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**CURRENT CHALLENGES IN THE RESETTLEMENT OF MINORS THROUGH  
 UNHCR AND THE BEST INTEREST DETERMINATION (BID) PROCESS**

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**Introduction**

500,000 of the world's refugees are children separated from their parents and other adult caretakers and are living in refugee camps.<sup>1</sup>

Significant numbers of these are children who have remained for years in refugee camps with no durable solution. This in spite of UNHCR's ideal to provide durable solution for separated children within two years at the most.<sup>2</sup> Because of a child's developmental stage and the traumatic situations which make her/him a refugee, delay in finding a durable solution is a serious protection issue for UNHCR.<sup>3</sup>

In recent years, UNHCR has made significant strides in improving services to separated<sup>4</sup> children in some refugee camps. Yet such settings make it challenging to provide appropriate specialized protection and care. Even where interim care is adequate, vast numbers of the 500,000 remain without durable solution. They are unable to meaningfully access

- voluntary repatriation
- asylum in country of first refuge
- resettlement.

In an effort to address this great need, the United States and UNHCR arranged for the evaluation of Sudanese unaccompanied children in Kenya and arranged resettlement of approximately 700 separated children during 2000-2001 concurrent with a larger resettlement of approximately 3000 Sudanese young adults, or "The Lost Boys." The "Lost Boys" had been unaccompanied children in Kenyan camps for 10 years before

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<sup>1</sup> UNHCR. Website estimates that 3-5% of refugee populations are unaccompanied children. Significantly more would be included if all separated children were to be included in this number.

<sup>2</sup> UNHCR. *Refugee Children: Guidelines for Protection and Care*. Geneva, 1994

<sup>3</sup> *ibid*

<sup>4</sup> I have used the term *separated* to refer to all children separated from their parents or traditional caregiver, following recently adopted UNHCR usage. In the past UNHCR made a distinction between *unaccompanied* children who had no adult caregiver and *separated* children who were separated from parents but had some adult guardian. UNHCR has wisely recognized that the separated child without parent is in a precarious situation and needs intervention as much as those without any adult presence.

resettlement was considered for them as a durable solution. Similar populations are being examined in Ethiopia currently. Large numbers of the Sudanese child and youth population remain in Kakuma with little hope of durable solution.

### **Evaluation of the Resettlement Experience**

The experiment has been successful for those children who were resettled. *A Nationwide Study of the Functional and Behavioral Health of Sudanese Unaccompanied Minors Resettled in the United States: Project Report* by Dr. Paul Geltman et al<sup>5</sup> is an interim report on research into the well-being of a group of Sudanese refugee children now in the United States. The final analysis of the study will be published in a medical journal but the project report gives information analyzed to date. Most children have high levels of social and emotional functioning and rated their health as improved since resettlement. The children have been in foster care for 2.5 years now and the first of them are graduating from secondary school this spring. Many are planning to attend university or other forms of higher education.<sup>6</sup>

In order to know what is a feasible durable solution for refugee children, further research which would use a similar analysis of those children who were not included in the resettlement effort would provide useful information for future efforts. How have the resettled children fared by comparison with their friends and brothers and sisters who were not resettled? The current population of the resettled refugee children, subjects of Dr. Geltman's study and the separated Sudanese refugee children in Kakuma provides an opportunity for comparison of the impact of resettlement and the care offered at refugee camp on the development of refugee children. Since the children in the United States and those who remain in Kakuma are very similar in demographics and life experience, a research project in Kakuma could build on that conducted in the United States. This will inform the Best Interest Determination process for other children in refugee camps for whom return home is not feasible.

### **Best Interest Determination Required**

In order for separated refugee children to be considered for resettlement, UNHCR has required that Best Interest Determination be completed in addition to the processing required for all refugees being considered for resettlement. UNHCR has guidelines on how a child's interests are to be assessed.<sup>7</sup> Based on UNHCR's general procedures, a Best Interest Determination process was devised by a series of international consultants for use in Kakuma, Kenya and is being repeated with the Sudanese population in Ethiopia. Best interest assessments are conducted with some other separated refugee child populations but to the best of my knowledge without considering the full range of durable solutions.

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<sup>5</sup> April, 2003

<sup>6</sup> Kim Shelton. *A Great Wonder*. Ashland, Oregon. 2003. (For copies: Shelton@internetcds.com)

<sup>7</sup> UNHCR. *Refugee Children: Guidelines for Protection and Care*. Geneva, 1994.

Nevertheless, Best Interest Determinations should be carried out for all separated refugee children and must include assessment for:

- short term or interim care needs, and
- the best durable solution

If refugee children are not assessed for a durable solution or if a recommended solution is not carried out, these children only access a temporary, imperfect solution in refugee camps. “Encampment” should not be allowed to become a *de facto* fourth solution.

Given the extreme vulnerability of separated children and their extra protection requirements based on their developmental stage, we cannot ignore the need for resettlement as one of the tools of protection for them.

### **Best Interest Determination Process**

Best Interest Determinations should be carried out for all separated refugee children and the recommendations about short term care needs and durable solution should be proposed for all refugee children. In fact this is not done in as systematic a way as UNHCR would wish. The lack of a Best Interest Determination becomes an issue when a child or population of children is without other durable solution and should be considered for resettlement based on their protection needs. Thus the BID process is intertwined with the resettlement system; for separated children it is the required precursor to the process.

The steps followed in the BID process involve:

1. Identification of the refugee child or population of refugee children to be considered
2. Analysis of the circumstances of the camp or other location of the child
3. Analysis of the possible durable solutions available for that child or population (including the results of tracing)
4. Interview by child welfare professional with the child and/or others who know the child to find out about the child’s well-being and the child’s wishes<sup>8</sup>
5. Recommendation by the child welfare professional on short term interim care needs and durable solution.

In some parts of East Africa, UNHCR has added another review step in the Best Interest Process when resettlement may be considered.<sup>9</sup> A panel or committee of UNHCR and NGO staff convene to see whether those children recommended for resettlement will actually be proposed for resettlement. Thus:

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<sup>8</sup> UNHCR, 1994. *Refugee Children: Guidelines for protection and care*. Geneva, 1994

<sup>9</sup> It is not clear whether this step is used when other major life-altering decisions are made for a child or group of children. UNHCR may want to consider whether or not such a panel should be used for repatriation or for “encampment.”

6. Review, in some cases, by panel on whether the recommendation for resettlement should go forward.
7. For those children whose recommendation was accepted by the panel, resettlement processing is then carried out as with any refugee.

This process for conducting BID for durable solution was designed by a series of international consultants and tested between 1999-2000 in Kakuma Refugee Camp in Kenya with Sudanese separated children as well as populations from several other countries. Approximately 1200 children were interviewed. For about 60%, resettlement was recommended and those recommendations were forwarded to BO/Nairobi.

More recently, UNHCR has begun to examine separated children in Ethiopia who have been “encamped” for 10 years or more. They arranged for child welfare professionals to develop the system from the beginning rather than building on the previously designed process. In fact, the new system appears to be virtually the same as the system used in Kakuma, suggesting that child welfare professionals using UNHCR guidelines will basically agree on the process of BID.

While Sudanese “Lost Boys” were the focus of the effort, the process is applicable to any refugee separated child and should be applied universally. Given the successful resettlement of the Sudanese children, resettlement should be considered as one possibility if other solutions are not available within an appropriate time frame.

It is urgent that the children who have been “encamped” or held in refugee camps for more than two years with no durable solution proposed or carried out should be assessed right away. Their developmental years are slipping away; their protection needs should not be overlooked.

### **Challenges in the Resettlement of Separated Refugee Minors**

The challenges in the resettlement of separated children can be grouped into three main categories:

- Professional
- Logistical
- Procedural

For child welfare professionals who are analyzing a refugee child’s situation, the lack of possible durable solutions presents a grave challenge.

Within child welfare the ideal priorities for refugee children are clear even though not always easy to implement:

- Return to parents/customary caregiver
- Asylum and placement with appropriate caregivers who can provide care and stability for the children.

- Placement with appropriate caregivers who can provide care and stability for the children in resettlement countries.

The challenges become grave when parents or other customary caregivers are not found or if found, are not able to reunite with the child. While tracing should be carried out as soon as possible for all children and should be continued on an ongoing basis, sometimes tracing is difficult or is not as systematic as UNHCR would wish. When families are separated by war, reunification may be impossible within the foreseeable future even if whereabouts can be verified. Repatriation to family may be dangerous or difficult.

The challenge remains grave when local integration is not possible because of decisions by the host country or because the local population is not able to absorb the children.

Some child welfare professionals are not familiar with the continued tracing, care and protection offered separated children in specialized refugee foster care programs since these programs are currently offered only in the United States. For example, some child welfare professionals are unaware that children resettled as unaccompanied minors in the United States are not placed for adoption but have permanent foster care while efforts continue to find their parents. Each resettlement country will have specific laws about the adoption of separated children which must be considered in making Best Interest Determination for the child's durable solution. Thus, child welfare professionals may make decisions about children's futures based on incomplete information.<sup>10</sup>

Additionally, child welfare professionals are not necessarily familiar with the country conditions of all the countries of origin in order to make informed decisions about repatriation. Thus, in Step 3 of the above described process, the protection staff and country experts in UNHCR must give guidance to the child welfare professionals before or during the BID process.

### **Logistical Barriers to Implementation**

Resettlement itself is a cumbersome and complex process which requires more staff time than is readily available in refugee camp settings. When the Best Interest Determination process is added to the workload, the burden is increased.

Additionally, field staff and field administrators may lack training to recognize the special protection needs of separated children based on both their developmental stage and their vulnerability when being cared for by adults other than their own parents.

Basic processes such as transportation, office space, living space, and related needs are often in short supply in refugee camps. When short or long term staff are deployed to assist with resettlement and Best Interest processing, already thin resources become stretched to the breaking point.

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<sup>10</sup> See Kim Shelton, *A Great Wonder*. Ashland, Oregon, 2003. This video follows the foster care experience of several sibling groups who were resettled as unaccompanied children.

Separated children are often hidden or otherwise invisible. They do not know how to push themselves into the compounds or offices to make their needs known; their caretakers are typically stretched to care for themselves and their own children and can not always meet even the basic physical needs of the separated child. Thus, caretakers are not usually in a position to bring the child's needs to the attention of authorities, if they are even able to note those needs.

### **Procedural**

Beyond the professional and logistical challenges inherent in resettlement generally and especially in the Best Interest Determination process, there is an additional challenge which must be faced by UNHCR and all NGOs.

The process which has been designed twice and tested once is so complex and involves so much highly trained staff time that it is a serious challenge to administer in field conditions. If resources are lacking, the child's Best Interest may not be analyzed in a systematic way. Even if analysis is done and recommendations are made, it may be difficult to find the resources to carry out the recommendations.

Thus, the complexity and expense of the process may prevent the process from being used. The default "fourth solution" of "encampment" becomes the fate of the child.

Further, the additional step of having a panel of UNHCR and NGO staff consider the recommendations places workload and training burden on an already taxed system. If UNHCR and NGO staff are to routinely do this task, their training can be brought up to standard systematically. If this is to be a sporadic effort, training is needed and must be acquired prior to the working of the panel.

Finding appropriate NGO staff either to provide the child welfare expertise to carry out the BID or to assist with the review panel may be an additional challenge for UNHCR. This will be an impossible task if staff from any agency which works with refugee children either in a resettlement situation or in a camp situation are thought to have a "conflict of interest" which would prevent their unbiased decision-making.

### **Recommendations:**

1. In light of the urgent developmental and protection needs of separated children *Best Interest Determination should be conducted for all separated refugee children to include analysis of*

- short term, immediate needs
- standards of care and protection
- durable solutions including possible resettlement if other solutions cannot be carried out within the two year time frame recommended by UNHCR.

This is especially urgent for children who have remained “encamped” for longer than two years. Children who have no hope of parental reunification or local integration must be considered for the remaining durable solution—resettlement.

2. The process of conducting Best Interest Determination should be systematized so that it can be uniform in all refugee situations. The efforts in East Africa which included evaluation of Durable Solution should be combined with other efforts which have not included that aspect. The process must be made less cumbersome so that it can actually be used in field situations. It must then be used in the case of all separated children.

3. Those conducting Best Interest Determinations and those reviewing them should be trained or oriented in

- country conditions where return home might be feasible
- local integration standards appropriate for children
- resettlement services for separated children if other durable solutions are not feasible within an acceptable time frame.

4. Research should be conducted in Kakuma with the children who were not included in the resettlement effort to determine whether or not their best interests have been served. Ideally the same or similar research methods should be used as are being used in the research being completed in the United States making a comparison of the children’s experiences valid. This will give future decision makers more accurate understanding of the consequences to children of one or another course of action.

## **Conclusion**

We strongly support UNHCR’s efforts to continue giving attention to separated refugee children in refugee camps or other situations.

We remain concerned that too few of the 500,000 separated refugee children are given the type of systematic attention UNHCR would wish to give them.

Vast numbers remain unable to return to their parents or to integrate fully into the local community. Thus they remain for years in unstable situations in refugee camps, wasting their crucial developmental years. We believe that the Best Interest Determination process should be uniformly applied for all children and that evaluation of the best Durable Solution for each refugee child must be included. Resettlement must be one of the available tools of protection of separated refugee children.