



**All children, whoever they  
are and wherever they  
are, have a right to  
be protected.**



**INTERNATIONAL CHRISTIAN  
ADOPTIONS**

*A Voice of HOPE for Children Worldwide*

41745 Rider Way, #2  
Temecula, CA 92590

Phone: 951.695.336  
Fax: 951.308.1753

info@4achild.org  
www.4achild.org



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**SAFEGUARDING CHILDREN**

# Safeguarding References

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## **Introduction**

All children, whoever they are and wherever they are, have a right to be protected from harm and have their welfare promoted. While it has been known for some time that children are especially vulnerable to natural disasters and armed conflicts, lessons learned from the past have shown that too often organizations do not prioritize the safeguarding needs of children when emergencies strike. Yet children suffer the consequences in the absence of such measures. Abuse is likely to occur every time an emergency happens.

## **Definitions and concepts**

It is crucial before we continue to ensure that we have a precise understanding of the terminology used. Often the term “Child Protection” is used to define both Child Protection Programming interventions and Child Safeguarding measures. Additionally, we need to be specific about what “Abuse” means and implies.

### **Child protection in emergencies**

Everything that individuals, organizations, countries and communities do to prevent and respond to abuse, neglect, exploitation of and violence against children in emergencies.

### **Child Protection (programmatic) activities include efforts to address the following:**

- Separation of children from their families
- Tracing / Reunification / Reintegration
- Recruitment and use of children by armed forces and/or armed groups (CAAGF)
- Violence against children (incl. GBV)
- Mental health and psychosocial distress
- Where relevant, risks from landmines and unexploded ordinances
- Monitoring and reporting on grave violations against children and serious child protection concerns
- Exploitation and trafficking
- Child labor
- Children in conflict with the law
- Protection of children during armed conflict
- Protection against traditional harmful practices (incl. FGM, child marriage, etc)

### **Child safeguarding measures**

Measures an organization undertakes to ensure that the children it comes in contact with are not harmed by their staff or visitors and that the activities that they are implementing do not harm children. It relates to the policies and procedures designed by the organization to keep children safe. Some organizations will, however, call these measures “child protection measures” since their aim is to “protect” children – however for clarity we will refer to “child safeguarding measures” so as to minimize the risk of confusion with “child protection” programming activities.

### **Child safeguarding policy**

A written document that states an organization’s commitment to keep safe the children it works with, or comes in contact with. A policy explains how an organization approaches child safeguarding, their attitudes and basic principles.

### **Child safeguarding procedures**

Clear advice and guidelines on what individuals and organizations should do if a concern about a child or someone's behavior is raised.

### **Code of conduct / Code of behavior**

A clear, concise guide for staff about what is, and what is not, acceptable behavior or practice when working with a humanitarian organization and particularly with children. 1 Official inter-agency agreed Child Protection in Emergencies definition, Child Protection Working Group, UNICEF, Geneva, 2010.

### **Standards**

Standards provide a benchmark against which practice can be measured and audited, areas for development can be identified and thus provide a basis for accountability and challenge if practice falls below a certain level. Although implementing standards cannot offer complete safeguarding for children, it does minimize the risk to children of abuse and exploitation.

### **Abuse**

Abuse exists in all countries and communities. It is expressed in personal values, beliefs and practices and also through wider societal, cultural and institutional systems. Child abuse denies children their right to a safe, secure, happy and healthy childhood. Statistics for children globally include:

- 1 million children worldwide live in detention.
- 180 million children are engaged in the worst forms of child labor.
- 1.2 million children are trafficked every year.
- 2 million children are exploited via prostitution and pornography.
- 2 million children are estimated to have died as a direct result of armed conflict since 1990.
- 300,000 child soldiers at any one time.

## **Definitions Of Abuse**

Trying to define child abuse is difficult because of the vast cultural, religious, social/political, legal and economic differences that children experience. What may seem to be abusive in one country may be acceptable in another. It seems impossible to agree on one, universal definition. But in order that child safeguarding approaches make sense it is crucial that a common understanding is reached by organizations as to what the definition of child abuse is and in what circumstances their policy and procedures apply. "Child abuse and neglect, sometimes also referred to as child maltreatment, is defined in the World Report on Violence and Health as all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust, or power." Many children living throughout the world can therefore easily be described as being abused in a very general sense because they are denied basic human rights and live in circumstances that are extremely difficult. However, any definition of abuse needs to be carefully thought through as no child safeguarding policy can address all abuse of children and would be ineffective if it were used in this way.

### **Child abuse**

A general term used to describe where the child may experience harm, usually as a result of failure on

the part of a parent / caregiver or organization / community to ensure a reasonable standard of care and safeguarding or by deliberate harmful acts. Research studies and inquiry reports have widened our awareness of the abuse of children by peers, siblings and those employed or entrusted with their care in both community and residential settings. Reports into allegations that aid workers were sexually exploiting women and children has highlighted concern about child safeguarding issues in developing countries and places duty of care to beneficiaries on humanitarian and other non-government organizations.

2 These notes have been prepared using a variety of sources and original material. Further resource information can be found on the

[www.nspcc.org.uk](http://www.nspcc.org.uk) website and [www.who.int](http://www.who.int) Additional materials for professionals working with children can be downloaded from

[www.nspcc.org.uk/freshstart](http://www.nspcc.org.uk/freshstart). Fresh Start facilitates a multi-disciplinary community of practice in relation to child sexual abuse and

acts. Also see the Child Rights Information Network - <http://www.crin.org/>.

3 State of World's Children UNICEF 2004.

4 WHO, Report on the Consultation on Child Abuse Prevention Geneva, March 29-31, 1999.

5 UN IASC Task Force, 2002

Within the broad definition of child maltreatment, five subtypes are distinguished:

- physical abuse
- sexual abuse
- emotional abuse
- neglect and negligent treatment
- sexual and commercial exploitation.

These sub-categories of child maltreatment and their definitions were devised following an extensive review of different countries' definitions of child maltreatment.

#### **Physical abuse of a child**

The actual or potential physical harm from an interaction or lack of interaction, which is reasonably within the control of a parent or person in a position of responsibility, power, or trust. There may be single or repeated incidents.

#### **Child sexual abuse**

The involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos of society. Child sexual abuse is evidenced by an activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other unlawful sexual practices; the exploitative use of children in pornographic performances, internet pictures and materials. The use of technology such as the internet by adults to entice children to meet or participate in virtual sex is also an abuse.

#### **Neglect and negligent treatment**

The inattention or omission on the part of the caregiver to provide for the development of the child in: health, education, emotional development, nutrition, shelter and safe living conditions, in the context

of resources reasonably available to the family or caretakers and which causes, or has a high probability of causing, harm to the child's health or physical, mental, spiritual, moral or social development. This includes the failure to properly supervise and safeguard children from harm as much as is feasible.

### **Emotional abuse**

The failure to provide a developmentally appropriate, supportive environment, including the availability of a primary attachment figure, so that the child can reach their full potential in the context of the society in which the child lives. There may also be acts toward the child that cause or have a high probability of causing harm to the child's health or physical, mental, spiritual, moral or social development. These acts must be reasonably within the control of the parent or person in a relationship of responsibility, trust or power. Acts include restriction of movement, degrading, humiliating, scapegoating, threatening, scaring, discriminating, ridiculing, or other non-physical forms of hostile or rejecting treatment.

### **Sexual exploitation**

The abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the exploitation of another. Child prostitution and trafficking of children for sexual abuse and exploitation being one example of this.

### **Commercial or other exploitation of a child**

The use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labor. These activities are to the detriment of the child's physical or mental health, education, moral or social-emotional development. Children being recruited in to the army would also come under this category.

### **Disabled children and abuse**

Disability in children can make them more vulnerable to child abuse. What might be considered harmful or abusive treatment of a non-disabled child is sometimes seen in certain context as normal for a disabled child to experience. In discussing safeguarding of disabled children it is essential to consider not only personal attitudes and values but also the social context that children are living in, what are the community attitudes towards disability? Awareness of how society treats disabled children is critical for two reasons:

- so individuals do not reinforce abusive attitudes or behavior in their own practice
- so that staff can promote the rights of disabled children to be safeguarded.

There are many things people might believe about disabled children that will affect whether they think they are at risk of abuse. The truth is that disabled children are MORE at risk of abuse and this is known through international research and experience. Humanitarian aid workers have probably encountered many examples of disabled children being wrongly treated and abused.

Indicators of abuse give us important clues to what might be happening to a child or young person; they should not usually be seen in isolation from the rest of the child's life and experience. For disabled children indicators of abuse may be masked or confused by their disability. People might say:

- Injuries are self inflicted
- Behavior is symptomatic of the disability
- A disabled child's allegation is false because they do not know what they are talking about

- They have to treat the child in that way for their own good e.g. tying or chaining up, not feeding, locking up, not dressing etc.

It is therefore important to recognize that disabled children can be abused and harmed, and the effects of abuse may be more dangerous e.g. not feeding a child who cannot feed themselves will ultimately lead to their death. The safeguarding of disabled children may need extra thought and attention especially when a community or society does not recognize the human rights of disabled children.

## **OTHER FORMS OF ABUSE**

### **Internet abuse and abusive images of children**

Abusive images of children, commonly referred to as child pornography, is defined as any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for sexual purposes. Technology has also meant that children are now subject to additional abuse through the internet. There is a trade in the transmission of abusive images of children. Digital and phone cameras have made it possible for some children images to be distributed across the internet without their knowledge. Children may also be at risk of coming in to contact with people who want to harm them through their use of the internet.

### **Abuse linked to differing belief (i.e. 'possession', 'witchcraft', or other belief systems)**

Abuse linked to the belief in 'spirit possession', 'witchcraft' or other belief system can occur when communities or individuals believe that a child or an adult is in possession of evil action needs to be 'punished'. Child abuse linked to accusations of 'possession', 'witchcraft' or beliefs held generally occurs when the child is being viewed as 'different' (the child could be disobedient, ill or disabled) and the accuser (often small groups of people somehow related to the child) think they need to punish him or her. These beliefs can result in extremely cruel practices to children, e.g. severe beating, burning, starvation, isolation, cutting or stabbing and can even cause death to the child. Ritualistic ceremonies or other practices to hurt children can also be part of this harmful practice.

### **Abuse of trust**

A relationship of trust can be described as one in which one party is in a position of power or influence over the other by virtue of their work or the nature of their activity. An abuse of trust could be committed by, for example, a teacher, humanitarian or development worker, sports coach, scout leader, faith leader. It is important those in a position of trust have a clear understanding of the responsibilities this carries and clear guidance to ensure they do not abuse their position or put themselves in a position where allegations of abuse, whether justified or unfounded, could be made. The relationship may be distorted by fear or favor. It is vital for all those in such positions of trust to understand the power this gives them over those they care for and the responsibility they must exercise as a consequence. This is particularly important in the context of humanitarian aid, when those in positions of power also control aid and resources.

### **Cultural values**

Whilst there are some common factors such as poor economic status, violence within the home, drug and alcohol abuse which increase the likelihood of children being abused, some of the most powerful are specific to the culture and society in which a child lives. It is vital to determine what are the culturally accepted child rearing practices and attitudes to faith, gender, disability, sexual orientation in



different countries and regions. This is not to lower the level of concern, or condone abuse but more to understand the environment in which it occurs and the community attitude to it.

## **Legal framework and humanitarian principles**

### **INTRODUCTION**

A fundamental element in the safeguarding of children is the recognition that states have the primary responsibility of protecting the human rights of all persons within their territories. Children share protected universal human rights with all other persons but, in addition, because of their dependence, vulnerability and developmental needs, they also have certain additional rights. Familiarity with international law is important because it outlines the obligations of a country to protect children. It also provides the framework within which those who work with children should operate.

**Where there is a lack of consistency between applicable legal instruments, the one giving the best protection to the child is to be applied.**

**It is widely accepted that we must act solely in the best interests of the child.**

### **KEY CONCEPTS**

1. The legal bases for prioritized action on behalf of children are well established in international law.
2. The UN Convention on the Rights of the Child (UNCRC) provides a comprehensive code of rights which offers the highest standards of protection and assistance for children.
3. The civil rights and freedoms established under the UNCRC apply equally to all children, who should be provided with opportunities to express their views in any matter affecting them and encouraged to participate in the activities of the community.
4. The UNCRC and other instruments provide the right to specific protection for children in situations of armed conflict.
5. Refugee and displaced children are particularly at risk from many different types of abuse and exploitation, including child labor and sexual exploitation. Their rights to protection are established through the UNCRC and other international instruments.
6. The maintenance of family unity and the reunification of families has been established as a priority in international law.
7. Education is recognized as a universal human right which is established through a wide range of international and regional instruments.
8. The UNCRC establishes the right to the highest attainable standard of health for children.

### **MAIN LEGAL INSTRUMENTS THAT APPLY TO CHILDREN IN EMERGENCIES.**

The text below provides reference to the key sections of international legal instruments that are applicable in an emergency. This is intended as an at-a-glance resource – the full text of the instrument should be referred to for full information

## **HUMAN RIGHTS LAW**

### **Convention of the rights of the child**

All but two countries (Somalia and the USA are the exceptions) are parties to the UN Convention on the Rights of the Child (UNCRC). As such it can be treated as almost universally applicable. It is legally binding on every government which is a party to it and applies to all children within the jurisdiction of each state, not only to those who are nationals of that state. Indeed, the principle of non-discrimination is stated strongly in the CRC and certainly covers refugee and displaced children including adolescents. Legal framework and humanitarian principles

### **The CRC guiding principles as an overall framework:**

Article 1, **Definition of the child:** a 'child' is a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. The Committee on the Rights of the Child, the monitoring body for the Convention, has encouraged States to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18. For normal purposes this means that it can be applied to everyone up to 18, unless it is demonstrated that they are an adult under the applicable national law for all purposes or for this specific purpose. In any case, the "scheme" of the UNCRC suggests that this exception should be interpreted as an empowering one, in other words that under-18s can claim the benefits of adulthood if granted by national law while still being able to claim the protection of the UNCRC.

Article 2, **Non Discrimination:** All rights apply to all children without exception. It is the State's obligation to protect children from any form of discrimination and to take positive action to promote their rights.

Article 3, **Best Interests of the Child:** All actions concerning the child shall result from taking full account of his or her best interests. The State shall provide the child with adequate care when parents, or others charged with that responsibility, fail to do so.

Article 6, **Right to Life, Survival and Development:** Every child has the inherent right to life and the State has an obligation to ensure the child's survival and development.

Article 12, **Respect for the views of the child:** All children have the right to participation in decision making processes that may be relevant in their lives and to influence decisions taken in their regard – within the family, school or community. A comprehensive understanding of and compliance with the UN Convention on the Rights of the Child must be central to all child protection activities. Summaries of the following articles are included here, as they are likely to be central to much of child protection work in emergencies:

**Articles 9** (family separation),

10 (family reunification across borders),

11 (illicit transfer of children),

16 (right to privacy, honor and reputation),

19 (protection from violence, injury, abuse, neglect, maltreatment or exploitation),

20 (alternative care),

21 (adoption),

22 (refugee children),

23 (disabled children),

- 24 (harmful practices),
  - 25 (periodic review of alternative care),
  - 32 (economic exploitation),
  - 34 (sexual abuse and exploitation),
  - 35 (abduction, sale or trafficking of children),
  - 36 (other forms of exploitation),
  - 37 (juvenile justice and protection from torture or other cruel, inhuman or degrading treatment or punishment),
  - 38 (protection in armed conflict),
  - 39 (recovery and reintegration),
  - 40 (children in conflict with the law)
- 1 THE CONVENTION ON THE RIGHTS OF THE CHILD, Guiding principles: general requirements for all rights

Articles that are not protection rights but represent important approaches to securing children's protection

rights include:

- Articles 5** (support for the parent, extended family and community),
- 7 (birth registration and protection of identity),
- 18 (parental responsibility),
- 26 (social security),
- 27 (adequate standard of living and social protection),
- 28 & 29 (education),
- 31 (play and leisure)

**Optional protocol on the involvement of children in armed conflict**

Article 1: States Parties shall take all feasible measures to ensure that members of their armed forces who

have not attained the age of 18 years do not take a direct part in hostilities.

Article 2: States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily

recruited into their armed forces.

Article 3.3: States Parties that permit voluntary recruitment into their national armed forces under the age

of 18 shall maintain safeguards to ensure, as a minimum, that

Such recruitment is genuinely voluntary;

Such recruitment is done with the informed consent of the person's parents or legal guardians;

Such persons are fully informed of the duties involved in such military service;

Such persons provide reliable proof of age prior to acceptance into national military service.

Article 4.1: Armed groups that are distinct from the armed forces of a State should not, under any circumstances,

recruit or use in hostilities persons under the age of 18 years

**Optional protocol on the sale of children, child prostitution and child pornography**

Article 1: State Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 3: Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered

under its criminal or penal law, whether such offences are committed domestically or trans-nationally or on an individual or organized basis:

Offering, delivering or accepting, by whatever means, a child for the purpose of:

- Sexual exploitation of the child;
- Transfer of organs of the child for profit;
- Engagement of the child in forced labor;

Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography.

## **INTERNATIONAL HUMANITARIAN LAW**

### **International humanitarian law**

International humanitarian law limits the methods of conducting military operations. The fundamental rules of international humanitarian law are as follows:

- Those who do not take a direct part in hostilities, who are put out of action or who are disabled are entitled to respect for their lives and their physical and moral integrity.
- It is forbidden to kill or to injure an enemy who surrenders or who is not participating in hostilities.
- The wounded and the sick shall be collected and cared for by the party to the conflict that has them in its power. Protection also covers medical personnel, establishments, transports and supplies. The emblem of the Red Cross is the sign of such protection and must be respected.
- Captured combatants and civilians are entitled to respect for their lives, dignity, personal rights and convictions. They shall be protected against all acts of violence. They shall have the right to correspond with their families and to receive relief.
- Everyone shall be entitled to fundamental justice. No one shall be held responsible for an act he or she has not committed or be subjected to physical or mental torture, corporal punishment, or cruel or degrading treatment.
- Parties to a conflict should not have an unlimited choice of methods and means of warfare that cause unnecessary losses or excessive suffering.
- Parties to a conflict shall spare civilian populations and property. Attacks shall be directed solely against military objectives.

## HUMANITARIAN PRINCIPLES

Humanitarian principles are based on the work of the Red Cross, and they have their underpinnings in international humanitarian law and human rights law. The principles are a type of framework for how we act, a “code of conduct” for everyone present in an emergency, including in conflict the warring parties. Governments have the primary responsibility to uphold them, as well as non-state entities, and humanitarian organizations.

**Four core principles** – accepted by all UN agencies, the International Red Cross movement, and NGOs:

- **Humanity:** The centrality of saving lives and alleviating suffering wherever it is found.
- **Neutrality:** Humanitarian agencies must not affiliate themselves to any side of the ongoing conflict.
- **Impartiality:** Humanitarian aid should be implemented solely on the basis of need, without discrimination between or within affected populations.
- **Independence:** Humanitarian agencies must formulate and implement their own policies independently of government policies or actions.

**Additional internationally recognized humanitarian principles.**

- **Do no harm:** humanitarian organizations must strive to “do no harm” when providing assistance.
- Humanitarian actors need to be aware of this and take steps to minimize the harm. To minimize
- possible longer term harm, humanitarian organizations should provide assistance in ways that are
- supportive of recovery and long-term development.
- **Accountability:** Humanitarian programs should be accountable to those whom they serve as
- 2 UNICEF, face to face training on CPIE, legal and normative framework.
- 3 For example, aid is used as an instrument of war by denying access or attacking convoys; aid is an indirect part of the dynamics
- of the conflict because it creates jobs, gives incomes in form of taxes, leaves no or little responsibility on the state for social welfare,
- etc; or aid exacerbates the root causes of the conflict by securing rebel activities.
- well as to those who fund their activities. Those providing assistance have a duty to ensure that aid reaches its intended beneficiaries in the most effective and efficient way possible.
- **Customs and culture:** Understanding local traditions and values is important in carrying out humanitarian work, especially in connecting these to internationally recognized human rights.
- **Participation:** Humanitarian workers have a responsibility to provide assistance in a way that realizes the right of affected populations to take part in decisions that affect their lives.
- **Respect for international humanitarian law and human rights:** All involved in a conflict must respect international humanitarian law and fundamental human rights, particularly the rights of children as enshrined in the Convention on the Rights of the Child.
- **The humanitarian imperative:** Human suffering must be addressed wherever it is found, with particular attention to the most vulnerable in the population, such as children, women, the displaced and the elderly. The dignity and rights of all those in need of humanitarian assistance must be respected and protected. The humanitarian imperative implies a right to receive

humanitarian assistance and a right to offer it. At times, humanitarian access to civilian populations is denied by authorities for political or security reasons. Humanitarian agencies must maintain their ability to obtain and sustain access to all vulnerable populations and to negotiate such access with all parties to the conflict.

- **Independence:** humanitarian objectives are autonomous from political, economic, military objectives or other interests related to the location where assistance is provided.

### **Refugee law**

The fundamental principle of refugee protection is that of non-refoulement, which prohibits the return of a refugee to a territory where he or she fears persecution. This right is contained in article 33 of the 1951 Convention relating to the Status of Refugees:

- “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

### **Protection of the internally displaced**

Unlike refugees, those who have fled their homes but have not crossed an international border are not protected by a special agency or by a special body of law. Although international human rights law applies to them in that situation, their situation is often much more vulnerable, particularly when they are living in areas controlled by rebel movements or where by virtue of their race, religion or political affiliation they are considered the ‘enemy’. Protection of internally displaced persons should be guaranteed by national legislation concerning the rights and well being of all citizens, international human rights obligations of governments and, in cases of armed conflict, by international humanitarian law.

### **Other relevant international instruments**

The following are international instruments that may be relevant in particular circumstances and should be referred to as applicable.

- The 1966 Covenant on Civil and Political Rights
- The 1966 Covenant on Economic, Social and Cultural Rights
- CERD (Convention on the Elimination of All Forms of Racial Discrimination), 1965
- CEDAW (Convention on the Elimination of Discrimination Against Women), 1979
- CAT (Convention Against Torture), 1984
- The Convention on the Prevention and Punishment of Genocide, 1948
- The 1951 Convention relating to the Status of Refugees and the 1967 Protocol
- The 1949 Geneva Conventions and Additional Protocols (1977)
- The 2007 Paris Principles and Commitments (Child Recruitment)

**Children benefit from an increased degree of protection which is reflected in various international instruments. NOTE: if a child is suspected of being the perpetrator of abuse, this child benefits from the same protection levels and from the specific provisions that have been developed to treat the cases of minors in conflict with the law.**