures to help ensure rationality and fairness in the decision-making process.

The contents of these four elements are as follows:

a) Principles relating to developmental needs of minors

- psychological and social needs must be given equal importance to physical needs
- children and adolescents need to feel wanted and valued
- there must be continuity of a minor's emotional bonds with the "psychological parents"
- we need to consider the infant's and young child's "sense of time"
- socialisation, or the learning of social and cultural values and skills, is essential
- minors must be prepared for adulthood: earning a living, parenthood, and citizenship
- continuity of a minor's sense of identity should be maintained
- participation in decision-making is important to healthy development

(b) Attitudes that a decision-maker needs to have

The decision-maker must have a willingness to:

- separate the interests of the minor(s) from the interests of all others, including the parents, other adults, social groups, institutions, and the State itself;
- subordinate the interests of all others in favour of the minor's welfare;
- take the thoughts and feelings of a young person seriously;
- perceive children and adolescents as bearers of human rights.

(c) Procedures that a decision-maker needs to follow

- conduct an impact-assessment on how a course of action may affect minors;
- decision-making must be individualised whenever possible;
- minors need to participate in the decision-making process;
- there should be an independent assessment of the minor's best interests;

- there must be an opportunity for the decision-maker to receive input from persons who are experienced in child- or adolescent-welfare issues.

(d) Institutional structures

Suggestions for governmental structures include:

- an ombudsman for children and adolescents;
- an office responsible for minors' issues, at the appropriate level of Government;
- inter-ministerial and inter-departmental committees on minors;
- independent advisory panels;
- systematic data collection and research focused on children and adolescents;
- a yearly "state of the nation's youth" report;
- dissemination and training on the CRC;
- forums and procedures for the participation of minors;
- procedures for on-going consultations with citizens' groups concerned with the rights and welfare of minors.

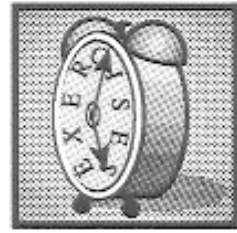
Resettlement: Exercises



Exercise R Ex3.1 Family Reunification

Exercise R Ex8.1 Return of Persons Belonging to Formerly Deported People

Resettlement Exercise R Ex3.1: Family Reunification 'Fish Bowl' Discussion (Facilitator's Notes)



TARGET AUDIENCE

Programme Staff; Field Staff.

OBJECTIVES

To consider the arguments concerning the reunification of a refugee family.

TIMEFRAME

25 minutes: small group discussion

20 minutes: 'fish-bowl' discussion

15 minutes: plenary discussion

METHOD

1. Divide participants into four groups and allocate a group to each of the following interested parties: UNHCR; Westcountry, Eastcountry and Northcountry.
2. Provide each participant with a copy of **Exercise R Ex3.1: (Participant's Notes)**
3. Ask the groups to read through the scenario and discuss it in their small group.
4. From the point of view of the country their group has been allocated (or the UNHCR if their group has been allocated this role), invite participants to establish arguments which they would intend to put forward in the negotiations at the conference.
5. Ask groups to identify one member of the group to put forward the views of the UNHCR / country government representative.
6. Ask the selected group members to put forward the views of their group in a 'fish bowl' configuration. Each representative can take advice from the other members of their group at any time either by asking for a short recession or by a group member passing them a note, or taking their place in the fish bowl.
7. Ask the representatives to aim to reach a decision about if and where the family should be reunited after 15 minutes of discussion and negotiation.

8. If the representatives have still not reached a decision after a further 5 minutes stop the fish bowl.
9. Open the discussion out to all group members.
10. Write up key points on flipchart paper.

RESOURCES

Copies of **Exercise R Ex3.1: (Participant's Notes)** for all participants.

Flipchart paper and marker pens.

Blu Tack or tape.

Resettlement Exercise R Ex3.1: Family Reunification (Participant's Notes)



OBJECTIVES

To consider the arguments concerning the reunification of a refugee family.

TIMEFRAME

25 minutes: small group discussion

20 minutes: role-play

15 minutes: discussion

METHOD

1. Please read through the following scenario and discuss it in your small group.
2. From the point of view of the country your group has been allocated (or the UNHCR if your group has been allocated this role), establish arguments which you would intend to put forward in the negotiations at the conference.
3. Identify one member of the group to represent your group's views in a fish bowl discussion.
4. Your representative will be asked to participate in a fish bowl discussion. The representative can take advice from the other members of the group at any time either by asking for a short recession or by a group member passing them a note, or taking their place in the fish bowl.

SCENARIO

Family F belongs to the ethnic minority M from country C which over the years suffered from genocidal actions at the hands of the central government of Country C. The family, consisting of husband, wife, and seven year old son, was separated in the chaos of flight.

- a) **The husband reaches a Western European country (Westcountry) where he is only granted secondary refugee status as he transited through several other countries. Due to economic problems in the country, he finds no work and continues to live in a collective accommodation centre on the basis of social aid. According to the legislation of**

Westcountry, family reunification can only be granted to secondary status refugees on the basis of discretion, if sufficient means of livelihood and living space is available. This policy is sought to fight irregular movements.

b) The wife together with her son reaches a poor Eastern European country (Eastcountry), which has established refugee status determination procedures but has not yet signed the 1951 Convention. She receives refugee status under national law, but besides a one-time integration grant of \$125, and a monthly subsistence allowance of \$45 for herself and her son, no other support is provided. There are very few women from her country of origin in Eastcountry, and she sees no future for herself and her child. Her son was in fact once beaten up by local boys, who shouted that he should return to the forest.

c) After another refugee family from the same ethnic group decides to spontaneously resettle to a Nordic country (Northcountry), with the help of a smuggler, the wife is glad to accept the offer of the family to take along her son with them. She hopes that this step will later allow her to follow her son to Northcountry, which is famous for its generous assistance and integration measures for refugees from Country C. The other family and the little boy reach Northcountry safely.

Through the help of the local UNHCR offices, all 3 family members learn of each other's whereabouts and ask to be re-united. An international conference brings together one UNHCR officer, and the responsible government officials from Westcountry, Eastcountry and Northcountry. UNHCR urges for family reunion and initiates a discussion. The task of the group is to discuss if and where the family should be reunited.

Resettlement Exercise R Ex8.1: Return of Persons Belonging to Formerly Deported People *(Facilitator's Notes)*



TARGET AUDIENCE

Programme Staff; Field Staff.

OBJECTIVES

To consider the issues concerning the return of persons belonging to formerly deported people.

TIMEFRAME

30 minutes: small group discussion

30 minutes: presentation and plenary discussion

METHOD

1. **Divide participants into small groups and provide each participant with a copy of Exercise R Ex8.1: (Participant's Notes)**
2. Ask the groups to read through the scenario and discuss the questions in their small group.
3. Bring together all the groups and open a plenary discussion.
4. Write up key points on flipchart paper.

RESOURCES

Copies of **Exercise R Ex8.1: (Participant's Notes)** for all participants.

Flipchart paper and marker pens.

Blu Tack or tape.

Resettlement Exercise R Ex8.1: Return of Persons Belonging to Formerly Deported People *(Participant's Notes)*



OBJECTIVES

To consider the issues concerning the return of persons belonging to formerly deported people.

TIMEFRAME

30 minutes: small group discussion

30 minutes: presentation and plenary discussion

METHOD

Please read through the following scenario and discuss the questions in your small group. Be prepared to report back your answers to the questions in plenary.

SCENARIO

During a Conference organized by UNHCR addressing migration issues in the CIS countries, a group of NGOs representing minority group M gave a statement, and drew the attention of the international community to the plight of persons belonging to formerly deported people (FDPs). In their statement, they emphasized the right of such FDPs to return to their “historical motherland”, and the responsibility of the international community, and UNHCR, to elaborate on a strategy which would enable such return. In their statement, they referred to the fact that this group of FDPs lived in Region M, which is now a region of country G. Following the deportation order of Stalin, almost all members of this minority were deported throughout former Soviet Union, and many died as a result. The population, according to this group, are currently spread out in countries A, U, T and R.

1. The representative of Government G, while not objecting in principle to any return of this group of FDPs, highlighted some concerns faced by his government. Specifically, Country G is suffering from constant economic decline and is facing civil war on parts of its territory. Any mass return would arguably lead to further destabilisation of the country, according to the Representative. Furthermore, Region M within Country G is currently under harsher economic constraints than the rest of the country. In addition, it is currently inhabited by another minority group from a neighbouring country. There is no housing capacity, and while schools exist, classes are not only conducted in a different language currently, but capacity is

limited. If Region M were to be destabilised as a result of a mass return, there may be a potential of not only civil unrest, but potential moves by the neighbouring country to intervene. The Representative indicated that they would “not object to the return” of some members of M, if they stay in the central part of the country, outside the M region.

2. The representative of Government U emphasized in his statement that the vast majority of this group of FDPs who are currently living in Country U arrived before citizenship legislation entered into force, and as such enjoy all the rights attached to citizens of U. Children have access to primary and secondary education. He does not omit to state, however, that some members are particularly hit by the economic decline, live in sub-standard housing, and still face some integration difficulties. A representative of Minority group M living in Country U emphasises that, while grateful for the hospitality of Country U, and their status, they do not view stay in Country U as a durable solution. He adds that he only sees a future for his children if they go back “to their roots”. He is concerned that language skills, and culture, are being lost in Country U.

3. The representative of Government A gives the same account as the Representative of Government U. In addition, he emphasized that the language is similar, as is the culture. The minority group has well adapted as they arrived in A early, and at a time of economic stability. He also noted that Minority M is represented in the Parliament. The Representative of Minority M however clarified that some members of the group living in A do not have access to land, and thus cannot carry out their traditional way of life.

4. The representative of Government T, which has some ethnic links with certain members of this FDP community, states that some members of Minority M are welcome to their country. However, they do not wish to be the only durable solution for this group, and seek to participate in a larger international effort to find a solution. At the same time, members of Minority M without ethnic links to Country T strongly oppose any move of the group to Country T.

5. Finally, Country R, although asked, refused to make a statement on the issue. Nevertheless, a member of the Minority Group living in Country R declared very clearly that members of the group living in the Southern part of Country R face serious protection problems. The children have no legal access to school, to health facilities, and have a minimum standard of living due to their illegal stay, and lack of “propiska”. In addition, the children face serious xenophobic threats. In general, their illegal status is extremely problematic. The Representative of Country R objected to the statement, and some doubts were raised on the real circumstances.

QUESTIONS

1. What further information is needed to elaborate on any strategy towards a solution for this group?
2. Are there more specific considerations relating to the children from this group of FDPs? What are these?

3. In elaborating the above points, focus your discussions on best interest of the child, the right to return, prevention of displacement, legal/status considerations, and mandate of UNHCR..., etc....

SCENARIO (CONTINUED)

On the basis of your analysis of the above points, consider the circumstances of the following families belonging to Minority M , and decide on a preferred durable solution for each:

FAMILY A

Family A is split. The husband lives in Country U, where he is able to work. He was living in Country R with his family, but faced much hardship and left for Country U, where he had heard that the circumstances for Minority M people are much better. He now has citizenship of Country U, but in his heart, he hopes to be able to return to his “historical motherland” where he would want to obtain status and live with his family. His wife and children remain in Country R, and face serious hardship. The mother is not able to work, and in fact cannot move to another region of country R to find a job because of the requirement for propiska. The children are continuously abused by other children, and have legal no access to education. They are forced to hang out in the streets, to make some money to survive.

While the 15 year old boy seeks to go to Country U to stay with his father, both parents wish for everyone to stay where they are, until it becomes clear whether return to their region in Country G is a possibility.

QUESTION

What are the elements which should be reviewed to determine whether this decision is an appropriate one in the best interest of the 15 year old child.

FAMILY B

Family B lives in Country U, where the father works, although on a random basis. Their status is unclear now, but revised legislation on citizenship provides the possibility of the family to obtain citizenship. While this would be important for access to free secondary education for the children, the family is reluctant to apply for fear that it will negatively impact the possibility of eventual “return” to Region M in Country G. The family has already indicated that if an organized “return” cannot take place in the next month, they will spontaneously return themselves.

QUESTION

Should UNHCR facilitate? They have asked for tickets and US\$ 100 for travel expenses.

FAMILY C

A 12 year old girl from Minority M was living in Country A with her parents. They were both tragically killed in a car accident, and the child moved in temporarily with a neighbour, also a member of Minority M. While willing to undertake this care on an interim basis, the neighbour has clearly stated that they cannot continue for a longer period. The child's grandfather has been traced. He returned to Region M in Country G as part of the original group of returnees, but faced serious hardship. He could not find a home, and was forced to live in the streets for a month. He was also continuously threatened by the local inhabitants, and got no support from the local authorities. He was rather told that he should go to the capital, if he wanted to remain in Country G. He had no choice, and went to the capital. He found a little apartment in the suburbs, and as a former army officer, he receives pension. It is, however, very limited. His health is also deteriorating.

He is advised of the tragic accident, and of the plight of his granddaughter. Although he hated his son-in-law, he refused to allow the little girl suffer any longer. His concern, however, was whether he could support her.

QUESTION

What are the elements which would need to be considered in taking a best interest decision for this girl?

Resettlement: Overheads



- Overhead R Ov1.1 Key Concepts
- Overhead R Ov1.2 The Resettlement of Minors
- Overhead R Ov1.3 Definition of Orphan
- Overhead R Ov1.4 Refugee Status and the Child's Best Interests
- Overhead R Ov2.1 Family Reunification - a Rights Perspective
- Overhead R Ov2.2 Types of Family Reunification Promoted by UNHCR
- Overhead R Ov3.1 Objectives of Family Reunification of Unaccompanied Minors
- Overhead R Ov4.1 Unaccompanied Minors
- Overhead R Ov4.2 Participation of Unaccompanied Minors
- Overhead R Ov5.1 Basic Rights of Children and Adolescents
- Overhead R Ov5.2 Appropriate Care of Children and Adolescents
- Overhead R Ov6.1 Intercountry Adoption
- Overhead R Ov8.1 The Best Interests Rule
- Overhead R Ov8.2 The Four Elements of the Best Interests Rule

Resettlement Overhead

R Ov1.1: Key Concepts



- resettlement can be a protection tool which may preserve or restore a refugee's dignity
- priority should be given to refugees with acute legal and physical protection needs and, in particular, to women at risk and unaccompanied children.
- unaccompanied (or separated) minors, minors who are under physical threat, disabled, traumatised or in need of medical care are all a priority concern
- adoption is not normally thought of as a resettlement possibility
- every case of an unaccompanied minor has to be thoroughly assessed to ensure that the fundamental and universally recognised principle of the best interests of the minor is met.

Resettlement Overhead R Ov1.2: The Resettlement of Minors



- Under the CRC, children and adolescents are “entitled to special care and assistance”.
- their developmental needs, their dependency, and their lower legal and social status make this special attention essential.

Resettlement Overhead

R Ov1.3: Definition of Orphan



The terms *unaccompanied minor* or *separated minor* should be distinguished from *orphan*.

A person is an orphan only if both parents are dead. This always requires careful verification and must never merely be assumed.

Resettlement Overhead R Ov1.4: Refugee Status and the Child's Best Interests



It may be difficult for an unaccompanied minor to establish refugee status using the same refugee criteria and procedures applied to adults.

When a child is unable to articulate a claim, or it is not possible to determine the refugee status of a minor, a decision should be made as to what durable solution would be in the minor's best interests.

Resettlement Overhead R Ov2.1: Family Reunification – A Rights Perspective



Family reunification is supported by the principle that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.” in the Universal Declaration of Human Rights of 1948, the Covenant on Civil and Political Rights and the Convention on the Rights of the Child of 1989.

Resettlement Overhead
R Ov2.2: Types of Family
Reunification Promoted by
UNHCR



- **parents and children**
(dependent, unmarried children regardless of age who were living with the parents in the country of origin)
- **unaccompanied minors with parents or siblings**

Resettlement Overhead

R Ov3.1: Objectives for the Family Reunification of Unaccompanied Minors



- to reunite each unaccompanied minor with his or her family wherever and as quickly as possible (following an assessment of best interests);
- to ensure, pending family reunification, the survival, protection and well-being of unaccompanied minors through appropriate interim care;
- to arrange appropriate long-term care for any minor for whom family reunification cannot be achieved within a reasonable period of time; and
- when it is not possible to reunite them with their families, such children and adolescents should be placed in the care of foster families, preferably from their own community.

Resettlement Overhead
R Ov4.1: Unaccompanied
Minors



An unaccompanied minor is a person under 18 years who is separated from both parents and is not being cared for by an adult who, by law or by custom, is responsible for doing so.

Resettlement Overhead R Ov4.2: Participation of Unaccompanied Minors



The procedure should permit effective participation of the refugee child:

- ensure that the minors are aware that what is happening affects their future
- where possible, the views of the parents, or others who perform this role, should be obtained.
- unaccompanied refugee minors over the age of 16 are usually mature enough to make their own decisions about long-term solutions

- depending on their degree of maturity, children over the age of nine or ten may be able to make rational choices if provided with adequate information. Their preferences should, therefore, receive consideration.
- children below nine or ten years of age may not be sufficiently mature to make an independent judgement; but they should always be given the chance to express their views.
- in each case, a minor's evolving mental maturity must be determined in the light of the personal, family and cultural background.

Resettlement Overhead
R Ov5.1: Basic Rights of
Children and Adolescents



-
- **Best interests**
 - **Protection**
 - **Participation**
 - **Legal representation and rights**
 - **Family unity**
 - **Reunification of separated families**

Resettlement Overhead
R Ov5.2: Appropriate Care of
Children and Adolescents



-
- Safety and well-being
 - Community integration
 - Stability and continuity
 - Community responsibility
 - No separate evacuation
 - No early adoption

Resettlement Overhead

R Ov6.1: Intercountry Adoption



Intercountry adoption should **not** be carried out if:

- There is a reasonable hope for successful tracing and family reunification in the child's best interests;
- A reasonable period (normally at least two years) during which time all feasible steps to trace the parents or other surviving family members have been carried out has not elapsed;
- It is against the expressed wish of the child or the parent;
- Voluntary repatriation in conditions of safety and dignity appears feasible in the near future and options in the child's country of origin would provide better for the psycho-social and cultural needs of the child than adoption in the country of asylum or a third country.

Resettlement Overhead
R Ov8.1: The Best Interests
Rule



“In all matters concerning [minors], whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of [minors] shall be a primary consideration.”

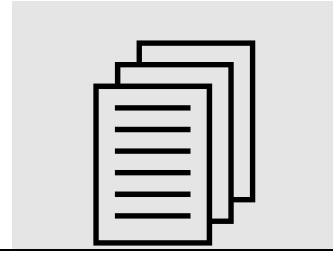
Resettlement Overhead R Ov8.2: The Four Elements of the Best Interests Rule



The Best Interests Rule is:

- a set of principles about the developmental needs of children and adolescents;
- a set of attitudes that a decision-maker needs to have;
- a set of procedures that a decision-maker needs to follow; and
- various institutional structures to help ensure rationality and fairness in the decision-making process.

Resettlement: Reading List



UNHCR Policy on Refugee Children. UNHCR Geneva, August 1993.

Interviewing Applicants for Refugee Status (RLD 4). Training Module. UNHCR Geneva, 1995 (in particular Chapter Five: Interviewing Children).

Mental Health of Refugees. World Health Organization, 1996 (published in collaboration with UNHCR) (especially Unit 5: Helping refugee children).

Evacuation of Children from Conflict Areas. Considerations and Guidelines. UNHCR/UNICEF. Geneva, December 1992 (Edited by Everett M. Ressler).

Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally. General Assembly Resolution A/RES/41/85, 3 December 1986.

Working with Unaccompanied Minors in the Community. A Family-Based Approach. UNHCR (PTSS/Community Services) Geneva, 1994 (especially Chapter 3: Communication and Documentation).

Interview Management. "A Reader". UNHCR Geneva, October 1995.

Training Video: Interpreting in a Refugee Context. UNHCR Geneva, 1995.

Security Recommendations. UNHCR Geneva, 1995.

Report on Family Reunification. Overview of Policies and Practices in IGC Participating States. Secretariat of the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia. Geneva, March 1997.

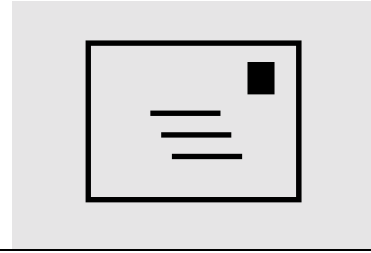
UNHCR Policy on Refugee Children. UNHCR Geneva, August 1993.

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, re-edited January 1992 (Paragraphs 213 to 219).

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

Interviewing Applicants for Refugee Status (RLD 4). Training Module. UNHCR Geneva, 1995 (in particular Chapter Five: Interviewing Children).

Resettlement: Useful Addresses & Contacts



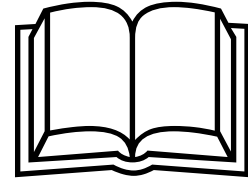
This section includes the names and addresses of organisations which can provide useful resources. Use the blank pro-forms to add your own contacts.

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Resettlement: Readings



- Reading R 1: Adoption of Refugee Children. UNHCR/IOM/59/95-FOM/62/95 dated 22 August 1995.
- Reading R 2: UNHCR/IOM/59/95-FOM/62/95 on Adoption of Refugee Children dated 22 August 1995.
- Reading R 3: Refugee Children: Guidelines on Protection and Care. UNHCR Geneva, 1994.
- Reading R 4: Guidelines for Interviewing Unaccompanied Refugee Children and Adolescents and Preparing Social Histories. UNHCR Social Services Section, April 1990.
- Reading R 5: Interviewing Applicants for Refugee Status (RLD 4). Training Module. UNHCR Geneva, 1995.
- Reading R 6: Interpreting in a Refugee Context (RLD 3). Training Module RLD 3. UNHCR Geneva, June 1993.
- Reading R 7: Guidelines on Security Incidents (Sample Indicators and Scenarios) (OMS 2). UNHCR Geneva, December 1992.
- Reading R 8: Guidelines on Security (PER 2). UNHCR Geneva, December 1992.
- Reading R 9: Evacuation of Children from Conflict Areas. Considerations and Guidelines. UNHCR/UNICEF. Geneva, December 1992 (Edited by Everett M. Ressler).